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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3550

RIN 0575–AC97

Direct Single Family Housing Loans and Grants

AGENCY: Rural Housing Service, USDA.

ACTION: Direct final rule.

SUMMARY: The Rural Housing Service is amending its regulations for the section 502 direct single family housing loans program by reinstating language pertaining to payment assistance method 1 that was inadvertently changed or omitted when the payment subsidy regulation was revised on December 27, 2007. This action will make clear to the public that under this method, the amount of subsidy granted is the difference between the installment due on the promissory note and the greater of the payment amortized at the equivalent interest rate or the payment calculated based on the required floor payment.

DATES: This rule is effective August 4, 2014, without further action unless the Agency receives written adverse comments or written notices of intent to submit adverse comments on or before July 21, 2014. If the Agency receives such comments or notices, the Agency will publish a timely document in the **Federal Register** withdrawing the amendment.

Any adverse comments received will be considered under the proposed rule published in this edition of the **Federal Register** in the proposed rule section. A second public comment period will not be held. Written comments must be received by the Agency or carry a postmark or equivalent no later than July 21, 2014.

ADDRESSES: You may submit adverse comments or notice of intent to submit adverse comments to this rule by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue SW., Washington DC 20250–0742.
- *Hand Delivery/Courier:* Submit written comments via Federal Express mail or another mail courier service requiring a street address to Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street SW., 7th Floor, Suite 701, Washington, DC 20024.

All Written comments will be available for public inspection during regular work hours at the 300 7th Street, SW., address listed above.

FOR FURTHER INFORMATION CONTACT: Migdaliz Bernier, Acting Chief, Loan Origination Branch, Single Family Housing Direct Loan Division, Rural Housing Service, Stop 0783, 1400 Independence Avenue SW., Washington, DC 20250–0783, Telephone: 202–690–3833.

SUPPLEMENTARY INFORMATION:

Statutory Authority

Title V, Section 1480 of the Housing Act authorizes the Secretary of Agriculture to promulgate rules and regulations as deemed necessary to carry out the purpose of that title.

Executive Order 12866—Classification

This rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with that Executive Order: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) No retroactive effect will be given to this rule; and (3) Administrative proceedings in accordance with the regulations of the National Appeals Division of USDA at 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this rule unless those regulations specifically allow bringing suit at an earlier time.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. This rule corrects a requirement on Agency applicants and borrowers; Thus there will be no significant information collection or regulatory requirements imposed on small entities under this proposed rule.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995, the information collection activities associated with this rule are covered under OMB Number: 0575–0172. This proposed rule contains no new reporting or recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501 *et seq.,* establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, RHS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RHS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal Governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' It is the determination of RHS that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Programs Affected

The program affected by this proposed rule is listed in the Catalog of Federal Domestic Assistance as 10.410, Very Low to Moderate Income Housing Loans.

Executive Order 12372—Intergovernmental Review of Federal Programs

For the reasons set forth in the final rule published at 7 CFR part 3015, subpart V, and the related notice (48 FR 29115), these programs are not subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials.

E-Government Act Compliance

The RHS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on RHS in the development of regulatory policies that have tribal implications or preempt tribal laws. RHS has determined that the proposed rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and the Indian tribes. Thus, this proposed rule is not subject to the requirements of Executive Order 13175.

Executive Order 13132—Federalism

The policies contained in this rule do not have any substantial direct effect on States, the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local Governments. Therefore, consultation with the States is not required.

Background

The Agency uses payment subsidies to enhance an applicant's repayment ability for section 502 direct single family housing loans. RHS administers three types of payment subsidies: interest credit, payment assistance method 1 and payment assistance method 2. The eligibility requirements and calculation methods for payment subsidies are located in 7 CFR 3550.68.

When the final rule that introduced payment assistance method 2 at 7 CFR 3550.68(c)(1) was published in the **Federal Register** on December 27, 2007 (72 FR 73252), with an effective date of April 1, 2008, the language on calculating payment assistance method 1 in 7 CFR 3550.68(c)(2) was inadvertently modified. The language was inadvertently changed from ''The amount of payment assistance granted is the difference between the installment due on the promissory note and the greater of the payment amortized at the equivalent interest rate or the payment calculated based on the required floor payment'' to ''The amount of payment assistance granted is the difference between the annualized note rate installment as prescribed on the promissory note and the lesser of . . . (i) The floor payment . . . or (ii) The annualized note rate installment and the payment at the equivalent interest rate . . .'' (emphasis added). In addition, the sentence stated ''In leveraging situations, the equivalent interest rate will be used'' was inadvertently omitted. The inadvertent changes are now being corrected.

List of Subjects in 7 CFR Part 3550

Administrative practice and procedure, Conflict of interests, Environmental impact statements, Equal credit opportunity, Fair housing, Accounting, Housing, Loan programs—Housing and community development, Low and moderate income housing, Manufactured homes, Reporting and recordkeeping requirements, Rural areas, Subsidies.

For the reasons stated in the preamble, chapter XXXV, Title 7 of the Code of Federal Regulations, is amended as follows:

PART 3550—DIRECT SINGLE FAMILY HOUSING LOANS AND GRANTS

■ 1. The authority citation for part 3550 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1480.

■ 2. In § 3550.68, revise paragraph (c)(2) introductory text to read as follows:

§ 3550.68 Payment subsidies.

* * * * *

(c) * * *

(2) *Payment Assistance Method 1.* The amount of payment assistance granted is the difference between the installment due on the promissory note and the greater of the payment amortized at the equivalent interest rate or the payment calculated based on the required floor payment. In leveraging situations, the equivalent interest rate will be used.

* * * * *

Dated: April 2, 2014.

Tony Hernandez,

Administrator, Rural Housing Service.

[FR Doc. 2014–11610 Filed 5–19–14; 8:45 am]

BILLING CODE 3410–XV–P

FARM CREDIT ADMINISTRATION

12 CFR Part 652

RIN 3052–AC83

Federal Agricultural Mortgage Corporation Funding and Fiscal Affairs; Farmer Mac Liquidity Management; Correction

AGENCY: Farm Credit Administration.

ACTION: Final rule; correction.

SUMMARY: The Farm Credit Administration (FCA) published a final rule in the **Federal Register** on November 1, 2013 to strengthen liquidity risk management at the Federal Agricultural Mortgage Corporation, improve the quality of assets in its liquidity reserves, and bolster its ability to fund its obligations and continue operations during times of economic, financial, or market adversity. This document corrects an inaccurate amendatory instruction in that rule.

DATES: *Effective Date:* This regulation will be effective 180 days after date of publication in the **Federal Register**, provided either or both Houses of Congress are in session for at least 30 calendar days after publication of this regulation in the **Federal Register**. We will publish a notice of the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Joseph T. Connor, Associate Director for Policy and Analysis, Office of Secondary Market Oversight, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4280, TTY (703) 883–4056;

or

Richard A. Katz, Senior Counsel, Office of General Counsel, Farm Credit

Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION: The FCA published a document in the **Federal Register** on November 1, 2013, (78 FR 65541) amending part 652. In FR Doc. 2013–25918, the following amendatory instruction on page 65552, in the third column, line 59 is corrected to read as follows:

■ 2. Amend § 652.5 by adding alphabetically the following definitions to read as follows:

§ 652.5 Definitions.

* * * * *

Cash means cash balances held at Federal Reserve Banks, proceeds from traded-but-not-yet-settled debt, and deposit accounts at Federal Deposit Insurance Corporation-insured banks.

Contingency Funding Plan (CFP) is described in § 652.35(d)(2).

* * * * *

Liability Maturity Management Plan (LMMP) is described in § 652.35(d)(2)(iv).

* * * * *

Liquidity reserve is described in § 652.40.

* * * * *

Dated: May 15, 2014.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2014–11662 Filed 5–19–14; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 121, 125, and 135

[Docket No. FAA–2006–25334; Amdt Nos. 91–332, 121–370, 125–64, and 135–130]

RIN 2120–AI76

Additional Types of Child Restraint That May Be Furnished and Used on Aircraft; Technical Amendment

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; technical amendment.

SUMMARY: The FAA is amending regulations relating to the label required for FAA approved child restraint systems onboard aircraft. This final rule corrects minor technical errors in the codified regulations and updates a cross-reference.

DATES: Effective May 20, 2014.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Nancy Lauck Claussen, Air Transportation Division, AFS–200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8166; email: *nancy.l.claussen@faa.gov*.

Background

On July 14, 2006, the FAA published a final rule entitled, ''Additional Types of Child Restraint Systems That May Be Furnished and Used on Aircraft'' (July 2006 CRS final rule). *See* 71 FR 40003. In that final rule, the FAA amended certain operating regulations to allow passengers and aircraft operators to furnish and use more types of child restraint systems (CRS) on aircraft. The final rule allowed the use of CRS that the FAA approves under the aviation standards in Technical Standard Order C–100b, Child Restraint Systems. In addition, the rule allowed the use of CRS approved by the FAA under its certification regulations regarding the approval of materials, parts, processes, and appliances, including CRS approved for use by the FAA under 14 CFR 21.305(d). The intended effect of the final rule was to increase the number of CRS options that are available for children to use on aircraft, while maintaining high standards for certification and approval.

By letter dated August 30, 2006, the FAA approved a child restraint device manufactured by AmSafe, Inc. (AmSafe) in accordance with the amendments put in place by the July 2006 CRS final rule. Currently, the AmSafe device (CARES, Part No. 4082) is the only CRS approved in accordance with the amendments adopted in the July 2006 CRS final rule.

On October 16, 2009, the FAA published a final rule entitled ''Production and Airworthiness Approvals, Part Marking, and Miscellaneous Amendments'' (74 FR 53368). In the ''Production and Airworthiness Approvals, Part Marking, and Miscellaneous Amendments'' final rule, the FAA amended its certification procedures and identification requirements for aeronautical products and articles. As a result of this amendment, 14 CFR 21.305 was redesignated as 14 CFR 21.8, effective April 14, 2010.

Technical Amendment

This technical amendment makes revisions that affect four parts of 14 CFR—parts 91, 121, 125 and 135. The revisions are in the sections of these four parts that address labeling for CRS approved for use on aircraft. In each part a technical revision is made to add the necessary language to the CRS labeling requirements to address both CRS previously approved under § 21.305(d) and future CRS approved under § 21.8(d).

On August 12, 2010, the FAA amended § 91.107(a)(3)(iii)(B)(*3*)(*iv*) to address the redesignation of § 21.305 as § 21.8. *See* 75 FR 48857. Although the technical amendment did address future CRS approved under new § 21.8(d), it did not address the CRS previously approved under § 21.305(d). With this technical amendment, the FAA further amends § 91.107(a)(3)(iii)(B)(*3*)(*iv*) to resolve the discrepancy created by the August 12, 2010 amendment.

In addition, when the July 2006 CRS final rule was published, adding more options regarding CRS approval for use on aircraft, the punctuation for the preceding paragraphs was not updated. This technical amendment updates the punctuation to reflect the CRS options added by the July 2006 CRS final rule.

Accordingly, this technical amendment revises §§ 121.311(b)(2)(ii)(C)(*4*), 125.211(b)(2)(ii)(C)(*4*), and 135.128(a)(2)(ii)(C)(*4*) by removing the reference to § 21.305(d) and replacing it with ''§ 21.8(d) of this chapter''. This technical amendment also revises §§ 91.107(a)(3)(iii)(B)(*3*)(*iv*), 121.311(b)(2)(ii)(C)(*4*), 125.211(b)(2)(ii)(C)(*4*) and 135.128(a)(2)(ii)(C)(*4*) to clarify that the label for the single CRS approved under these paragraphs—the child restraint device manufactured by AmSafe (CARES, Part No. 4082)—is not affected by this technical amendment. Finally, this technical amendment amends the punctuation at the end of each of the two paragraphs preceding §§ 91.107(a)(3)(iii)(B)(*3*)(*iv*), 121.311(b)(2)(ii)(C)(*4*), 125.211(b)(2)(ii)(C)(*4*) and in the one paragraph preceding § 135.128(a)(2)(ii)(C)(*4*).

In addition, the agency restores a reference to the authority citation for part 121 that was inadvertently deleted with the publication of the Prohibition on Personal Use of Electronic Devices on the Flight Deck final rule (79 FR 8263, February 12, 2014).

Because the changes in this technical amendment result in no substantive change, the FAA finds good cause exists under 5 U.S.C. 553(d)(3) to make the amendments effective in less than 30 days.

List of Subjects

14 CFR Part 91

Aircraft, Aviation safety.

14 CFR Part 121

Air carriers, Safety, Transportation.

14 CFR Part 125

Aircraft, Aviation safety.

14 CFR Part 135

Air taxis, Aircraft, Aviation safety.

The Amendments

In consideration of the foregoing, the Federal Aviation Administration amends 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 § 91.107 by revising paragraphs (a)(3)(iii)(B)(*3*)(*ii*), (*iii*), and (*iv*) to read as follows:

§ 91.107 Use of safety belts, shoulder harnesses, and child restraint systems.

(a) * * *
(3) * * *
(iii) * * *
(B) * * *
(*3*) * * *

(*ii*) That the seat was manufactured under the standards of the United Nations;

(*iii*) That the seat or child restraint device furnished by the operator was approved by the FAA through Type Certificate or Supplemental Type Certificate; or

(*iv*) That the seat or child restraint device furnished by the operator, or one of the persons described in paragraph (a)(3)(iii)(A) of this section, was approved by the FAA in accordance with § 21.8(d) of this chapter or Technical Standard Order C–100b or a later version. The child restraint device manufactured by AmSafe, Inc. (CARES, Part No. 4082) and approved by the FAA in accordance with § 21.305(d) (2010 ed.) of this chapter may continue to bear a label or markings showing FAA approval in accordance with § 21.305(d) (2010 ed.) of this chapter.

* * * * *

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 3. The authority citation for part 121 is amended to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44732; 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112–95, 126 Stat. 62 (49 U.S.C. 44732 note).

■ 4. Amend § 121.311 by revising paragraphs (b)(2)(ii)(C)(*2*), (*3*), and (*4*) to read as follows:

§ 121.311 Seats, safety belts, and shoulder harnesses.

* * * * *

(b) * * *
(2) * * *
(ii) * * *
(C) * * *

(*2*) That the seat was manufactured under the standards of the United Nations;

(*3*) That the seat or child restraint device furnished by the certificate holder was approved by the FAA through Type Certificate or Supplemental Type Certificate; or

(*4*) That the seat or child restraint device furnished by the certificate holder, or one of the persons described in paragraph (b)(2)(i) of this section, was approved by the FAA in accordance with § 21.8(d) of this chapter or Technical Standard Order C–100b, or a later version. The child restraint device manufactured by AmSafe, Inc. (CARES, Part No. 4082) and approved by the FAA in accordance with § 21.305(d) (2010 ed.) of this chapter may continue to bear a label or markings showing FAA approval in accordance with § 21.305(d) (2010 ed.) of this chapter.

* * * * *

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 5. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–4717, 44722.

■ 6. Amend § 125.211 by revising paragraphs (b)(2)(ii)(C)(*2*), (*3*) and (*4*) to read as follows:

§ 125.211 Seat and safety belts.

* * * * *

(b) * * *
(2) * * *
(ii) * * *
(C) * * *

(*2*) That the seat was manufactured under the standards of the United Nations;

(*3*) That the seat or child restraint device furnished by the certificate holder was approved by the FAA through Type Certificate or Supplemental Type Certificate; or

(*4*) That the seat or child restraint device furnished by the certificate holder, or one of the persons described in paragraph (b)(2)(i) of this section, was approved by the FAA in accordance with § 21.8(d) of this chapter or Technical Standard Order C–100b, or a later version. The child restraint device manufactured by AmSafe, Inc. (CARES, Part No. 4082) and approved by the FAA in accordance with § 21.305(d) (2010 ed.) of this chapter may continue to bear a label or markings showing FAA approval in accordance with § 21.305(d) (2010 ed.) of this chapter.

* * * * *

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON–DEMAND OPERATIONS

■ 7. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 41706, 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722, 44730, 45101–45105; Pub. L. 112–95, 126 Stat. 58 (49 U.S.C. 44730).

■ 8. Amend § 135.128 by revising paragraphs (a)(2)(ii)(C)(*3*) and (*4*) to read as follows:

§ 135.128 Use of safety belts and child restraint systems.

(a) * * *
(2) * * *
(ii) * * *
(C) * * *

(*3*) That the seat or child restraint device furnished by the certificate holder was approved by the FAA through Type Certificate or Supplemental Type Certificate; or

(*4*) That the seat or child restraint device furnished by the certificate holder, or one of the persons described in paragraph (a)(2)(i) of this section, was approved by the FAA in accordance with § 21.8(d) of this chapter or Technical Standard Order C–100b, or a later version. The child restraint device manufactured by AmSafe, Inc. (CARES, Part No. 4082) and approved by the FAA in accordance with § 21.305(d) (2010 ed.) of this chapter may continue to bear a label or markings showing FAA approval in accordance with § 21.305(d) (2010 ed.) of this chapter.

* * * * *

Issued under the authority provided by 49 U.S.C. 106(f) and 44701(a) in Washington, DC, on May 14, 2014.

Brenda D. Courtney,

Acting Director, Office of Rulemaking.

[FR Doc. 2014–11554 Filed 5–19–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 520

[Docket No. FDA–2014–N–0002]

Oral Dosage Form New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendments.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for 172 approved new animal drug applications (NADAs) and 14 approved abbreviated new animal drug applications (ANADAs) for oral dosage form new animal drug products from Pfizer, Inc., including its several subsidiaries and divisions, to Zoetis, Inc. FDA is also amending the animal drug regulations to remove entries describing conditions of use for new animal drug products for which no NADA is approved, to make minor corrections, and to reflect a current format. This is being done to increase the accuracy and readability of the regulations.

DATES: This rule is effective May 20, 2014.

FOR FURTHER INFORMATION CONTACT: Steven D. Vaughn, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, 240–276–8300, *steven.vaughn@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 E. 42d St., New York, NY 10017, and its wholly owned subsidiaries Alpharma, LLC; Fort Dodge Animal Health, Division of Wyeth; Fort Dodge Animal Health, Division of Wyeth Holdings Corp.; and its division, Pharmacia & Upjohn Co., have informed FDA that they have transferred ownership of, and all rights and interest in, the 172 approved NADAs and 14 approved ANADAs in table 1 to Zoetis, Inc., 333 Portage St., Kalamazoo, MI 49007 as follows:

TABLE 1—NADAS AND ANADAS BEING TRANSFERRED FROM PFIZER, INC., TO ZOETIS, INC.

File No.	Product name
006–707	SULQUIN (sulfaquinoxaline) 6–50 Soluble Powder.
006–891	SUL–Q–NO_X (sulfaquinoxaline) Liquid 34%.
007–879	TERRAMYCIN VET (oxytetracycline hydrochloride) Capsules.
007–981	SOXISOL (sulfisoxazole) Tablets.
008–622	TERRAMYCIN (oxytetracycline hydrochloride) Soluble Powder.
009–339	CARAFEN (ammonium chloride and caramiphen edisylate) Cough Syrup.
009–392	Primidone Tablets.
010–091	MYLEPSIN (primidone) Tablets.
011–060	TERRAMYCIN (oxytetracycline hydrochloride) Scour Tablets.
011–299	PARVEX (piperazine and carbon disulfide) Suspension.
011–315	NEOMIX 325 (neomycin sulfate) Soluble Powder.
011–403	MEDROL (methylprednisolone) Tablets.
011–482	VETAME (triflupromazine hydrochloride) Tablets.
011–582	VETAMOX (acetazolamide sodium) Soluble Powder.
011–590	PARVEX (piperazine and carbon disulfide) Bolus.
011–700	CORTABA (methylprednisolone and acetylsalicylic acid) Tablets.
012–437	TEMARIL–P (trimeprazine tartrate and prednisolone) Tablets.
012–656	Promazine Granules.
012–956	DYREX (trichlorfon) Bolus, Capsules, Granules, Tablets.
013–201	DARBAZINE SPANSULE (prochlorperazine and isopropamide) Capsules.
013–248	Freed No. 10 or 25 (trichlorfon and atropine).
013–957	S.E.Z. (sulfaethoxypyridazine) for Drinking Water 6.25%.
014–366	CYTOBIN (liothyronine sodium) Tablets.
015–102	ALBON (sulfadimethoxine) Tablets.
015–126	Spectinomycin Tablet and Injection.
015–154	DYREX T.F. (trichlorfon, phenothiazine, and piperazine dihydrochloride) Powder.
015–160	Sodium Sulfachloropyrazine Solution.
015–506	WINSTROL–V (stanozolol) Tablets.
030–137	MYLEPSIN (primidone) Tablets.
030–415	FLUCORT (flumethasone) Tablets.
030–416	MESULFIN (sulfamethizole and methenamine mandelate) Tablets.
031–205	AGRIBON (sulfadimethoxine) 12.5% Drinking Water Solution.
031–448	RHEAFORM (iodochlorhydroxyquin) Bolus.
031–553	ESB 3 (sodium sulfachloropyrazine monohydrate) Solution and Soluble Powder.
031–715	ALBON (sulfadimethoxine) Boluses.
031–914	NEO–DARBAZINE SPANSULE (prochlorperazine, isopropamide, and neomycin sulfate) Capsule.
032–738	PACITRAN (metoserpate hydrochloride).
032–946	MAGNA TERRAMYCIN (oxytetracycline hydrochloride and carbomycin) Soluble Powder.
033–149	PARVEX PLUS (piperazine, carbon disulfide, phenothiazine) Suspension.
033–342	PROBAN (cythioate) Tablets 30 mg.
033–606	PROBAN (cythioate) Oral Liquid.
033–653	S.E.Z. (sulfaethoxypyridazine) Drinking Water Solution.
033–654	S.E.Z. (sulfaethoxypyridazine) Oblets 15 G.
033–760	BLOAT GUARD (poloxalene) Drench Concentrate.
033–887	LINCOCIN (lincomycin hydrochloride) Tablets.
035–161	TEMARIL–P SPANSULE (trimeprazine tartrate and prednisolone) Capsules.
035–650	DYREX (trichlorfon and atropine) Powder.
038–160	MAOLATE (chlorphenesin carbamate) Tablets.
039–356	TRAMISOL (levamisole hydrochloride) Cattle Wormer Bolus.

TABLE 1—NADAS AND ANADAS BEING TRANSFERRED FROM PFIZER, INC., TO ZOETIS, INC.—Continued

File No.	Product name
039–357	RIPERCOL L (levamisole hydrochloride) Soluble Drench Powder.
039–729	THERABLOAT (poloxalene) Oral Liquid.
040–587	LINCOCIN (lincomycin hydrochloride) Aquadrops.
041–629	Spectinomycin Oral Liquid.
041–665	TRANVET (propiopromazine hydrochloride) Chewable Tablets.
042–548	AMFOROL (kanamycin sulfate, attapulgite, bismuth subcarbonate) Suspension.
042–740	TRAMISOL (levamisole hydrochloride) Soluble Drench Powder for Sheep.
042–837	TRAMISOL (levamisole hydrochloride) Sheep Wormer Oblets.
042–841	AMFOROL (kanamycin sulfate, attapulgite, bismuth subcarbonate) Oral Tablets.
042–888	BANMINTH/STRONGID (pyrantel tartrate) Pellets.
043–078	CENTRINE (aminopentamide hydrogen sulfate) Oral Tablets.
043–785	ALBON (sulfadimethoxine) Oral Suspension 5%.
045–513	RIPERCOL L (levamisole hydrochloride) Soluble Powder.
045–515	EQUIBUTE (phenylbutazone) Tablets 100 mg.
045–715	ROBAXIN–V (methocarbamol) Tablets.
046–109	L–S 50 (lincomycin hydrochloride and spectinomycin sulfate) Water Soluble Powder.
046–285	AGRIBON (sulfadimethoxine) Soluble Powder.
047–033	S.E.Z. (sulfaethoxypyridazine) C–R Oblets 15 Gm.
049–892	SPANBOLET II (sulfamethazine).
055–013	OMNIPEN (ampicillin anhydrous) Capsules 250 mg.
055–020	AUREOMYCIN (chlortetracycline bisulfate) Soluble Powder.
055–032	DICLOXIN (dicloxacillin sodium monohydrate) Capsules.
055–042	AMPI–TAB (ampicillin trihydrate) Tablets.
055–047	CHLOROMYCETIN (chloramphenicol palmitate) Oral Suspension.
055–051	CHLOROMYCETIN (chloramphenicol) Tablets.
055–060	Penicillin G Potassium, USP.
055–073	PANMYCIN (tetracycline hydrochloride) Tablets.
055–074	AMPI–BOL (ampicillin trihydrate) Boluses.
055–076	ALBAPLEX (tetracycline hydrochloride novobiocin sodium) Tablets.
055–078	AMOXI–TABS (amoxicillin trihydrate) Tablets.
055–080	AMOXI–DOSER (amoxicillin trihydrate) Oral Suspension.
055–081	AMOXI–TABS (amoxicillin trihydrate) Tablets.
055–085	AMOXI–DROP (amoxicillin trihydrate) Oral Suspension.
055–087	AMOXI–BOL (amoxicillin trihydrate) Boluses.
055–088	AMOXI–SOL (amoxicillin trihydrate) Soluble Powder.
055–099	CLAVAMOX (amoxicillin trihydrate and clavulanate potassium) Tablets.
055–101	CLAVAMOX (amoxicillin trihydrate and clavulanate potassium) Drops.
065–004	PANMYCIN 500 (tetracycline hydrochloride) Bolus.
065–060	PANMYCIN AQUADROPS (tetracycline hydrochloride) Liquid.
065–061	TETRACHEL–VET (tetracycline hydrochloride) Drops and Syrup.
065–066	TETRACHEL–VET (tetracycline hydrochloride) Tablets 100.
065–069	TETRACHEL–VET (tetracycline hydrochloride) Capsules 500.
065–090	DELTA ALBAPLEX (tetracycline hydrochloride, novobiocin sodium, prednisolone) Tablets.
065–099	ALBAPLEX (tetracycline hydrochloride and novobiocin sodium) Capsules.
065–107	ENTROMYCIN (bacitracin methylene disalicylate and streptomycin sulfate) Soluble Powder.
065–121	Tetracycline-Vet (tetracycline hydrochloride) Capsules 250.
065–123	Tetracycline Soluble Powder.
065–140	TET–SOL 324 (tetracycline hydrochloride) Soluble Powder.
065–241	MYCHEL–VET (chloramphenicol) Capsules (50 mg).
065–270	POLYOTIC (tetracycline hydrochloride) Oblets.
065–280	FORTRACIN (bacitracin methylene disalicyclate) Soluble.
065–313	BACIFERM 50 (bacitracin zinc) Soluble Powder.
065–409	PANMYCIN (tetracycline hydrochloride) Capsules.
065–410	TETRA–SAL (tetracycline hydrochloride).
065–441	POLYOTIC (tetracycline hydrochloride) Soluble Powder.
065–470	BMD (bacitracin methylene disalicyclate) 50% Soluble Powder.
065–489	MYCHEL–VET (chloramphenicol) Tablets.
091–065	ROBIZONE–V (phenylbutazone) Tablets 100 mg.
091–327	GASTROGRAFIN (diatrizoate meglumine and diatrizoate sodium) Oral Solution.
091–739	STRONGID T (pyrantel pamoate) Oral Suspension.
092–237	RIPERCOL L-Piperazine (levamisole hydrochloride and piperazine dihydrochloride) Oral Solution.
093–105	ROBIZONE–V (phenylbutazone) Tablets 1 g.
093–107	ALBON S.R. (sulfadimethoxine) Boluses.
093–512	DIROCIDE (diethylcarbamazine citrate) Tablets.
093–688	RIPERCOL L-Piperazine (levamisole hydrochloride and piperazine dihydrochloride) Soluble Powder.
093–903	RUMATEL (morantel tartrate) Cattle Wormer Bolus.
095–333	DIFOLIN (dichlorophene and toluene) Capsules.
095–641	ARQUEL (meclofenamic acid) Granules.
096–509	NBC Kaps Wormer (n-butyl chloride) Capsules.
096–674	EQUIPROXEN (naproxen) Granules.
100–094	Poultry Sulfa (sulfamerazine, sulfamethazine, sulfaquinoxaline) Soluble Powder.
100–237	NEMEX (pyrantel pamoate) Oral Suspension.

TABLE 1—NADAS AND ANADAS BEING TRANSFERRED FROM PFIZER, INC., TO ZOETIS, INC.—Continued

File No.	Product name
100–929	PRIMOR (sulfadimethoxine and ormetoprim) Tablets.
102–709	CHEQUE (mibolerone) Drops.
103–390	TORBUTROL (butorphanol tartrate) Tablets.
104–493	FILARIBITS (diethylcarbamazine) Chewable Tablets.
107–085	TRAMISOL (levamisole hydrochloride) Tablets.
108–687	PET DERM III (dexamethasone) Tablets.
109–722	ANTHELCIDE EQ (oxibendazole) Suspension.
110–048	VALBAZEN (albendazole) Oral Suspension.
110–201	ARQUEL (meclofenamic acid) Tablets.
110–776	BENZELMIN (oxfendazole) Powder For Suspension.
110–777	BENZELMIN (oxfendazole) Top Dress Pellets.
111–636	LINCOMIX (lincomycin hydrochloride) Soluble Powder
115–578	DI–TRIM (trimethoprim and sulfadiazine) Tablets.
120–161	ANTIROBE (clindamycin hydrochloride) Capsules.
121–042	ANTHELCIDE EQ (oxibendazole) Paste.
125–961	RE–SORB Powder for Oral Solution.
126–232	CALFSPAN (sulfamethazine) Tablets.
126–237	TRAMISOL (levamisole hydrochloride) Gel.
128–070	VALBAZEN (albendazole) Oral Paste.
128–517	PET–DEC (diethylcarbamazine citrate) Tablets.
129–831	BANMINTH–P/STRONGID (pyrantel pamoate) Paste.
130–435	OXY–TET (oxytetracycline hydrochloride) Soluble Powder.
131–808	DIROCIDE (diethylcarbamazine citrate) Syrup.
132–105	BENZELMIN (oxfendazole) Equine Anthelmintic Paste.
133–841	BENZELMIN (oxfendazole) Equine Anthelmintic Suspension.
134–779	PARATECT FLEX (morantel Tartrate) Bolus.
135–544	WINSTROL–V (stanozolol) Chewable Tablets.
135–940	ANTIROBE AQUADROPS (clindamycin hydrochloride) Liquid.
136–342	DI–TRIM 400 (trimethoprim and sulfadiazine) Paste.
136–483	FILARIBITS PLUS (diethylcarbamazine citrate and oxibendazole) Chewable Tablets.
136–740	BENZELMIN PLUS (oxfendazole and trichlorfon) Paste.
140–578	SOLU–TET 324 (tetracycline hydrochloride) Soluble Powder.
140–819	STRONGID C and C 2X (pyrantel tartrate) Equine Anthelminthic.
140–892	SYNANTHIC (oxfendazole) Bovine Dewormer Paste 18.5%.
140–893	CESTEX (epsiprantel) Tablets.
140–909	SULKA–S (sulfamethazine) Bolus.
140–934	VALBAZEN (albendazole) Oral Suspension.
141–004	ROBAMOX–V (amoxicillin trihydrate) for Oral Suspension.
141–005	ROBAMOX–V (amoxicillin trihydrate) Tablets.
141–051	PROHEART (moxidectin) Tablets.
141–053	RIMADYL (carprofen) Caplets for Dogs.
141–060	DECCOX–M (decoquinate) Medicated Powder for Whole Milk.
141–080	ANIPRYL (selegiline hydrochloride) Tablets.
141–087	QUEST 2% (moxidectin) Equine Oral Gel.
141–111	RIMADYL (carprofen) Chewable Tablets.
141–151	ZENIQUIN (marbofloxacin) Tablets.
141–216	QUEST PLUS (moxidectin and praziquantel) Gel.
141–232	SIMPLICEF (cefpodoxime) Tablets.
141–260	SLENTROL (dirlotapide) Oral Solution.
141–262	CERENIA (maropitant) Tablets.
141–295	PALLADIA (toceranib phosphate) Tablets.
200–046	Neomycin Sulfate Soluble Powder.
200–106	R–PEN (penicillin G potassium) Soluble Powder.
200–113	BIOSOL (neomycin sulfate) Oral Liquid.
200–122	SOLU–PEN (penicillin G potassium) Soluble Powder.
200–130	NEO–SOL 50 (neomycin sulfate) Oral Solution.
200–189	Lincomycin Soluble.
200–233	LINCO Soluble.
200–244	TUCOPRIM (trimethoprim and sulfadiazine) Powder.
200–441	AUREOMYCYN (chlortetracycline) Soluble Powder.

Accordingly, the Agency is amending the regulations in 21 CFR part 520 to reflect these transfers of ownership. Also, the regulations are being amended to make minor corrections and to reflect a current format. This is being done to increase the accuracy and readability of the regulations.

Following this change of sponsorship, Pfizer, Inc., and its wholly owned subsidiaries are no longer sponsors of an approved NADA. Accordingly, the Agency is amending the regulations in 21 CFR 510.600(c) to reflect this change of sponsorship.

In addition, FDA has noticed that certain sections of part 520 contain entries describing conditions of use for new animal drug products for which no NADA is approved. These errors were introduced by the Agency during the 1992 recodification of the regulations for certifiable antibiotics (57 FR 37318,

August 18, 1992). That rule did not identify whether particular regulations were the subject of an approved NADA and consequently resulted in codification of certain conditions of use for which there is no approved NADA. At this time, the Agency is amending the regulations to remove these entries. This action is being taken to improve the accuracy of the regulations.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

■ 2. In § 510.600, in the table in paragraph (c)(1), remove the entries for ''Alpharma, LLC''; ''Fort Dodge Animal Health, Division of Wyeth''; ''Fort Dodge Animal Health, Division of Wyeth Holdings Corp.''; ''Pfizer, Inc.''; and ''Pharmacia & Upjohn Co.''; and in the table in paragraph (c)(2), remove the entries for ''000009'', ''000069'', ''000856'', ''046573'', and ''053501''.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 4. Revise § 520.28 to read as follows:

§ 520.28 Acetazolamide.

(a) *Specifications.* A powder containing acetazolamide sodium, USP equivalent to 25 percent acetazolamide activity.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer orally at a dosage of 5 to 15 milligrams per pound of body weight daily.

(2) *Indications for use.* As an aid in the treatment of mild congestive heart failure and for rapid reduction of intraocular pressure.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.38a [Amended]

■ 5. In paragraph (b) of § 520.38a, remove ''000069'' and in its place add ''054771''.

§ 520.38b [Amended]

■ 6. In paragraph (b) of § 520.38b, remove ''000069'' and in its place add ''054771''.

■ 7. Revise § 520.62 to read as follows:

§ 520.62 Aminopentamide.

(a) *Specifications.* Each tablet contains 0.2 milligram (mg) aminopentamide hydrogen sulphate.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs and cats*—(1) *Amount.* Administer orally every 8 to 12 hours as follows: For animals weighing up to 10 pounds (lbs): 0.1 mg; for animals weighing 11 to 20 lbs: 0.2 mg; for animals weighing 21 to 50 lbs: 0.3 mg; for animals weighing 51 to 100 lbs: 0.4 mg; for animal weighing over 100 lbs: 0.5 mg. Dosage may be gradually increased up to a maximum of five times the suggested dosage. Oral administration of tablets may be preceded by subcutaneous or intramuscular use of the injectable form of the drug.

(2) *Indications for use.* For the treatment of vomiting and/or diarrhea, nausea, acute abdominal visceral spasm, pylorospasm, or hypertrophic gastritis.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 8. Revise § 520.82 to read as follows:

§ 520.82 Aminopropazine oral dosage forms.

■ 9. Revise § 520.82a to read as follows:

§ 520.82a Aminopropazine.

(a) *Specifications.* Each tablet contains aminopropazine fumarate equivalent to 25 percent aminopropazine base.

(b) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs and cats*—(1) *Amount.* Administer orally at a dosage of 1 to 2 milligrams per pound of body weight, repeated every 12 hours as indicated.

(2) *Indications for use.* For reducing excessive smooth muscle contractions, such as occur in urethral spasms associated with urolithiasis.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 10. Revise § 520.82b to read as follows:

§ 520.82b Aminopropazine and neomycin.

(a) *Specifications.* Each tablet contains aminopropazine fumarate equivalent to 25 percent aminopropazine base and neomycin sulfate equivalent to 50 milligrams (mg) of neomycin base.

(b) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer orally at a dosage of 1 to 2 mg per pound of body weight, repeated every 12 hours as indicated.

(2) *Indications for use.* For control of bacterial diarrhea caused by organisms susceptible to neomycin and to reduce smooth muscle contractions.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 11. In § 520.88a, revise paragraphs (a), (b), (c)(1)(i) and (iii), and (c)(2)(i) and (iii) to read as follows:

§ 520.88a Amoxicillin trihydrate film-coated tablets.

(a) *Specifications.* Each tablet contains amoxicillin trihydrate equivalent to 50, 100, 150, 200, or 400 milligrams (mg) amoxicillin.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) * * *

(1) * * *

(i) *Amount.* Administer orally 5 mg per pound (/lb) of body weight, twice a day for 5 to 7 days.

* * * * *

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) * * *

(i) *Amount.* Administer orally 5 to 10 mg/lb of body weight, once daily for 5 to 7 days.

* * * * *

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 12. In § 520.88b, revise paragraphs (a), (b), (b)(1)(i)(A) and (C), (b)(1)(ii)(A) and (C), and (c)(1)(i) and (iii) to read as follows:

§ 520.88b Amoxicillin trihydrate for oral suspension.

(a) *Specifications.* When reconstituted, each milliliter contains

amoxicillin trihydrate equivalent to 50 milligrams (mg) amoxicillin.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(1) * * *

(i) * * *

(A) *Amount.* Administer orally 5 mg per pound (/lb) of body weight, twice a day for 5 to 7 days.

* * * * *

(C) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(ii) * * *

(A) *Amount.* Administer orally 5 to 10 mg/lb of body weight, once daily for 5 to 7 days.

* * * * *

(C) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

* * * * *

(c) * * *

(1) *Conditions of use in dogs*—(i) *Amount.* Administer orally 5 mg/lb of body weight, twice a day for 5 to 7 days.

* * * * *

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

* * * * *

■ 13. In § 520.88c, revise paragraphs (a), (b), (d) heading, (d)(1), and (d)(3) to read as follows:

§ 520.88c Amoxicillin trihydrate oral suspension.

(a) *Specifications.* Each 0.8-milliliter dose contains amoxicillin trihydrate equivalent to 40 milligrams (mg) amoxicillin.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

* * * * *

(d) *Conditions of use in swine*—(1) *Amount.* Administer 40 mg orally twice a day using a dosing pump. Treat animals for 48 hours after all symptoms have subsided but not beyond 5 days.

* * * * *

(3) *Limitations.* Do not slaughter during treatment or for 15 days after latest treatment. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 14. In § 520.88d, revise paragraphs (a), (b), (d) heading, (d)(1), and (d)(3) to read as follows:

§ 520.88d Amoxicillin trihydrate soluble powder.

(a) *Specifications.* Each gram of powder contains amoxicillin trihydrate equivalent to 115.4 milligrams (mg) amoxicillin.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

* * * * *

(d) *Conditions of use in preruminating calves including veal calves*—(1) *Amount.* Administer 400 mg per 100 pounds of body weight twice daily by drench or in milk. Treatment should be continued for 48 hours after all symptoms have subsided but not to exceed 5 days.

* * * * *

(3) *Limitations.* Do not slaughter animals during treatment or for 20 days after the latest treatment. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 15. In § 520.88e, revise paragraphs (a), (b), (d) heading, (d)(1), and(3) to read as follows:

§ 520.88e Amoxicillin trihydrate boluses.

(a) *Specifications.* Each bolus contains amoxicillin trihydrate equivalent to 400 milligrams (mg) amoxicillin.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

* * * * *

(d) *Conditions of use in cattle*—(1) *Amount.* Administer 400 mg per 100 pounds of body weight twice daily. Treatment should be continued for 48 hours after all symptoms have subsided but not to exceed 5 days.

* * * * *

(3) *Limitations.* Do not slaughter animals during treatment or for 20 days after the latest treatment. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 16. Revise § 520.88f to read as follows:

§ 520.88f Amoxicillin trihydrate tablets.

(a) *Specifications.* Each tablet contains amoxicillin trihydrate equivalent to 50, 100, 200, or 400 milligrams (mg) amoxicillin.

(b) *Sponsors.* See Nos. 051311 and 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer 5 mg per pound of body weight twice daily for 5 to 7 days or 48 hours after all symptoms have subsided.

(2) *Indications for use.* For treatment of bacterial dermatitis due to *Staphylococcus aureus, Streptococcus* spp., *Staphylococcus* spp., and *Escherichia coli;* and soft tissue infections (abscesses, wounds, lacerations) due to S. aureus, *Streptococcus* spp., *E. coli, Proteus mirabilis,* and *Staphylococcus* spp.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 17. In § 520.88g, revise paragraphs (b), (c)(1)(i) and (iii), and (c)(2)(i) and (iii) to read as follows:

§ 520.88g Amoxicillin trihydrate and clavulanate potassium film-coated tablets.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) * * *

(1) * * *

(i) *Amount.* 6.25 milligrams (equivalent to 5 milligrams amoxicillin and 1.25 milligrams clavulanic acid) per pound of body weight twice daily for 5 to 7 days or for 48 hours after all signs have subsided. Deep pyoderma may require treatment for 21 days; do not treat for more than 30 days.

* * * * *

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) * * *

(i) *Amount.* 62.5 milligrams (1 milliliter) (50 milligrams amoxicillin and 12.5 milligrams clavulanic acid) twice daily for 5 to 7 days or for 48 hours after all signs have subsided. Urinary tract infections may require treatment for 10 to 14 days or longer. The maximum duration of treatment should not exceed 30 days.

* * * * *

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 18. In § 520.88h, revise paragraphs (b), (c)(1)(i) and (iii), and (c)(2)(i) and (iii) to read as follows:

§ 520.88h Amoxicillin trihydrate and clavulanate potassium for oral suspension.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) * * *

(1) * * *

(i) *Amount.* 6.25 milligrams (equivalent to 5 milligrams amoxicillin and 1.25 milligrams clavulanic acid) per pound of body weight twice daily for 5 to 7 days or for 48 hours after all signs have subsided. Deep pyoderma may require treatment for 21 days; do not treat for more than 30 days.

* * * * *

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) * * *

(i) *Amount.* 62.5 milligrams (1 milliliter) (50 milligrams amoxicillin and 12.5 milligrams clavulanic acid) twice daily. Administer 48 hours after all signs have subsided. Maximum duration of treatment should not exceed 30 days.

* * * * *

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.90a [Reserved]

■ 19. Remove and reserve § 520.90a.

■ 20. In § 520.90b, revise the section heading, paragraph (b), paragraph (c) heading, and paragraph (c)(3) to read as follows:

§ 520.90b Ampicillin tablets.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—

* * * * *

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 21. In § 520.90c, revise the section heading, paragraphs (b), (c)(1)(iii), and (c)(2)(iii) to read as follows:

§ 520.90c Ampicillin capsules.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) * * *

(1) * * *

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) * * *

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 22. In § 520.90d, revise the section heading, paragraphs (c)(1)(i) and (iii), and (c)(2)(i) and (iii) to read as follows:

§ 520.90d Ampicillin for oral suspension.

* * * * *

(c) * * *

(1) * * *

(i) *Amount.* Administer to 10 milligrams per pound of body weight orally, 2 or 3 times daily, 1 to 2 hours prior to feeding. In severe or acute conditions, 10 milligrams per pound of body weight 3 times daily. Duration of treatment is usually 3 to 5 days. Continue treatment 48 hours after the animal's temperature has returned to normal and all other signs of infection have subsided.

* * * * *

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) * * *

(i) *Amount.* Administer 10 to 30 milligrams per pound of body weight orally, 2 or 3 times daily, 1 to 2 hours prior to feeding. Duration of treatment is usually 3 to 5 days. Continue treatment 48 hours after the animal's temperature has returned to normal and all other signs of infection have subsided.

* * * * *

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 23. In § 520.90e, revise the section heading and paragraph (d)(3) to read as follows:

§ 520.90e Ampicillin for soluble powder.

* * * * *

(d) * * *

(3) *Limitations.* Treated swine must not be slaughtered for food during treatment and for 24 hours following the last treatment. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 24. In § 520.90f, revise the section heading and revise paragraph (b) and in paragraphs (d)(1)(ii) and (d)(2)(ii), remove the second sentence..

The revisions read as follows:

§ 520.90f Ampicillin boluses.

* * * * *

(b) Sponsors. See sponsor numbers in § 510.600(c) of this chapter as follows:

(1) No. 055529 for use as in paragraph (d)(1) of this section;

(2) No. 054771 for use as in paragraph (d)(2) of this section.

* * * * *

■ 25. In § 520.110, revise paragraph (d) to read as follows:

§ 520.110 Apramycin sulfate soluble powder.

* * * * *

(d) *Conditions of use in swine*—(1) *Amount.* Administer in drinking water at the rate of 12.5 milligrams of apramycin per kilogram (5.7 milligrams per pound) of body weight per day for 7 days.

(2) *Indications for use.* For the control of porcine colibacillosis (weanling pig scours) caused by strains of *Escherichia coli* sensitive to apramycin.

(3) *Limitations.* Prepare fresh medicated water daily. Do not slaughter treated swine for 28 days following treatment.

§ 520.154a [Amended]

■ 26. In paragraph (b) of § 520.154a, remove ''046573'' and in its place add ''054771''.

§ 520.154b [Amended]

■ 27. In paragraph (b) of § 520.154b, remove ''046573'' and in its place add ''054771''.

§ 520.154c [Amended]

■ 28. In paragraph (b) of § 520.154c, remove ''053501'' and in its place add ''054771''.

■ 29. Revise § 520.246 to read as follows:

§ 520.246 Butorphanol tablets.

(a) *Specifications.* Each tablet contains butorphanol tartrate equivalent to 1, 5, or 10 milligrams (mg) butorphanol base.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer 0.25 mg butorphanol base per pound of body weight. Repeat at intervals of 6 to 12 hours as required. Treatment should not normally be required for longer than 7 days.

(2) *Indications for use.* For the relief of chronic nonproductive cough associated with tracheobronchitis, tracheitis, tonsillitis, laryngitis, and pharyngitis associated with inflammatory conditions of the upper respiratory tract.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.260 [Amended]

■ 30. In § 520.260, remove footnote 1 wherever it occurs; and in paragraph (b)(2), remove ''000069'' and in its place add ''054771''.

■ 31. In § 520.300a, revise paragraph (c) to read as follows:

§ 520.300a Cambendazole suspension.

* * * * *

(c) *Conditions of use in horses*—(1) *Amount.* Administer by stomach tube or as a drench at a dose of 0.9 gram of cambendazole per 100 pounds of body weight (20 milligrams per kilogram).

(2) *Indications for use.* For the control of large strongyles (*Strongylus vulgaris, S. edentatus, S. equinus*); small strongyles (*Trichonema, Poteriostomum, Cylicobrachytus, Craterostomum, Oesophagodontus*); roundworms (*Parascaris*); pinworms (*Oxyuris*); and threadworms (*Strongyloides*).

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 32. In § 520.300b, revise paragraph (c) to read as follows:

§ 520.300b Cambendazole pellets.

* * * * *

(c) *Conditions of use in horses*—(1) *Amount.* Administer 20 milligrams cambendazole per kilogram body weight (6 ounces per 1,000 pounds) by mixing with normal grain ration given at one feeding. Doses for individual horses should be mixed and fed separately to assure that each horse will consume the correct amount. For animals maintained on premises where reinfection is likely to occur, re-treatments may be necessary. For most effective results, re-treat in 6 to 8 weeks.

(2) *Indications for use.* For the control of large strongyles (*Strongylus vulgaris, S. edentatus, S. equinus*); small strongyles (*Trichonema, Poteriostomum, Cylicobrachytus, Craterostomum, Oesophagodontus*); roundworms (*Parascaris*); pinworms (*Oxyuris*); and threadworms (*Strongyloides*).

(3) *Limitations.* Do not administer to pregnant mares during first 3 months of pregnancy. Do not use in horses intended for human consumption. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

■ 33. In § 520.300c, revise paragraph (c) to read as follows:

§ 520.300c Cambendazole paste.

* * * * *

(c) *Conditions of use in horses*—(1) *Amount.* Administer 20 milligrams cambendazole per kilogram body weight (5 grams per 550 pounds (250 kilograms)) by depositing the paste on the back of the tongue using a dosing gun. For animals maintained on premises where reinfection is likely to occur, re-treatments may be necessary. For most effective results, re-treat in 6 to 8 weeks.

(2) *Indications for use.* For the control of large strongyles (*Strongylus vulgaris, S. edentatus, S. equinus*); small strongyles (*Trichonema, Poteriostomum, Cylicobrachytus, Craterostomum, Oesophagodontus*); roundworms (*Parascaris*); pinworms (*Oxyuris*); and threadworms (*Strongyloides*).

(3) *Limitations.* Do not administer to pregnant mares during first 3 months of pregnancy. Do not use in horses intended for human consumption. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

§ 520.309 [Amended]

■ 34. In § 520.309, in paragraph (b)(1), remove ''000069'' and in its place add ''054771''.

§ 520.310 [Amended]

■ 35. In § 520.310, in paragraph (b), remove ''000856'' and in its place add ''054771''; and remove footnote 1 wherever it occurs.

§ 520.370 [Amended]

■ 36. In § 520.370, in paragraph (b), remove ''000009 and 026637'' and in its place add ''026637 and 054771''.

§ 520.390a [Amended]

■ 37. In § 520.390a, in paragraph (b)(1)(ii), remove ''000856'' and in its place add ''054771''; and remove paragraph (b)(1)(iii).

§ 520.390b [Amended]

■ 38. In § 520.390b, in paragraph (b), remove ''000069 and 050057'' and in its place add ''050057 and 054771''.

§ 520.390c [Amended]

■ 39. In § 520.390c, in paragraph (b), remove ''000856'' and in its place add ''054771''.

§ 520.420 [Amended]

■ 40. In § 520.420, remove footnote 1 wherever it occurs.

§ 520.434 [Amended]

■ 41. In § 520.434, in paragraph (b), remove ''000009'' and in its place add ''054771''; and in paragraph (c)(3), remove the first four sentences.

§ 520.441 [Amended]

■ 42. In § 520.441, in paragraph (b)(2), remove ''046573 and 000010'' and in its place add ''000010 and 054771''.

§ 520.446 [Amended]

■ 43. In § 520.446, in paragraph (b)(1), remove ''000009 and 000859'' and in its place add ''000859 and 054771''.

§ 520.447 [Amended]

■ 44. In § 520.447, in paragraph (b), remove ''000009, 000859, 051311'' and in its place add ''000859, 051311, 054771''.

§ 520.530 [Amended]

■ 45. In § 520.530, in paragraph (b), remove ''053501'' and in its place add '' 054771''; and in paragraph (d)(3), remove the first two sentences.

■ 46. Amend § 520.531 as follows:

■ a. Add paragraph (a);

■ b. Remove paragraph (c);

■ c. Redesignate paragraph (d) as paragraph (c); and

■ d. Revise paragraph (b) and newly redesignated paragraph (c)(3).

The addition and revision read as follows:

§ 520.531 Cythioate tablets.

(a) *Specifications.* Each tablet contains 30 or 90 milligrams (mg) cythioate.

(b) *Sponsors.* See sponsor numbers in § 510.600(c) of this chapter as follows:

(1) No. 000859 for use of 30- and 90-mg tablets;

(2) No. 054771 for use of the 30-mg tablet.

(c) * * *

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 47. In § 520.534, revise paragraph (a), and in paragraph (b), remove ''046573'' and in its place add ''054771''.

The revision reads as follows:

§ 520.534 Decoquinate.

(a) *Specifications.* Each gram of powder contains 8 milligrams (0.8 percent) decoquinate.

* * * * *

■ 48. Revise § 520.540a to read as follows:

§ 520.540a Dexamethasone powder.

(a) *Specifications.* Each packet contains 10 milligrams (mg) of dexamethasone.

(b) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter.

(c) *Conditions of use in cattle and horses*—(1) *Amount.* Administer 5 to 10 mg per animal the first day then 5 mg per day as required by drench or by sprinkling on a small amount of feed.

(2) *Indications for use.* As supportive therapy following parenteral steroid administration for management or inflammatory conditions such as acute arthritic lameness, and for various stress conditions where corticosteroids are required while the animal is being treated for a specific condition.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian. A withdrawal period has not been established for this product in preruminating calves. Do not use in calves to be processed for veal. Do not use in horses intended for human consumption.

■ 49. In § 520.540b, remove footnote 1 wherever it occurs; and revise paragraphs (a)(3) and (b)(3) to read as follows:

§ 520.540b Dexamethasone tablets and boluses.

(a) * * *

(3) *Conditions of use in cattle and horses*—(i) *Amount.* Administer orally 5 to 10 milligrams on the first day, then 5 milligrams per day as required.

(ii) *Indications for use.* As supportive therapy following parenteral steroid administration for management or inflammatory conditions such as acute arthritic lameness, and for various stress conditions where corticosteroids are required while the animal is being treated for a specific condition.

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian. A withdrawal period has not been established for this product in preruminating calves. Do not use in calves to be processed for veal. Do not use in horses intended for human consumption.

(b) * * *

(3) *Conditions of use in dogs and cats*—(i) *Amount.* Dogs: Administer orally 0.25 to 1.25 milligrams per day for up to 7 days. Cats: Administer orally 0.125 to 0.5 milligrams per day for up to 7 days.

(ii) *Indications for use.* As an anti-inflammatory agent.

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 50. Amend § 520.540c as follows:

■ a. Remove footnote 1 wherever it occurs;

■ b. In paragraph (b), remove ''000069'' and in its place add ''054771''; and

■ c. Revise paragraph (c).

The revision reads as follows:

§ 520.540c Dexamethasone chewable tablets.

* * * * *

(c) *Conditions of use in dogs*—(1) *Amount.* Administer by free-choice feeding or crumbled over food 0.25 to 1.25 milligrams daily in single or two divided doses until response is noted or 7 days have elapsed. When response is attained, dosage should be gradually reduced by 0.125 milligram per day until maintenance level is achieved.

(2) *Indications for use.* As supportive therapy in nonspecific dermatosis and inflammatory conditions.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.550 [Removed]

■ 51. Remove § 520.550.

■ 52. In § 520.563, revise the section heading, remove ''053501'' in paragraph (b) and in its place add ''054771'', and revise paragraph (c).

The revisions read as follows:

§ 520.563 Dexamethasone chewable tablets.

* * * * *

(c) *Conditions of use in dogs and cats*—(1) *Amount.* Administer orally 0.5 to 1.0 milliliter per pound of body weight by gavage or stomach tube. Administered rectally 0.5 to 1.0 milliliter per pound of body weight diluted with 1 part of the drug to 5 parts of water.

(2) *Indications for use.* For radiography of the gastrointestinal tract.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.580 [Amended]

■ 53. In § 520.580, in paragraph (b)(2), remove ''054628'' and in its place add ''054771''.

■ 54. In § 520.608, revise the section heading and paragraphs (b) and (c) to read as follows:

§ 520.608 Dicloxacillin.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600 (c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer orally 5 to 10 milligrams per pound of body weight, three times daily. In severe cases, up to 25 milligrams per pound of body weight three times daily.

(2) *Indications for use.* For the treatment of pyoderma (pyogenic dermatitis) due to penicillinase-producing staphylococci sensitive to dicloxacillin.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.622a [Amended]

■ 55. In § 520.622a, in paragraph (a)(2), remove ''053501'' and in its place add ''054771''.

§ 520.622b [Amended]

■ 56. In § 520.622b, in paragraph (a)(2), remove ''053501'' and in its place add ''054771''.

§ 520.622c [Amended]

■ 57. In § 520.622c, in paragraph (b)(2), remove ''000069'' and in its place add ''054771''.

■ 58. In § 520.623, revise the section heading and paragraphs (b) and (c)(3) to read as follows:

§ 520.623 Diethylcarbamazine and oxibendazole chewable tablets.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) * * *

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.666 [Amended]

■ 59. In § 520.666, in paragraph (b), remove ''000069'' and in its place add ''054771''.

■ 60. Revise § 520.763 to read as follows:

§ 520.763 Dithiazanine oral dosage forms.

■ 61. Revise § 520.763a to read as follows:

§ 520.763a Dithiazanine tablets.

(a) *Specifications.* Each tablet contains 10, 50, 100, or 200 milligrams (mg) dithiazanine iodide.

(b) *Sponsor.* See No. 054628 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Indications for use and amount.* Administer orally immediately after feeding as follows:

(i) For large roundworms (*Toxocara canis, Toxascaris leonina*): 10 mg per pound (/lb) of body weight for 3 to 5 days;

(ii) For hookworms (*Ancylostoma caninum, Uncinaria stenocephala*) and whipworms (*Trichuris vulpis*): 10 mg/lb of body weight for 7 days;

(iii) For Strongyloides (*Strongyloides canis, Strongyloides stercoralis*): 10 mg/lb of body weight for 10 to 12 days;

(iv) For heartworm microfilariae (*Dirofilaria immitus*): 3 to 5 mg/lb of body weight for 7 to 10 days. Treatment for heartworm microfilariae should follow 6 weeks after therapy for adult worms.

(2) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 62. Revise § 520.763b to read as follows:

§ 520.763b Dithiazanine powder.

(a) *Specifications.* Each tablespoon of powder contains 200 milligrams (mg) dithiazanine iodide.

(b) *Sponsor.* See No. 000010 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Indications for use and amount.* Administer orally by mixing in food as follows:

(i) For large roundworms (*Toxocara canis, Toxascaris leonina*): 10 mg per pound (/lb) of body weight for 3 to 5 days;

(ii) For hookworms (*Ancylostoma caninum, Uncinaria stenocephala*) and whipworms (*Trichuris vulpis*): 10 mg/lb of body weight for 7 days;

(iii) For Strongyloides (*Strongyloides canis, Strongyloides stercoralis*): 10 mg/lb of body weight for 10 to 12 days;

(iv) For heartworm microfilariae (*Dirofilaria immitus*): 3 to 5 mg/lb of body weight for 7 to 10 days. Treatment for heartworm microfilariae should follow 6 weeks after therapy for adult worms.

(2) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 63. In § 520.763c, redesignate paragraph (d) as paragraph (c); and revise paragraphs (a), (b), and the redesignated paragraph (c) heading to read as follows:

§ 520.763c Dithiazanine and piperazine suspension.

(a) *Specifications.* Each milliliter of suspension contains 69 milligrams (mg) dithiazanine iodide and 83 mg piperazine base (as piperazine citrate).

(b) *Sponsor.* See No. 054628 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—

* * * * *

■ 64. Amend § 520.784 by revising the section heading and paragraph (c) to read as follows:

§ 520.784 Doxylamine.

* * * * *

(c) *Conditions of use*—(1) *Amount.* Horses: Administer orally 1 to 2 milligrams (mg) per pound (/lb) of body weight per day divided into 3 or 4 equal doses. Dogs and cats: Administer orally 2 to 3 mg/lb of body weight per day divided into 3 or 4 equal doses.

(2) *Indications for use.* For use when antihistaminic therapy may be expected to alleviate some signs of disease in horses, dogs, and cats.

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 65. Revise § 520.804 to read as follows:

§ 520.804 Enalapril.

(a) *Specifications.* Each tablet contains 1.0, 2.5, 5.0, 10, or 20 milligrams (mg) of enalapril maleate.

(b) *Sponsor.* See No. 050604 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(i) *Amount.* Administer orally 0.5 to 1.0 mg of enalapril maleate per kilogram of body weight per day.

(ii) *Indications for use.* For the treatment of mild, moderate, and severe (modified New York Heart Association Class II, III, IV) heart failure in dogs.

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 66. In § 520.816, revise the section heading and paragraphs (b) and (c)(3) to read as follows:

§ 520.816 Epsiprantel.

* * * * *

(b) *Sponsor.* See No. 050604 in § 510.600(c) of this chapter.

(c) * * *

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 67. In § 520.823, revise the section heading and paragraph (a) to read as follows:

§ 520.823 Erythromycin.

(a) *Specifications.* Each gram of powder contains erythromycin phosphate equivalent to 0.89 gram of erythromycin master standard.

* * * * *

■ 68. Amend § 520.863 as follows:

■ a. Revise the section heading;

■ b. Remove footnote 1 wherever it occurs; and

■ c. Revise paragraph (c).

The revisions read as follows:

§ 520.863 Ethylisobutrazine.

* * * * *

(c) *Conditions of use in dogs*—(1) *Amount.* Administer orally 2 to 5 milligrams per pound of body weight once daily.

(2) *Indications for use.* As a tranquilizer.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 69. In § 520.870, add paragraph (c) and remove paragraph (d).

The addition reads as follows:

§ 520.870 Etodolac.

* * * * *

(c) *Conditions of use in dogs*—(1) *Amount.* Administer 10 to 15 mg per kilogram (4.5 to 6.8 mg per pound) of body weight per day orally.

(2) *Indications for use.* For the management of pain and inflammation associated with osteoarthritis.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 70. Revise § 520.903a to read as follows:

§ 520.903a Febantel paste.

(a) *Specifications.* Each gram of paste contains 455 milligrams (45.5 percent) febantel.

(b) *Sponsor.* See No. 000859 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—(1) *Amount.* Administer paste orally at 6 milligrams per kilogram (2.73 milligrams per pound) of body weight on the base of the tongue or well mixed into a portion of the normal grain ration. For animals maintained on premises where reinfection is likely to occur, retreatment may be necessary. For most effective results, retreat in 6 to 8 weeks.

(2) *Indications for use.* For removal of large strongyles (*Strongylus vulgaris, S. edentatus, S. equinus*); ascarids (*Parascaris equorum*—sexually mature and immature); pinworms (*Oxyuris equi*—adult and 4th stage larva); and various small strongyles in horses, foals, and ponies.

(3) *Limitations.* Do not use in horses intended for human consumption. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

■ 71. In § 520.903b, revise paragraphs (a), (b), and (c) to read as follows:

§ 520.903b Febantel suspension.

(a) *Specifications.* Each ounce of suspension contains 2.75 grams (9.3 percent ounce) febantel.

(b) *Sponsor.* See No. 000859 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—(1) *Amount.* 3 milliliters per 100 pounds body weight or 1 fluid ounce per 1000 pounds (6 milligrams per kilogram body weight). Administer by stomach tube or drench, or by mixing well into a portion of the normal grain ration. For animals maintained on premises where reinfection is likely to occur, retreatment may be necessary. For most effective results, retreat in 6 to 8 weeks.

(2) *Indications for use.* For removal of ascarids (*Parascaris equorum*—adult and sexually immature), pinworms (*Oxyuris equi*—adult and 4th stage larvae), large strongyles (*Strongylus vulgaris, S. edentatus, S. equinus*), and various small strongyles in horses, breeding stallions and mares, pregnant mares, foals, and ponies.

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

* * * * *

■ 72. In § 520.903d, revise the section heading and paragraph (c)(3) and remove paragraph (c)(4).

The revisions read as follows:

§ 520.903d Febantel and praziquantel paste.

* * * * *

(c) * * *

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 73. In § 520.903e, revise paragraphs (b) and (c)(3) to read as follows:

§ 520.903e Febantel tablets.

* * * * *

(b) *Sponsor.* See No. 000859 in § 510.600(c) of this chapter.

(c) * * *

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 74. In § 520.960, revise the section heading and paragraphs (b) and (c)(3) to read as follows:

§ 520.960 Flumethasone.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) * * *

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 75. Add § 520.1060 to read as follows:

§ 520.1060 Glucose and glycine.

(a) *Specifications.* Each packet of powder contains 8.82 grams sodium chloride, 4.20 grams potassium

phosphate, 0.5 gram citric acid anhydrous, 0.12 gram potassium citrate, 6.36 grams aminoacetic acid (glycine), and 44.0 grams glucose.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in calves*—(1) *Amount.* Dissolve each packet in 2 quarts of warm water and administer to each calf as follows:

(i) *Scouring and/or dehydrated calves.* Feed 2 quarts of solution, twice daily for 2 days (four feedings). No milk or milk replacer should be fed during this period. For the next four feedings (days 3 and 4), use 1 quart of solution together with 1 quart of milk replacer. Thereafter, feed as normal.

(ii) *Newly purchased calves.* Feed 2 quarts of solution instead of milk as the first feed upon arrival. For the next scheduled feeding, use 1 quart of solution mixed together with 1 quart of milk or milk replacer. Thereafter, feed as normal.

(2) *Indications for use.* For control of dehydration associated with diarrhea (scours); and as an early treatment at the first signs of scouring. It may also be used as followup treatment following intravenous fluid therapy.

(3) *Limitations.* The product should not be used in animals with severe dehydration (down, comatose, or in a state of shock). Such animals need intravenous therapy. A veterinarian should be consulted in severely scouring calves. The product is not nutritionally complete if administered by itself for long periods of time. It should not be administered beyond the recommended treatment period without the addition of milk or milk replacer.

■ 76. In § 520.1100, revise paragraphs (d)(1)(ii) and (d)(2)(i)(A) to read as follows:

§ 520.1100 Griseofulvin.

* * * * *

(d) * * *

(1) * * *

(ii) *Limitations.* Do not use in horses intended for human consumption.

(2) * * *

(i) * * *

(A) Daily (single or divided) dose as follows: For animals weighing up to 6 pounds: 62.5 milligrams; for animals weighing 6 to 18 pounds: 125 milligrams; for animals weighing 18 to 36 pounds: 250 milligrams; for animals weighing 36 to 48 pounds: 375 milligrams; for animal weighing 48 to 75 pounds: 500 milligrams.

* * * * *

■ 77. Amend § 520.1120a as follows:

■ a. Remove paragraph (a);

■ b. Redesignate paragraphs (b) through (f) as paragraphs (a) through (e), respectively; and

■ c. Revise newly redesignated paragraphs (a) and (e).

The revisions read as follows:

§ 520.1120a Haloxon drench.

* * * * *

(a) *Specifications.* Each packet contains 141.5 grams haloxon.

* * * * *

(e) *Conditions of use in cattle*—(1) *Amount.* Dissolve each packet in 32 fluid ounces of water and administer as follows: For animals weighing up to 100 pounds: 1/2 fluid ounce; for animals weighing 100 to 150 pounds: 3/4 fluid ounce; for animals weighing 150 to 200 pounds: 1 fluid ounce; for animals weighing 200 to 300 pounds: 1 1/2 fluid ounces; for animals weighing 300 to 450 pounds: 2 fluid ounces; for animals weighing 450 to 700 pounds: 3 fluid ounces; for animals weighing 700 to 1,000 pounds: 4 fluid ounces; for animals weighing 1,000 to 1,200 pounds: 5 fluid ounces; for animals weighing over 1,200 pounds: 6 fluid ounces. Retreat in 3 to 4 weeks.

(2) *Indications for use.* For control of gastrointestinal roundworms of the genera *Haemonchus, Ostertagia, Trichostrongylus,* and *Cooperia.*

(3) *Limitations.* Do not treat dairy animals of breeding age. Do not treat within 1 week of slaughter.

■ 78. Amend § 520.1120b as follows:

■ a. Remove paragraph (a);

■ b. Redesignate paragraphs (b) through (e) as paragraphs (a) through (d), respectively; and

■ c. Revise newly redesignated paragraph (d).

The revisions read as follows:

§ 520.1120b Haloxon boluses.

* * * * *

(d) *Conditions of use in cattle*—(1) *Amount.* Administered one bolus per 500 pounds body weight (35 to 50 milligrams per kilogram of body weight). Retreat in 3 to 4 weeks.

(2) *Indications for use.* For control of gastrointestinal roundworms of the genera *Haemonchus, Ostertagia, Trichostrongylus,* and *Cooperia.*

(3) *Limitations.* Do not treat dairy animals of breeding age or older. Do not treat within 1 week of slaughter.

■ 79. In § 520.1157, revise the section heading and paragraph (c)(3) to read as follows:

§ 520.1157 Iodinated casein.

* * * * *

(c) * * *

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 80. In § 520.1158, revise the section heading and paragraphs (b) and (c)(3) to read as follows:

§ 520.1158 Iodochlorhydroxyquin.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600 (c) of this chapter.

(c) * * *

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 81. In § 520.1196, revise the section heading and paragraphs (c)(1)(i) and (iii) to read as follows:

§ 520.1196 Ivermectin and pyrantel tablets.

* * * * *

(c) * * *

(1) * * *

(i) *Amount.* Administer a minimum of 6 µg of ivermectin and 5 mg of pyrantel per kilogram (2.72 µg and 2.27 mg per pound) of body weight monthly.

* * * * *

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

* * * * *

§ 520.1199 [Amended]

■ 82. In § 520.1199, in paragraph (b), remove ''*Sponsors*'' and in its place add ''*Sponsor*''.

§ 520.1204 [Amended]

■ 83. In § 520.1204, in paragraph (b), remove ''000856'' and in its place add ''054771''.

§ 520.1242a [Amended]

■ 84. In § 520.1242a, in paragraph (b)(2), remove ''053501'' and in its place add ''054771''.

■ 85. Revise § 520.1242b to read as follows:

§ 520.1242b Levamisol boluses or oblets.

(a) *Specifications.* Each bolus contains 2.19 grams levamisol hydrochloride. Each oblet contains 0.184 grams levamisol hydrochloride.

(b) *Sponsors.* See Nos. 000061 and 054771 in § 510.600(c) of this chapter.

(c) *Required labeling.* Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

(d) *Related tolerances.* See § 556.350 of this chapter.

(e) *Conditions of use*—(1) *Cattle*—(i) *Amount.* Administer orally 2.19-gram boluses as a single dose as follows: 250 to 450 pounds, ½ bolus; 450 to 750 pounds, 1 bolus; and 750 to 1,050 pounds, 1½ boluses.

(ii) *Indications for use.* Anthelmintic effective against the following nematode infections: Stomach worms (*Haemonchus, Trichostrongylus, Ostertagia*), intestinal worms (*Trichostrongylus, Cooperia, Nematodirus, Bunostomum, Oesophagostomum*), and lungworms (*Dictyocaulus*).

(iii) *Limitations.* Conditions of constant helminth exposure may require re-treatment within 2 to 4 weeks after the first treatment. Do not slaughter for food within 48 hours of treatment. Not for use in dairy animals of breeding age. Consult veterinarian before using in severely debilitated animals.

(2) *Sheep*—(i) *Amount.* Administer orally one 0.184-gram oblet for each 50 pounds of body weight.

(ii) *Indications for use.* Anthelmintic effective against the following nematode infections: Stomach worms (*Haemonchus, Trichostrongylus, Ostertagia*), intestinal worms (*Trichostrongylus, Cooperia, Nematodirus, Bunostomum, Oesophagostomum, Chabertia*), and lungworms (*Dictyocaulus*).

(iii) *Limitations.* Conditions of constant helminth exposure may require re-treatment within 2 to 4 weeks after the first treatment. Do not slaughter for food within 72 hours of treatment. Consult a veterinarian before using in severely debilitated animals.

■ 86. Revise § 520.1242c to read as follows:

§ 520.1242c Levamisol and piperazine.

(a) *Specifications.* (1) Each ounce of solution contains 0.36 gram of levamisole hydrochloride and piperazine dihydrochloride equivalent to 3.98 grams of piperazine base.

(2) A soluble powder which when constituted with water contains in each fluid ounce 0.45 gram of levamisole hydrochloride and piperazine dihydrochloride equivalent to 5.0 grams of piperazine base.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—(1) *Amount.* Aqueous solution: administer by stomach tube or drench 1 fluid ounce per 100 pounds of body weight. Reconstituted soluble powder: administer by stomach tube 1 fluid ounce per 125 pounds of body weight. If reinfection occurs, re-treat animals at 6- to 8-week intervals.

(2) *Indications for use.* An anthelmintic effective against infections of large strongyles (*Strongylus vulgaris, S. edentatus*), small strongyles (*Cylicocercus* spp., *Cylicocyclus* spp., *Cylicodontophorus* spp., *Cylicostephanus* spp., *Cylicotetrapedon* spp.), ascarids (*Parascaris equorum*), and pinworms (*Oxyuris equi*).

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.1242e [Amended]

■ 87. In paragraph (b) of § 520.1242e, remove ''053501'' and in its place add ''054771''.

■ 88. In § 520.1242f, revise the section heading and paragraphs (a) and (b) to read as follows:

§ 520.1242f Levamisol gel.

(a) *Specifications.* Each gram of gel contains 115 milligrams (11.5 percent) levamisol hydrochloride.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

* * * * *

■ 89. Amend § 520.1242g as follows:

■ a. Remove paragraph (a);

■ b. Redesignate paragraphs (b) through (f) as paragraphs (a) through (e); and

■ c. Revise newly redesignated paragraph (d).

The revision reads as follows:

§ 520.1242g Levamisole resinate and famphur paste.

* * * * *

(d) *Related tolerances.* See §§ 556.273 and 556.350 of this chapter.

* * * * *

■ 90. Revise § 520.1263a to read as follows:

§ 520.1263a Lincomycin tablets and syrup.

(a) *Specifications.* (1) Each ounce of syrup contains lincomycin hydrochloride equivalent to either 25 or 50 milligrams (mg) lincomycin.

(2) Each tablet contains lincomycin hydrochloride equivalent to either 25 or 50 mg lincomycin.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs and cats*—(1) *Amount.* Administer orally 10 mg per pound of body weight every 12 hours, or 7 mg per pound of body weight every 8 hours, for up to 12 days.

(2) *Indications for use.* For infections caused by gram-positive organisms which are sensitive to its action, particularly streptococci and staphylococci.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.1263c [Amended]

■ 91. In § 520.1263c, in paragraph (b)(1) remove ''000009'' and in its place add ''054771''; and in paragraph (b)(2) remove ''046573'' and in its place add ''054771''.

§ 520.1265 [Amended]

■ 92. In § 520.1265, in paragraph (b)(1) remove ''000009'' and in its place add ''054771''.

■ 93. Revise § 520.1284 to read as follows:

§ 520.1284 Liothyronine.

(a) *Specifications.* Each tablet contains 60 or 120 micrograms (μg) liothyronine as the sodium salt.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer orally to dogs at levels up to 12.8 μg per kilogram (/kg) of body weight per day. Dosage should be adjusted according to the severity of the condition and the response of the patient. Dosage at the total replacement level (12.8 μg/kg of body weight) should be considered for initiating therapy and then titrated downward for optimum maintenance effect. Twice daily administration is recommended.

(2) *Indications for use.* For treatment of hypothyroidism in dogs.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 94. In § 520.1310, in paragraph (b), remove ''000069'' and in its place add ''054771''; and revise the section heading to read as follows:

§ 520.1310 Marbofloxacin.

* * * * *

§ 520.1315 [Amended]

■ 95. In paragraph (b) of § 520.1315, remove ''000069'' and in its place add ''054771''.

■ 96. Revise § 520.1320 to read as follows:

§ 520.1320 Mebendazole.

(a) *Specifications.* (1) Each gram of powder contains either 40 or 166.7 milligrams of mebendazole.

(2) Each gram of paste contains 200 milligrams of mebendazole.

(3) Each milliliter of suspension contains 33.3 milligrams of mebendazole.

(b) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Horses*—(i) *Amount.* 1 gram of mebendazole per 250 pounds of body weight per dose, as an oral powder, paste or suspension.

(ii) *Indications for use.* For treatment of infections caused by large roundworms (*Parascaris equorum*); large strongyles (*Strongylus edentatus, S. equinus, S. vulgaris*); small

strongyles; and mature and immature (4th larval stage) pinworms (*Oxyuris equi*).

(iii) *Limitations.* The drug is compatible with carbon disulfide. Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) *Dogs*—(i) *Amount.* Administer 100 milligrams of mebendazole per 10 pounds of body weight, once daily for 3 days, as an oral powder by mixing with a small quantity of food, preferably before the regular meal.

(ii) *Indications for use.* The drug is used for treatment of infections of roundworms (*Toxocara canis*), hookworms (*Ancylostoma caninum, Uncinaria stenocephala*), whipworms (*Trichuris vulpis*), and tapeworms (*Taenia pisiformis*).

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 97. In § 520.1326a revise the paragraph (c) heading and paragraph (c)(3) to read as follows:

§ 520.1326a Mebendazole and trichlorfon powder.

* * * * *

(c) *Conditions of use in horses*—

* * * * *

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 98. In § 520.1326b revise the paragraph (c) heading to read as follows:

§ 520.1326b Mebendazole and trichlorfon paste.

* * * * *

(c) *Conditions of use in horses*—

* * * * *

■ 99. Revise § 520.1330 to read as follows:

§ 520.1330 Meclofenamic acid granules.

(a) *Specifications.* Each gram of granules contains 5 milligrams (5 percent) meclofenamic acid.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—(1) *Amount.* Administer 1 milligram per pound of body weight (1 gram per 1000 pounds) once daily for 5 to 7 days by addition to the daily grain ration.

(2) *Indications for use.* For the treatment of acute or chronic inflammatory diseases involving the musculoskeletal system.

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 100. In § 520.1331 revise paragraphs (b) and (c)(3) to read as follows:

§ 520.1331 Meclofenamic acid tablets.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) * * *

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 101. In § 520.1341, revise the section heading and paragraphs (b) and (c) to read as follows:

§ 520.1341 Megestrol.

* * * * *

(b) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer orally, intact, or crushed and mixed with food as follows:

(i) For the postponement of estrus by proestrus treatment: 1 milligram per pound of body weight per day for 8 days.

(ii) For the postponement of estrus by anestrus treatment: 0.25 milligram per pound of body weight per day for 32 days.

(iii) For alleviation of false pregnancy: 1 milligram per pound of body weight per day for 8 days.

(2) *Indications for use.* For the postponement of estrus and the alleviation of false pregnancy in female dogs.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 102. Revise § 520.1380 to read as follows:

§ 520.1380 Methocarbamol.

(a) *Specifications.* Each tablet contains 500 milligrams (mg) of methocarbamol.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs and cats*—(1) *Amount.* Administer 60 mg per pound of body weight in two or three equally divided doses, followed each following day by 30 to 60 mg per pound of body weight, usually not to exceed 14 to 21 days.

(2) *Indications for use.* As an adjunct to therapy for acute inflammatory and traumatic conditions of the skeletal muscles in order to reduce muscular spasms.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 103. Revise § 520.1408 to read as follows:

§ 520.1408 Methylprednisolone.

(a) *Specifications.* Each tablet contains 1, 2, or 4 milligrams (mg) of methylprednisolone.

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter.

(1) No. 054628 for use of 1- and 2-mg tablets.

(2) No. 054771 for use of 1- and 4-mg tablets.

(c) *Conditions of use in dogs and cats*—(1) *Amount.* 5 to 15 pounds (lbs): 2 mg; 15 to 40 lbs: 2 to 4 mg; 40 to 80 lbs: 4 to 8 mg. Administer total daily dose orally in equally divided doses 6 to 10 hours apart until response is noted or 7 days have elapsed.

(2) *Indications for use.* As an anti-inflammatory agent.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 104. Amend § 520.1409 as follows:

■ a. Revise the section heading and paragraph (b);

■ b. Remove paragraphs (c) and (d);

■ c. Redesignate paragraph (e) as paragraph (c); and

■ d. Revise newly redesignated paragraph (c).

The revisions read as follows:

§ 520.1409 Methylprednisolone and aspirin.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Under 15 pounds, ¼ to 1 tablet daily; 15 to 60 pounds, 1 to 2 tablets daily; 60 pounds and over, 2 tablets daily. Administer total daily dose in divided doses 6 to 10 hours apart, with a light feeding. When response is attained, dosage should be gradually reduced until maintenance level is achieved.

(2) *Indications for use.* As an anti-inflammatory and analgesic agent.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.1422 [Amended]

■ 105. In § 520.1422, in paragraph (b), remove ''053501'' and in its place add ''054771''.

■ 106. In § 520.1430 revise the section heading and paragraphs (b) and (c) to read as follows:

§ 520.1430 Megestrol acetate tablets.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* 30 micrograms for animals

weighing 1 to 25 pounds; 60 micrograms for animals weighing 26 to 50 pounds; 120 micrograms for animals weighing 51 to 100 pounds; 180 micrograms for animals weighing over 100 pounds, German Shepherds, or German Shepherd mix. Administer daily, orally or in a small amount of food, at least 30 days before expected initiation of heat, and continue daily as long as desired, but not for more than 24 months.

(2) *Indications for use.* For the prevention of estrus (heat) in adult female dogs not intended primarily for breeding purposes.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.1450a [Amended]

■ 107. In § 520.1450a, in paragraph (b), remove ''000069'' and in its place add ''054771''.

§ 520.1450b [Amended]

■ 108. In § 520.1450b, in paragraph (b), remove ''000069'' and in its place add ''054771''.

§ 520.1450c [Amended]

■ 109. In § 520.1450c, in paragraph (b), remove ''000069'' and in its place add ''054771''.

§ 520.1451 [Amended]

■ 110. In § 520.1451, in paragraph (b), remove ''000856'' and in its place add ''054771''; remove paragraph (c); redesignate paragraph (d) as paragraph (c); and in newly redesignated paragraph (c)(3), remove the first sentence.

■ 111. In § 520.1452, in paragraph (b), remove ''000856'' and in its place add ''054771''; and revise paragraph (d)(3) to read as follows:

§ 520.1452 Moxidectin gel.

* * * * *

(d) * * *

(3) *Limitations.* Do not use in horses intended for human consumption.

■ 112. In § 520.1453, in paragraph (b), remove ''000856'' and in its place add ''054771''; and revise paragraph (d)(3) to read as follows:

§ 520.1453 Moxidectin and praziquantel gel.

* * * * *

(d) * * *

(3) *Limitations.* Do not use in horses intended for human consumption.

■ 113. Revise § 520.1468 to read as follows:

§ 520.1468 Naproxen.

(a) *Specifications.* Each gram of granules contains 500 milligrams (mg) (50 percent) naproxen.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—(1) *Amount.* 10 mg per kilogram of body weight twice daily top dressed on feed for up to 14 consecutive days.

(2) *Indications for use.* For the relief of inflammation and associated pain and lameness exhibited with arthritis, as well as myositis and other soft tissue diseases of the musculoskeletal system.

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.1484 [Amended]

■ 114. In § 520.1484, in paragraph (b)(1) remove ''000069'' and in its place add ''054771''; in paragraph (b)(2) remove ''000009, 046573,'' and in its place add ''054771,''; and in paragraph (b)(3) remove ''000009, 000859,'' and in its place add ''000859, 054771,''.

§ 520.1628 [Amended]

■ 115. In paragraph (b) of § 520.1628, remove ''000856'' and in its place add ''054771''.

§ 520.1629 [Amended]

■ 116. In § 520.1629, in paragraphs (a)(2) and (b)(2), remove ''000856'' and in its place add ''054771''.

■ 117. Revise paragraph (b) of § 520.1630 to read as follows:

§ 520.1630 Oxfendazole suspension.

* * * * *

(b) *Sponsor.* See Nos. 000010 and 054771 in § 510.600(c) of this chapter.

* * * * *

§ 520.1631 [Amended]

■ 118. In § 520.1631, in paragraph (b), remove ''000856'' and in its place add ''054771''.

■ 119. Revise § 520.1638 to read as follows:

§ 520.1638 Oxibendazole.

(a) *Specifications*—(1) Each gram of paste contains 227 milligrams (mg) (22.7 percent) oxibendazole.

(2) Each milliliter of suspension contains 100 mg (10 percent) oxibendazole.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Special considerations*—(1) See § 500.25 of this chapter.

(2) Suspension product described in paragraph (a)(2) of this section shall be labeled: ''Federal law restricts this drug to use by or on the order of a licensed veterinarian.''

(d) *Conditions of use in horses*—(1) *Amount.* For uses other than for threadworms (*Strongyloides westeri*), 10 mg oxibendazole per kilogram (/kg) body weight; for threadworms (*Strongyloides westeri*), 15 mg/kg. Horses maintained on premises where reinfection is likely to occur should be re-treated in 6 to 8 weeks. Administer suspension product by stomach tube in 3 to 4 pints of warm water, or by top dressing or mixing into a portion of the normal grain ration.

(2) *Indications for use.* For removal and control of large strongyles (*Strongylus edentatus, S. equinus, S. vulgaris*); small strongyles (genera *Cylicostephanus, Cylicocyclus, Cyathostomum, Triodontophorus, Cylicodontophorus,* and *Gyalocephalus*); large roundworms (*Parascaris equorum*); pinworms (*Oxyuris equi*) including various larval stages; and threadworms (*Strongyloides westeri*).

(3) *Limitations.* Do not use in horses intended for human consumption.

§ 520.1640 [Removed]

■ 120. Remove § 520.1640.

§ 520.1660a [Amended]

■ 121. In paragraph (b) of § 520.1660a, remove ''000069'' and in its place add ''054771''.

§ 520.1660b [Amended]

■ 122. In § 520.1660b, in paragraph (b), remove ''000069'' and in its place add ''054771''; and in paragraph (c), wherever it occurs, remove footnote 1.

§ 520.1660c [Amended]

■ 123. In § 520.1660c, in paragraphs (b) and (d)(3), remove ''000069'' and in its place add ''No. 054771''.

§ 520.1660d [Amended]

■ 124. In § 520.1660d, in paragraphs (b)(1), (d)(1)(ii)(A)(*3*), (d)(1)(ii)(B)(*3*), (d)(1)(ii)(C)(*3*), and (d)(1)(iii)(C), remove ''000069'' and in its place add ''054771''; in paragraph (b)(2), remove ''046573'' and in its place add ''054771''; in paragraphs (d)(1)(ii)(A)(*3*), (d)(1)(ii)(B)(*3*), (d)(1)(ii)(C)(*3*), and (d)(1)(iii)(C), remove ''046573, 053389'' and in its place add ''048164, 054771''; and in paragraph (d)(1)(ii)(C)(*3*), in the seventh sentence, remove ''salughter'' and in its place add ''slaughter''.

§ 520.1696b [Amended]

■ 125. In § 520.1696b, in paragraph (b), remove ''046573, 053501'' and in its place add ''054771''.

■ 126. Amend § 520.1696c as follows:
■ a. Remove paragraph (c);
■ b. Redesignate paragraph (d) as paragraph (c); and
■ c. Revise newly redesignated paragraph (c) heading and (c)(3).

The revisions read as follows:

§ 520.1696c Penicillin V powder.

* * * * *

(c) *Conditions of use in dogs and cats*—

* * * * *

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 127. Amend § 520.1696d as follows:
■ a. Revise paragraph (b);
■ b. Remove paragraph (c);
■ c. Redesignate paragraph (d) as paragraph (c);
■ d. Revise newly redesignated paragraph (c) heading and (c)(3).

The revisions read as follows:

§ 520.1696d Penicillin V tablets.

* * * * *

(b) *Sponsors.* See Nos. 050604 and 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs and cats*—

* * * * *

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.1720a [Amended]

■ 128. In § 520.1720a, in paragraph (b)(3), remove ''000856'' and in its place add ''054771''.

■ 129. Revise § 520.1720b to read as follows:

§ 520.1720b Phenylbutazone granules.

(a) *Specifications.* Each package of granules contains 1 or 8 grams of phenylbutazone.

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter.

(1) No. 000061 for 8-gram package.

(2) No. 059320 for 1-gram package.

(c) *Conditions of use in horses*—(1) *Amount.* Administer 1 to 2 grams per 500 pounds of body weight, not to exceed 4 grams, daily as required. by adding to a portion of the usual grain ration.

(2) *Indications for use.* For the treatment of inflammatory conditions associated with the musculoskeletal system.

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law prohibits the use of this drug in female dairy cattle 20 months of age or older. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 130. In § 520.1720c, revise paragraph (c)(3) to read as follows:

§ 520.1720c Phenylbutazone paste.

* * * * *

(c) * * *

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law prohibits the use of this drug in female dairy cattle 20 months of age or older. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 131. Amend § 520.1720d as follows:
■ a. Remove paragraph (c);
■ b. Redesignate paragraph (d) as paragraph (c); and
■ c. Revise newly redesignated paragraph (c)(3).

The revisions read as follows:

§ 520.1720d Phenylbutazone gel.

* * * * *

(c) * * *

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law prohibits the use of this drug in female dairy cattle 20 months of age or older. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 132. Amend § 520.1802a as follows:
■ a. In paragraph (b), remove ''000009'' and in its place add ''No. 054771'';
■ b. Remove footnote 1 wherever it appears in paragraph (c); and
■ c. Revise the paragraph (c) heading and paragraphs (c)(1) and (3)

The revisions read as follows:

§ 520.1802a Piperazine-carbon disulfide complex suspension.

* * * * *

(c) *Conditions of use in horses and ponies*—(1) *Amount.* Administer 1 fluid ounce per 100 pounds of body weight by stomach tube or dose syringe after withholding feed overnight or for 8 to 10 hours.

* * * * *

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 133. Amend § 520.1802b as follows:
■ a. In paragraph (b), remove ''000009'' and in its place add ''No. 054771'';
■ b. Revise the paragraph (c) heading; and
■ c. Remove footnote 1 wherever it appears in paragraph (c).

The revision reads as follows:

§ 520.1802b Piperazine-carbon disulfide complex boluses.

* * * * *

(c) *Conditions of use in horses and ponies*—

* * * * *

■ 134. In § 520.1802c, in paragraph (b), remove ''000009'' and in its place add ''No. 054771''; and revise the paragraph (c) heading and paragraphs (c)(1) and (3) to read as follows:

§ 520.1802c Piperazine-carbon disulfide complex with phenothiazine suspension.

* * * * *

(c) *Conditions of use in horses and ponies*—(1) *Amount.* Administer 1 fluid ounce per 100 pounds of body weight by stomach tube or dose syringe after withholding feed overnight or for 8 to 10 hours.

* * * * *

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 135. In § 520.1803, revise paragraphs (a) and (c) to read as follows:

§ 520.1803 Piperazine citrate capsules.

(a) *Specifications.* Each capsule contains piperazine citrate equivalent to 140 milligrams of piperazine base.

* * * * *

(c) *Conditions of use in dogs and cats*—(1) *Amount.* The contents of 1 capsule should be mixed with the food of the animal for each 5 pounds, or fraction thereof of body weight, except dogs weighing over 25 pounds should be given the contents of 6 capsules. The drug should be mixed in 1/2 of the regular feeding and when the animal has finished eating the dosed food, the remainder of the food may be given. Dogs and cats may be wormed at 6 to 8 weeks of age. The first treatment should be repeated 10 days later. Reinfection may occur. Repeat treatment if indicated.

(2) *Indications for use.* For the removal of large roundworms (*Toxocara canis* and *Toxascaris leonina*).

(3) *Limitations.* Severely debilitated animals should not be treated except on the advice of a veterinarian.

§ 520.1804 [Amended]

■ 136. In § 520.1804, in paragraph (b), remove ''051311'' and in its place add ''054771''; and in paragraph (c) remove footnote 1 wherever it appears.

■ 137. In § 520.1805, revise paragraph (c)(3) to read as follows:

§ 520.1805 Piperazine phosphate and thenium closylate tablets.

* * * * *

(c) * * *

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.1807 [Amended]

■ 138. In § 520.1807, in paragraph (b), remove ''015565'' and in its place add ''No. 015565''.

§ 520.1840 [Amended]

■ 139. In § 520.1840, in paragraph (b)(1), remove ''000069'' and in its place add ''054771''.

■ 140. In § 520.1855, revise paragraph (c)(3) to read as follows:

§ 520.1855 Ponazuril.

* * * * *

(c) * * *

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 141. Amend § 520.1860 as follows:

■ a. Remove paragraph (c);

■ b. Redesignate paragraph (d) as paragraph (c); and

■ c. Add paragraph (c)(3).

The addition reads as follows:

§ 520.1860 Pradofloxacin.

* * * * *

(c) * * *

(3) *Limitations.* Federal law prohibits the extralabel use of this drug in food-producing animals. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 142. Amend § 520.1880 as follows:

■ a. Revise the section heading;

■ b. Remove paragraph (c);

■ c Redesignate paragraph (d) as paragraph (c); and

■ d. Revise the newly redesignated paragraph (c) heading and paragraphs (c)(1) and (2).

The revisions read as follows:

§ 520.1880 Prednisolone.

* * * * *

(c) *Conditions of use in dogs*—(1) *Amount.* Administer 2.5 milligrams per 4.5 kilograms (10 pounds) body weight per day. Administer total daily dose orally in equally divided doses 6 to 10 hours apart until response is noted or 7 days have elapsed. When response is attained, dosage should be gradually reduced until maintenance level is achieved.

(2) *Indications for use.* For use as an anti-inflammatory agent.

* * * * *

■ 143. In § 520.1900, revise the section heading and paragraphs (b) and (c)(3) to read as follows:

§ 520.1900 Primidone.

* * * * *

(b) *Sponsors.* See sponsor numbers in § 510.600(c) of this chapter.

(1) No. 054628 for use of 250 milligram tablets.

(2) No. 054771 for use of 50 and 250 milligram tablets.

(c) * * *

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 144. Revise § 520.1920 to read as follows:

§ 520.1920 Prochlorperazine and isopropamide.

(a) *Specifications.* Each capsules contains either:

(1) 3.33 milligrams of prochlorperazine (as the dimaleate) and 1.67 milligrams of isopropamide (as the iodide); or

(2) 10 milligrams of prochlorperazine (as the dimaleate) and 5 milligrams of isopropamide (as the iodide).

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* (i) Capsules described in paragraph (a)(1) of this section are administered orally to dogs weighing from 4 to 15 pounds at the rate of 1 capsule twice daily. These capsules are administered orally to dogs weighing from 16 to 30 pounds at the rate of 1 or 2 capsules twice daily. For dogs weighing less than 4 pounds, administer orally an appropriate fraction of the contents of one of these capsules.

(ii) Capsules described in paragraph (a)(2) of this section are given to dogs weighing 30 pounds and over at the rate of 1 capsule twice daily.

(2) *Indications for use.* For the treatment of gastrointestinal disturbances associated with emotional stress.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 145. In § 520.1921, revise the section heading, paragraph (b), the paragraph (c) heading, and paragraphs (c)(2) and (3) to read as follows:

§ 520.1921 Prochlorperazine, isopropamide, and neomycin.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—

* * * * *

(2) *Indications for use.* For the treatment infectious bacterial gastroenteritis associated with emotional stress.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 146. Revise § 520.1962 to read as follows:

§ 520.1962 Promazine.

(a) *Specifications.* Conforms to N.F. XII for promazine hydrochloride.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—(1) *Amount.* Administer 0.45 to 0.9 milligrams per pound of body weight mixed with an amount of feed that will be readily consumed.

(2) *Indications for use.* For quieting excitable, unruly, or intractable horses.

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 147. Revise § 520.2002 to read as follows:

§ 520.2002 Propiopromazine.

(a) *Specifications.* Each chewable tablet contains 10 or 20 milligrams of propiopromazine hydrochloride.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer 0.5 to 2.0 milligrams per pound of body weight once or twice daily, depending upon the degree of tranquilization desired.

(2) *Indications for use.* For oral administration as a tranquilizer. As an aid in handling difficult, excited, and unruly dogs, and in controlling excessive kennel barking, car sickness, and severe dermatitis. It is also indicated for use in minor surgery and prior to routine examinations, laboratory procedures, and diagnostic procedures.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.2043 [Amended]

■ 148. In § 520.2043, in paragraph (b)(1), remove ''000069, 000859'' and in its place add ''000859, 054771''; and in paragraph (b)(2), remove ''000069'' and in its place add ''054771''.

§ 520.2044 [Amended]

■ 149. In § 520.2044, in paragraph (b)(1),remove ''000069'' and in its place add ''054771''.

■ 150. Revise § 520.2045 to read as follows:

§ 520.2045 Pyrantel tartrate powder.

(a) *Specifications.* Each gram of powder contains 106 milligrams (10.6 percent) or 113 milligrams (11.3 percent) pyrantel tartrate.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter for use of 11.3 percent powder as in paragraph (d)(1) and 10.6 percent powder as in paragraph (d)(2) and of this section.

(c) *Related tolerances.* See § 556.560 of this chapter.

(d) *Conditions of use*—(1) *Horses*—(i) *Amount.* Administer as a single dose at 0.57 gram of pyrantel tartrate per 100 pounds of body weight mixed with the usual grain ration. Do not administer by stomach tube or dose syringe.

(ii) *Indications for use.* For the removal and control of infections from the following mature parasites: Large strongyles (*Strongylus vulgaris, S. edentatus, S. equinus*), small strongyles (*Trichonema* spp., *Triodontophorus*), pinworms (*Oxyuris*), and large roundworms (*Parascaris*).

(iii) *Limitations.* Do not treat severely debilitated animals with this drug. Do not use in horses intended for human consumption.

(2) *Swine*—(i) *Amount.* Add to feed at 0.4 gram pyrantel tartrate per pound of non-pelleted ration. The ration is administered as a single treatment as the sole ration at the rate of 1 pound per 40 pounds of animal weight for animals up to 200 pounds. Animals 200 pounds and over are administered 5 pounds of ration per animal.

(ii) *Indications for use.* For the removal and control of large roundworms (*Ascaris suum*) and nodular worm (*Oesophagostomum*) infections.

(iii) *Limitations.* Consult veterinarian before using in severely debilitated animals. Do not treat within 24 hours of slaughter.

■ 151. Add § 520.2046 to read as follows:

§ 520.2046 Pyrantel tartrate pellets.

(a) *Specifications.* (1) Each gram of pellets contains 12.5 milligrams (mg) (1.25 percent) pyrantel tartrate; or

(2) Each gram of pellets contains 21.1 mg (2.11 percent) pyrantel tartrate.

(b) *Sponsors.* See sponsor numbers in § 510.600(c) of this chapter:

(1) No. 054771 for use of products described in paragraph (a) as in paragraph (c) of this section.

(2) No. 061623 for use of product described in paragraph (a)(1) as in paragraph (c) of this section.

(c) *Conditions of use in horses*—(1) *Amount.* Administer as a single dose at 12.5 mg per 2.2 pounds of body weight mixed with the usual grain ration.

(2) *Indications for use.* For the removal and control of infections from the following mature parasites: Large strongyles (*Strongylus vulgaris, S. edentatus, S. equinus*), small strongyles (*Trichonema* spp., *Triodontophorus*), pinworms (*Oxyuris*), and large roundworms (*Parascaris*).

(3) *Limitations.* Do not treat severely debilitated animals with this drug. Do not use in horses intended for human consumption.

■ 152. Revise § 520.2098 to read as follows:

§ 520.2098 Selegiline.

(a) *Specifications.* Each tablet contains 2, 5, 10, 15, or 30 milligrams (mg) selegiline hydrochloride.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amounts and indications for use.* (i) Administer 1 mg per kilogram (0.45 mg per pound) of body weight once daily for control of clinical signs associated with uncomplicated pituitary-dependent hyperadrenocorticism in dogs.

(ii) Administer 0.5 to 1.0 mg per kilogram of body weight once daily for the control of clinical signs associated with canine cognitive dysfunction syndrome.

(2) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 153. Revise § 520.2100 to read as follows:

§ 520.2100 Selenium and vitamin E.

(a) *Specifications.* Each capsule contains:

(1) 2.19 milligrams (mg) sodium selenite (equivalent to 1 mg selenium) and 56.2 mg (68 I.U.) vitamin E as d-alpha tocopheryl acid succinate; or

(2) 0.548 mg sodium selenite (equivalent to 0.25 mg selenium) and 14 mg (17 I.U.) vitamin E as d-alpha tocopheryl acid succinate.

(b) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* (i) Dogs over 20 pounds: Administer 1 capsule described in paragraph (a)(1) per 20 pounds of body weight to a maximum of 5 capsules. Repeat at 3 day intervals until a satisfactory therapeutic response is observed. Maintenance dosage is 1 capsule per 40 pounds of body weight every 3 to 7 days, or longer, as required.

(ii) Dogs under 20 pounds: Administer 1 capsule described in paragraph (a)(2) per 5 pounds of body weight with a minimum of 1 capsule. Repeat at 3-day intervals until a satisfactory response is observed. Maintenance dosage is 1 capsule per 10 pounds of body weight every 3 to 7 days, or longer, as required.

(2) *Indications for use.* As an aid in alleviating and controlling inflammation, pain, and lameness associated with certain arthropathies.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 154. In § 520.2123a, revise paragraphs (a) and (b) to read as follows:

§ 520.2123a Spectinomycin tablets.

(a) *Specifications.* Each tablet contains spectinomycin dihydrochloride equivalent to 100 milligrams (mg) spectinomycin.

(b) *Sponsors.* See Nos. 054771 and 061623 in § 510.600(c) of this chapter.

* * * * *

§ 520.2123c [Amended]

■ 155. In § 520.2123c, in paragraph (b), remove ''0000856, 000859, and 061623'' and in its place add ''000859, 054771, and 061623''.

■ 156. Revise § 520.2150 to read as follows:

§ 520.2150 Stanozolol.

(a) *Specifications.* Each tablet or chewable tablet contains 2 milligrams stanozolol.

(b) *Sponsor.* No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs and cats*—(1) *Amount*—(i) *Dogs:* Administered orally to small breeds, ½ to 1 tablet twice daily for several weeks; to large breeds, 1 to 2 tablets twice daily for several weeks. The tablets may be crushed and administered in feed.

(ii) *Cats:* Administered orally ½ to 1 tablet twice daily for several weeks.

(2) *Indications for use.* As an anabolic steroid treatment.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.2150a [Removed]

■ 157. Remove § 520.2150a.

§ 520.2150b [Removed]

■ 158. Remove § 520.2150b.

§ 520.2158 [Removed]

■ 159. Remove § 520.2158.

§ 520.2158a as [Redesignated as§ 520.2158]

■ 160–161. Redesignate § 520.2158a as § 520.2158 and revise the section heading and paragraph (a) to read as follows:

§ 520.2158 Streptomycin.

(a) *Specifications.* Each milliliter of solution contains 250 milligrams (25 percent) streptomycin sulfate.

* * * * *

§ 520.2158b [Removed]

■ 162. Remove § 520.2158b.

§ 520.2158c [Removed]

■ 163. Remove § 520.2158c.

§ 520.2160 [Removed]

■ 164. Remove § 520.2160.

■ 165. Amend § 520.2170 as follows:
■ a. Revise the section heading;
■ b. Remove paragraph (d);
■ c. Redesignate paragraphs (b), (c), and (e) as paragraphs (c), (b), and (d), respectively; and
■ d. Revise newly redesignated paragraph (d) heading and paragraphs (d)(1) and (3).

The revisions read as follows:

§ 520.2170 Sulfabromomethazine.

* * * * *

(d) *Conditions of use in cattle*—(1) *Amount.* Administer 90 milligrams per pound body weight orally. Repeat in 48 hours if necessary

* * * * *

(3) *Limitations.* Milk taken from animals within 96 hours (8 milkings) of latest treatment must not be used for food. Do not administer within 18 days of slaughter.

■ 166. Revise § 520.2184 to read as follows:

§ 520.2184 Sulfachloropyrazine.

(a) *Specifications.* Each gram of powder contains 476 milligrams of sodium sulfachloropyrazine monohydrate.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Related tolerance.* See § 556.625 of this chapter.

(d) *Conditions of use in chickens.* It is used in the drinking water of broilers, breeder flocks, and replacement chickens as follows:

(1) *Amount.* Administer in drinking water as 0.03 percent solution for 3 days.

(2) *Indications for use.* For the treatment of coccidiosis.

(3) *Limitations.* Administer as sole source of drinking water and of sulfonamide medication. Withdraw 4 days prior to slaughter. Do not use in chickens producing eggs for human consumption.

■ 167. In § 520.2200, revise paragraph (d)(3)(iii) to read as follows:

§ 520.2200 Sulfachlorpyridazine.

* * * * *

(d) * * *

(3) * * *

(iii) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.2218 [Amended]

■ 168. In § 520.2218, in paragraph (b), remove ''046573'' and in its place add ''054771''.

■ 169. Revise § 520.2220a to read as follows:

§ 520.2220a Sulfadimethoxine solution and soluble powder.

(a) *Specifications.* (1) Each ounce of solution contains 3.75 grams (12.5 percent) sulfadimethoxine.

(2) Each 107 grams of powder contains the equivalent of 94.6 grams sulfadimethoxine as sulfadimethoxine sodium.

(b) *Sponsors.* See sponsor numbers in § 510.600(c) of this chapter:

(1) Nos. 000859, 054628, 054771, 054925, and 057561 for use of the product described in paragraph (a)(1) of this section.

(2) Nos. 054771, 054925, 057561, 058829, 061623, and 066104 for use of the product described in paragraph (a)(2) of this section.

(c) *Related tolerances.* See § 556.640 of this chapter.

(d) *Conditions of use*—(1) *Broiler and replacement chickens*—(i) *Amount.* Administer 1.875 grams per gallon (0.05 percent) of drinking water for 6 consecutive days.

(ii) *Indications for use.* For treatment of outbreaks of coccidiosis, fowl cholera, and infectious coryza.

(iii) *Limitations.* Do not administer to chickens over 16 weeks of age. As sole source of drinking water and sulfonamide medication. Withdraw 5 days before slaughter.

(2) *Turkeys*—(i) *Amount.* Administer 0.938 grams per gallon (0.025 percent) of drinking water for 6 consecutive days.

(ii) *Indications for use.* Growing turkeys: For treatment of disease outbreaks of coccidiosis and fowl cholera.

(iii) *Limitations.* Do not administer to turkeys over 24 weeks of age. Use as the sole source of drinking water and sulfonamide medication. Withdraw 5 days before slaughter.

(3) *Cattle*—(i) *Amount.* 1.18 to 2.36 grams per gallon (0.031 to 0.062 percent) of drinking water. As a drench, administer 2.5 grams per 100 pounds of body weight for first day, then 1.25 grams per 100 pounds of body weight per day for the next 4 consecutive days. If no improvement within 2 to 3 days, reevaluate diagnosis. Do not treat beyond 5 days.

(ii) *Indications for use.* Dairy calves, dairy heifers, and beef cattle: For the treatment of shipping fever complex and bacterial pneumonia associated with *Pasteurella* spp. sensitive to sulfadimethoxine; and calf diphtheria and foot rot associated with *Fusobacterium necrophorum* (*Sphaerophorus necrophorus*) sensitive to sulfadimethoxine.

(iii) *Limitations.* Withdraw 7 days before slaughter. A withdrawal period has not been established for this product in preruminating calves. Do not use in calves to be processed for veal. Federal law prohibits the extralabel use of this product in lactating dairy cattle.

■ 170. Revise § 520.2220b to read as follows:

§ 520.2220b Sulfadimethoxine suspension.

(a) *Specifications.* Each milliliter of suspension contains 50 milligrams (mg) sulfadimethoxine.

(b) *Sponsors.* See Nos. 000061 and 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs and cats*—(1) *Amount.* Administer orally 25 mg per pound of body weight, followed by 12.5 mg per pound of body weight daily.

(2) *Indications for use.* For the treatment of sulfonamide susceptible bacterial infections in dogs and cats and enteritis associated with coccidiosis in dogs.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 171. Revise § 520.2220c to read as follows:

§ 520.2220c Sulfadimethoxine tablet.

(a) *Specifications.* Each tablet contains 125, 250, or 500 milligrams (mg) sulfadimethoxine.

(b) *Sponsors.* See Nos. 000061 and 054771 in § 510.600(c) of this chapter.

(c) [Reserved]

(d) *Conditions of use in dogs and cats*—(1) *Amount.* Administer 25 milligrams (mg) per pound of body weight on the first day followed by 12.5 milligrams (mg) per pound of body weight per day until the animal is free of symptoms for 48 hours.

(2) *Indications for use.* Treatment of sulfadimethoxine-susceptible bacterial infections.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 172. Revise § 520.2220d to read as follows:

§ 520.2220d Sulfadimethoxine bolus.

(a) *Specifications.* Each bolus contains 2.5, 5, or 15 grams sulfadimethoxine.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.640 of this chapter.

(d) *Conditions of use in cattle*—(1) *Amount.* Administer 2.5 grams per 100 pounds body weight for 1 day followed by 1.25 grams per 100 pounds body weight per day; treat for 4 to 5 days.

(2) *Indications for use.* For the treatment of shipping fever complex and bacterial pneumonia associated with *Pasteurella* spp. sensitive to

sulfadimethoxine; and calf diphtheria and foot rot associated with *Fusobacterium necrophorum* sensitive to sulfadimethoxine.

(3) *Limitations.* Do not administer within 7 days of slaughter; milk that has been taken from animals during treatment and 60 hours (5 milkings) after the latest treatment must not be used for food. A withdrawal period has not been established for this product in preruminating calves. Do not use in calves to be processed for veal.

■ 173. Add § 520.2220e to read as follows:

§ 520.2220e Sulfadimethoxine extended-release bolus.

(a) *Specifications.* Each extended-release bolus contains 12.5 grams sulfadimethoxine.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.640 of this chapter.

(d) *Conditions of use in beef cattle and non-lactating dairy cattle*—(1) *Amount.* Administer one 12.5-gram-sustained-release bolus for the nearest 200 pounds of body weight, i.e., 62.5 milligrams per pound of body weight. Do not repeat treatment for 7 days.

(2) *Indications for use.* For the treatment of shipping fever complex and bacterial pneumonia associated with *Pasteurella* spp. sensitive to sulfadimethoxine; and calf diphtheria and foot rot associated with *Fusobacterium necrophorum* sensitive to sulfadimethoxine.

(3) *Limitations.* Do not use in female dairy cattle 20 months of age or older. Do not administer within 12 days of slaughter. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 174. Add § 520.2220f to read as follows:

§ 520.2220f Sulfadimethoxine and ormetoprim tablet.

(a) *Specifications.* Each tablet contains 120 milligrams (mg) (100 mg sulfadimethoxine and 20 mg ormetoprim), 240 mg (200 mg sulfadimethoxine and 40 mg ormetoprim), 600 mg (500 mg sulfadimethoxine and 100 mg ormetoprim), or 1200 mg (1000 mg sulfadimethoxine and 200 mg ormetoprim).

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* On the first day of treatment, administer 25 mg per pound (55 mg per kilogram) of body weight. Then follow with a daily dosage of 12.5 mg per pound (27.5 mg per kilogram) of body weight. Do not exceed a total of 21 consecutive days.

(2) *Indications of use.* Treatment of skin and soft tissue infections (wounds and abscesses) in dogs caused by strains of *Staphylococcus aureus* and *Escherichia coli* and urinary tract infections caused by *E. coli, Staphylococcus* spp., and *Proteus mirabilus* susceptible to ormetoprim-potentiated sulfadimethoxine.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 175. Revise § 520.2240a to read as follows:

§ 520.2240a Sulfaethoxypyridazine solution.

(a) *Specifications.* Each milliliter of solution contains 62.5 milligrams (mg) sodium sulfaethoxypyridazine.

(b) *Sponsor.* See No. 054771 § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.650 of this chapter.

(d) *Conditions of use*—(1) *Swine*—(i) *Amount.* Administer 3.8 grams per gallon for first day followed by 1.9 grams per gallon for not less than 3 days nor more than 9 days. Use as the sole source of sulfonamide.

(ii) *Indications for use.* For treatment of bacterial scours pneumonia enteritis, bronchitis, septicemia accompanying *Salmonella choleraesuis* infection.

(iii) *Limitations.* Do not treat within 10 days of slaughter. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) *Cattle*—(i) *Amount.* For use at 2.5 grams per gallon. Administer at the rate of 1 gallon per 100 pounds of body weight per day for 4 days. Use as the sole source of sulfonamide.

(ii) *Indications for use.* For treatment of respiratory infections (pneumonia, shipping fever), foot rot, calf scours; and as adjunctive therapy in septicemia accompanying mastitis and metritis.

(iii) *Limitations.* Do not treat within 16 days of slaughter. Milk that has been taken from animals during treatment and for 72 hours (6 milkings) after latest treatment must not be used for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 176. Revise § 520.2240b to read as follows:

§ 520.2240b Sulfaethoxypyridazine tablets.

(a) *Specifications*—(1) Each tablet contains 2.5 or 15 grams sulfaethoxypyridazine.

(2) Each extended-release tablet contains 5 grams sulfaethoxypyridazine.

(b) *Sponsor.* See No. 054771 § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.650 of this chapter.

(d) *Conditions of use in cattle*—(1) *2.5- or 15-gram tablets*—(i) *Amount.* Administer 25 milligrams per pound of body weight per day for 4 days. Use as the sole source of sulfonamide.

(ii) *Indications for use.* For treatment of respiratory infections (pneumonia, shipping fever), foot rot, calf scours; as adjunctive therapy in septicemia accompanying mastitis and metritis.

(iii) *Limitations.* Do not treat within 16 days of slaughter. Milk that has been taken from animals during treatment and for 72 hours (6 milkings) after latest treatment must not be used for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) *15-gram extended-release tablets*—(i) *Amount.* Administer 100 milligrams per pound of body weight. Use as the sole source of sulfonamide.

(ii) *Indications for use.* For treatment of foot rot and respiratory infections (shipping fever and pneumonia) caused by sulfonamide-susceptible pathogens (*E. coli, Streptococci, Staphylococci, Sphaerophorus necrophorus* and Gram-negative rods including *Pasteurella*); and for use prophylactically during periods of stress for reducing losses due to sulfonamide sensitive disease conditions.

(iii) *Limitations.* Do not treat within 16 days of slaughter. Not for use in lactating dairy cows. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.2260a [Amended]

■ 177. In § 520.2260a, in paragraph (b)(1), remove ''053501'' and in its place add ''054771''.

■ 178. Amend § 520.2260b as follows:

■ a. In paragraph (b)(1), remove ''053501'' and in its place add ''054771'';

■ b. In paragraph (c)(2), remove footnote 1 wherever it occurs; and

■ c. In paragraph (c)(2)(iii), remove the eighth sentence and in its place add two sentences.

The additions read as follows:

§ 520.2260b Sulfamethazine extended-release boluses.

* * * * *

(c) * * *

(2) * * *

(iii) * * * Do not use in female dairy cattle 20 months of age or older. Use of sulfamethazine in this class of cattle may cause milk residues. * * *

* * * * *

■ 179. Amend § 520.2260c as follows:

■ a. Redesignate paragraphs (a) and (b) as paragraphs (b) and (d), respectively;

■ b. Add new paragraphs (a) and (c); and
■ c. Revise newly redesignated paragraphs (b) and (d)(3).

The additions and revisions read as follows:

§ 520.2260c Sulfamethazine extended-release tablets.

(a) *Specifications.* Each extended-release tablet contains 8 grams sulfamethazine.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.670 of this chapter.

(d) * * *

(3) *Limitations.* Treated animals must not be slaughtered for food within 18 days after the latest treatment. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 180. Amend § 520.2261a as follows:
■ a. Remove paragraph (d);
■ b. Redesignate paragraphs (a), (b), and (c) as paragraphs (b), (c), and (d), respectively;
■ c. Add new paragraph (a);
■ d. Revise newly redesignated paragraphs (b) and (c); and
■ e. In newly redesignated paragraph (d)(2)(iii), remove ''*Salmonella pullorum*'' and in its place add ''*Salmonella* Pullorum''.

The addition and revisions read as follows:

§ 520.2261a Sulfamethazine solution.

(a) *Specifications.* Each milliliter of solution contains 125 milligrams (12.5 percent) sulfamethazine sodium.

(b) *Sponsors.* See Nos. 000010 and 061623 in § 510.600(c) of this chapter.

(c) *Related tolerances.* See § 556.670 of this chapter.

* * * * *

■ 181. In § 520.2261b, revise paragraph (d)(1)(ii) and add four sentences to paragraph (d)(4)(iii) to read as follows:

§ 520.2261b Sulfamethazine powder.

* * * * *

(d) * * *

(1) * * *

(ii) *Indications for use.* For control of infectious coryza (*Avibacterium paragallinarum*), coccidiosis (*Eimeria tenella, E. necatrix*), acute fowl cholera (*Pasteurella multocida*), and pullorum disease (*Salmonella* Pullorum).

* * * * *

(4) * * *

(iii) * * * Do not use in female dairy cattle 20 months of age or older. Use of sulfamethazine in this class of cattle may cause milk residues. A withdrawal period has not been established in preruminating calves. Do not use in calves to be processed for veal.

■ 182. In § 520.2280, revise the section heading and paragraphs (b) and (c) to read as follows:

§ 520.2280 Sulfamethizole and methenamine.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs and cats*—(1) *Amount.* Administer orally 1 tablet per 20 pounds of body weight 3 times per day until clinical signs are alleviated. To reduce the possibility of relapse, continue therapy for a week to 10 days.

(2) *Indications for use.* For treatment of urinary tract infections such as cystitis, nephritis, prostatitis, urethritis, and pyelonephritis. As an aid in the management of complications resulting from surgical manipulations of the urinary tract such as removal of calculi from the bladder, in ureterostomies, and in instrumentation of the urethra and bladder.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 183. In § 520.2325a, revise the section heading and in paragraph (a)(3), remove ''046573'' and in its place add ''054771''.

The revision reads as follows:

§ 520.2325a Sulfaquinoxaline powder and solution.

* * * * *

■ 184. Revise § 520.2325b to read as follows:

§ 520.2325b Sulfaquinoxaline drench.

(a) *Specifications.* A soluble powder containing 25 percent sulfaquinoxaline.

(b) *Sponsor.* See No. 050749 in § 510.600(c) of this chapter.

(c) *Conditions of use in cattle*—(1) *Amount.* Administer 1 teaspoon of 25 percent sulfaquinoxaline soluble powder for each 125 pounds of body weight for 3 to 5 days as a drench.

(2) *Indications for use.* For the control and treatment of outbreaks of coccidiosis in cattle and calves caused by *Eimeria bovis* or *E. zuernii.*

(3) *Limitations.* Do not give to cattle within 10 days of slaughter for food. Not for use in lactating dairy cattle.

§ 520.2330 [Amended]

■ 185. In paragraph (b) of § 520.2330, remove ''000856'' and in its place add ''054771''; and in paragraph (c), remove footnote 1 wherever it occurs.

■ 186. In § 520.2345a, revise the section heading and paragraph (b) to read as follows:

§ 520.2345a Tetracycline capsules.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

* * * * *

■ 187. In § 520.2345b, revise paragraph (b) to read as follows:

§ 520.2345b Tetracycline tablets.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

* * * * *

■ 188. In § 520.2345c, revise paragraph (b) to read as follows:

§ 520.2345c Tetracycline boluses.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

* * * * *

■ 189. Amend § 520.2345d as follows;
■ a. In paragraph (b)(1), remove ''000069'' and in its place add ''054771'';
■ b. In paragraphs (b)(3), (d)(1)(iii), and (d)(2)(iii), remove ''046573'' and in its place add ''054771''; and
■ c. Add paragraph (b)(5).

The addition reads as follows:

§ 520.2345d Tetracycline powder.

* * * * *

(b) * * *

(5) No. 000010: 25 grams per pound as in paragraphs (d)(1) and (d)(2) of this section.

* * * * *

■ 190. In § 520.2345e, revise the section heading and paragraph (b) and remove paragraph (c)(1)(iv).

The revisions read as follows:

§ 520.2345e Tetracycline solution.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

* * * * *

■ 191. In § 520.2345f, in paragraph (b), remove ''No. 000009'' and in its place add ''See No. 054771''; and revise the paragraph (c) heading and paragraph (c)(3) to read as follows:

§ 520.2345f Tetracycline phosphate complex and sodium novobiocin capsules.

* * * * *

(c) *Conditions of use in dogs*—

* * * * *

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 192. In § 520.2345g, in paragraph (b), remove ''No. 000009'' and in its place add ''See No. 054771''; and revise the paragraph (c) heading and paragraph (c)(3) to read as follows:

§ 520.2345g Tetracycline hydrochloride and sodium novobiocin tablets.

* * * * *

(c) *Conditions of use in dogs*—

* * * * *

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 193. In § 520.2345h, in paragraph (b), remove ''000009'' and in its place add ''054771''; and revise the paragraph (c) heading and paragraph (c)(3) to read as follows:

§ 520.2345h Tetracycline hydrochloride, sodium novobiocin, and prednisolone tablets.

* * * * *

(c) *Conditions of use in dogs*—

* * * * *

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 194. Amend § 520.2362 as follows:

■ a. Revise the section heading;

■ b. Remove paragraph (a);

■ c. Redesignate paragraphs (b), (c), and (d) as paragraphs (a), (b), and (c), respectively; and

■ d. Revise newly redesignated paragraphs (a) and (c).

The revisions read as follows:

§ 520.2362 Thenium closylate.

(a) *Specifications.* Each tablet contains thenium closylate equivalent to 500 milligrams thenium base.

* * * * *

(c) *Conditions of use in dogs*—(1) *Amount.* Dogs weighing over 10 pounds: Administer 1 tablet as a single dose. Dogs weighing 5 to 10 pounds: Administered one-half tablet twice during a single day. Repeat treatment after 2 or 3 weeks.

(2) *Indications for use.* For treatment of canine ancylostomiasis by the removal from the intestines of the adult forms of the species *Ancylostoma caninum* and *Uncinaria stenocephala* (hookworms).

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 195. Amend § 520.2380a as follows:

■ a. Remove paragraph (a);

■ b. Redesignate paragraphs (b) through (e) as paragraphs (a) through (d), respectively; and

■ c. Revise newly redesignated paragraph (b).

The revision reads as follows:

§ 520.2380a Thiabendazole top dressing and mineral protein block.

* * * * *

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter for use as in paragraph (d) of this section.

(1) No. 051311 for use as in paragraph (d)(1)(i) of this section.

(2) No. 050604 for use as in paragraph (d)(1)(ii) of this section.

(3) No. 012286 for use as in paragraph (d)(2) of this section.

* * * * *

■ 196. Amend § 520.2380b as follows:

■ a. Revise the section heading;

■ b. Remove paragraph (a);

■ c. Redesignate paragraphs (b) through (e) as paragraphs (a) through (d), respectively; and

■ d. Revise newly redesignated paragraph (b).

The revisions read as follows:

§ 520.2380b Thiabendazole drench or paste.

* * * * *

(b) *Sponsor.* See No. 050604 in § 510.600(c) of this chapter.

* * * * *

§ 520.2380c [Amended]

■ 197. In § 520.2380c, remove paragraph (a); and redesignate paragraphs (b) through (e) as paragraphs (a) through (d), respectively.

■ 198. In § 520.2380d, revise the section heading and paragraph (c) to read as follows:

§ 520.2380d Thiabendazole and piperazine citrate.

* * * * *

(c) *Conditions of use in horses*—(1) *Amount.* Administer 1 ounce of suspension per 100 pounds of body weight by stomach tube or as a drench.

(2) *Indications for use.* For the control of large strongyles, small strongyles, pinworms, *Strongyloides* and ascarids (including members of the genera *Strongylus* spp., *Cyathostomum* spp., *Cylicobrachytus* spp. and related genera *Craterostomum* spp., *Oesophagodontus* spp., *Poteriostomum* spp., *Oxyuris* spp., *Strongyloides* spp., and *Parascaris* spp.).

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 199. In § 520.2380e, revise the section heading and paragraph (c) to read as follows:

§ 520.2380e Thiabendazole and triclorfon.

* * * * *

(c) *Conditions of use in horses*—(1) *Amount.* Administer 2 grams of thiabendazole with 1.8 grams of trichlorfon per 100 pounds of body weight sprinkled on the animals' usual daily ration of feed, or may be mixed in 5 to 10 fluid ounces of water and administered by stomach tube or drench.

(2) *Indications for use.* For the treatment and control of bots (*Gasterophilus* spp.), large strongyles (*Strongylus* spp.), small strongyles (genera *Cyathostomum, Cylicobrachytus, Craterostomum, Oesophagodontus, Poteriostomum*), pinworms (*Oxyuris* spp., *Strongyloides* spp.), and ascarids (*Parascaris* spp.).

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 200. In § 520.2380f, revise the section heading, the paragraph (c) heading, and paragraphs (c)(1) and (3) to read as follows:

§ 520.2380f Thiabendazole and piperazine phosphate.

* * * * *

(c) *Conditions of use in horses*—(1) *Amount.* 2 grams of thiabendazole and 2.5 grams of piperazine (0.3 ounce of powder) per 100 pounds of body weight. Use a single oral dose. Administer as a drench or by stomach tube suspended in 1 pint of warm water; by dose syringe suspended in ½ ounce of water for each 100 pounds of body weight; or sprinkled over a small amount of daily feed.

* * * * *

(3) *Limitations.* Do not use in horses intended for human consumption. If the label bears directions for administration by stomach tube or drench, it shall also bear the statement ''Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian.''; if not labeled for use by stomach tube or drench, the label shall bear the statement, ''Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.''

§ 520.2475 [Amended]

■ 201. In § 520.2475, in paragraph (b), remove ''000009'' and in its place add ''054771''.

§ 520.2520b [Redesignated as § 520.2520a]

■ 202. Redesignate § 520.2520b as § 520.2520a; and revise it to read as follows:

§ 520.2520a Trichlorfon and atropine.

(a) *Specifications.* (1) For trichlorfon: O,O-Dimethyl 2,2,2-trichloro-1-hydroxyethyl phosphonate.

(2) For atropine: Atropine N.F.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in mice*—(1) *Amount.* Administer 1.67 grams of trichlorfon and 7.7 milligrams of atropine per liter continuously for 7 to 14 days as the sole source of drinking water.

(2) *Indications for use.* For the treatment of *Syphacia obvelata* (pinworm) in laboratory mice.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.2520e [Redesignated as § 520.2520b]

■ 203a. Redesignate § 520.2520e as § 520.2520b.

■ 203b. Amend newly redesignated § 520.2520b as follows:

■ a. Revise paragraph (b);

■ b. Remove paragraphs (c) and (d);

■ c. Redesignate paragraph (e) as paragraph (c); and

■ d. Revise the newly redesignated paragraph (c) heading and paragraph (c)(3).

The revisions read as follows:

§ 520.2520b Trichlorfon boluses.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—

* * * * *

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.2520f [Redesignated as § 520.2520c]

■ 204a. Redesignate § 520.2520f as § 520.2520c.

■ 204b. Amend newly redesignated § 520.2520c as follows:

■ a. Revise paragraph (b);

■ b. Remove paragraphs (c) and (d);

■ c. Redesignate paragraph (e) as paragraph (c); and

■ d. Revise the newly redesignated paragraph (c) heading and paragraph (c)(3).

The revisions read as follows:

§ 520.2520c Trichlorfon granules.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—

* * * * *

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.2520g [Redesignated as § 520.2520d]

■ 205a. Redesignate § 520.2520g as § 520.2520d.

■ 205b. Amend newly redesignated § 520.2520d as follows:

■ a. Revise paragraph (b);

■ b. Remove paragraphs (c) and (d);

■ c. Redesignate paragraph (e) as paragraph (c); and

■ d. Revise the newly redesignated paragraph (c) heading and paragraph (c)(3).

The revisions read as follows:

§ 520.2520d Trichlorfon, phenothiazine, and piperazine.

* * * * *

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—

* * * * *

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 206. Revise § 520.2582 to read as follows:

§ 520.2582 Triflupromazine.

(a) *Specifications.* Each tablet contains 10 or 25 milligrams (mg) triflupromazine hydrochloride.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs and cats*—(1) *Amount.* Administer orally 1 to 2 mg per pound of body weight daily, followed by 1 mg daily.

(2) *Indications for use.* For relief of anxiety, to help control psychomotor over-activity, and to increase the tolerance of animals to pain and pruritus. For use in various clinical procedures which require the aid of a tranquilizer, antiemetic, or preanesthetic.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 207. Revise § 520.2604 to read as follows:

§ 520.2604 Trimeprazine and prednisolone tablets.

(a) *Specifications.* Each tablet contains 5 milligrams (mg) trimeprazine tartrate and 2 mg prednisolone.

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer orally an initial dosage: for dogs weighing up to 10 pounds, ½ tablet twice daily; for dogs weighing 11 to 20 pounds, 1 tablet twice daily; for dogs weighing 21 to 40 pounds, 2 tablets twice daily; and for dogs weighing over 40 pounds, 3 tablets twice daily. After 4 days, reduce dosage to one-half the initial dose or to an amount sufficient to maintain remission of symptoms.

(2) *Indications for use.* For the relief of itching regardless of cause; and for reduction of inflammation commonly associated with most skin disorders of dogs such as eczema, caused by internal disorders, otitis, and dermatitis, allergic, parasitic, pustular and nonspecific. As adjunctive therapy in various cough conditions including treatment of ''kennel cough'' or tracheobronchitis, bronchitis including allergic bronchitis, in tonsillitis, acute upper respiratory infections and coughs of nonspecific origin.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 208. Revise § 520.2605 to read as follows:

§ 520.2605 Trimeprazine and prednisolone capsules.

(a) *Specifications.* Each capsule contains:

(1) 3.75 milligrams (mg) trimeprazine in sustained released form (as trimeprazine tartrate) and 1 mg prednisolone (Capsule No. 1); or

(2) 7.5 mg trimeprazine in sustained release form (as trimeprazine tartrate) and 2 mg prednisolone (Capsule No. 2).

(b) *Sponsor.* See No. 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer orally once daily an initial dosage:

(i) For dogs weighing up to 10 pounds: one Capsule No. 1;

(ii) For dogs weighing 11 to 20 pounds, one Capsule No. 2 or two Capsule No. 1;

(iii) For dogs weighing 21 to 40 pounds, two Capsule No. 2 or four Capsule No. 1; and

(iv) For dogs weighing over 40 pounds, three Capsule No. 2 or six Capsule No. 1.

After 4 days, the dosage is reduced to approximately ½ the initial dosage or to an amount just sufficient to maintain remission of symptoms.

(2) *Indications for use.* For the relief of itching regardless of cause; and for reduction of inflammation commonly associated with most skin disorders of dogs such as eczema, caused by internal disorders, otitis, and dermatitis, allergic, parasitic, pustular and nonspecific. As adjunctive therapy in various cough conditions including treatment of ''kennel cough'' or tracheobronchitis, bronchitis including allergic bronchitis, in tonsillitis, acute upper respiratory infections and coughs of nonspecific origin.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

■ 209. Revise § 520.2610 to read as follows:

§ 520.2610 Trimethoprim and sulfadiazine tablets.

(a) *Specifications.* Each tablet contains 30 milligrams (mg) (5 mg

trimethoprim and 25 mg sulfadiazine), 120 mg (20 mg trimethoprim and 100 mg sulfadiazine), 480 mg (80 mg trimethoprim and 400 mg sulfadiazine) or 960 mg (160 mg trimethoprim and 800 mg sulfadiazine).

(b) *Sponsors.* See Nos. 000061 and 054771 in § 510.600(c) of this chapter.

(c) *Conditions of use in dogs*—(1) *Amount.* Administer orally at 30 mg per kilogram of body weight (14 milligrams per pound) once daily. Alternatively, especially in severe infections, the initial dose may be followed by one-half the recommended daily dose every 12 hours. Administer for 2 to 3 days after symptoms have subsided. Do not treat for more than 14 consecutive days.

(2) *Indications for use.* The drug is used in dogs where systemic antibacterial action against sensitive organisms is required, either alone or as an adjunct to surgery or debridement with associated infection. The drug is indicated where control of bacterial infection is required during the treatment of acute urinary tract infections, acute bacterial complications of distemper, acute respiratory tract infections, acute alimentary tract infections, wound infections, and abscesses.

(3) *Limitations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

§ 520.2611 [Amended]

■ 210. In § 520.2611, in paragraph (b)(1), remove ''000856'' and in its place add ''054771''.

■ 211. In § 520.2613, revise paragraphs (a) and (b), the paragraph (c) heading, and paragraphs (c)(1) and (3) to read as follows:

§ 520.2613 Trimeprazine and sulfadiazine powder.

(a) *Specifications.* Each gram of powder contains 67 milligrams (mg) trimethoprim and 333 mg sulfadiazine.

(b) *Sponsors.* See Nos. 054771 and 058711 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—(1) *Amount.* Administer orally 3.75 grams of powder per 110 pounds (50 kilograms) of body weight in a small amount of feed, as a single daily dose, for 5 to 7 days.

* * * * *

(3) *Limitations.* Do not use in horses intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: April 29, 2014.

Steven D. Vaughn,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 2014–10415 Filed 5–19–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100 and 165

[Docket No. USCG–2013–0904]

Special Local Regulations and Safety Zones; Recurring Events in Northern New England

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulations.

SUMMARY: The Coast Guard will enforce the events taking place throughout the Sector Northern New England Captain of the Port (COTP) Zone. This action is necessary to protect marine traffic and spectators from the hazards associated with powerboat races, regattas, boat parades, rowing and paddling boat races, swim events, and fireworks displays. During the enforcement period, no person or vessel may enter the Special Local Regulation area or Safety Zone without permission of the COTP.

DATES: The marine events listed in 33 CFR 100.120 and 33 CFR 165.171 will take place from June 14, 2014 through July 28, 2014, during the times and dates specified in Tables 1 and 2 below.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Lieutenant Junior Grade Elizabeth Gunn, U.S. Coast Guard, Sector Northern New England, Waterways Management Division, via telephone at 207–767–0398 or email at *Elizabeth.V.Gunn@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Special Local Regulations and Safety Zones listed in 33 CFR 100.120 and 33 CFR 165.171. These regulations will be enforced for the duration of each event, on or about the dates indicated in TABLES 1 and 2.

TABLE 1

[33 CFR 100.120]

JUNE	
Charlie Begin Memorial Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Boothbay Harbor Lobster Boat Race Committee. • Date: June 14, 2014. • Time: 10:00 a.m. to 2:00 p.m. • Location: The regulated area includes all waters of Boothbay Harbor, Maine in the vicinity of John's Island within the following points (NAD 83): 43°50′04″ N, 069°38′37″ W. 43°50′54″ N, 069°38′06″ W. 43°50′49″ N, 069°37′50″ W. 43°50′00″ N, 069°38′20″ W.
Rockland Harbor Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Rockland Harbor Lobster Boat Race Committee. • Date: June 15, 2014. • Time: 10:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Rockland Harbor, Maine in the vicinity of the Rockland Breakwater Light within the following points (NAD 83): 44°05′59″ N, 069°04′53″ W. 44°06′43″ N, 069°05′25″ W. 44°06′50″ N, 069°05′05″ W.

TABLE 1—Continued

[33 CFR 100.120]

	44°06′05″ N, 069°04′34″ W.
Windjammer Days Parade of Ships	• Event Type: Tall Ship Parade. • Sponsor: Boothbay Region Chamber of Commerce. • Date: June 25, 2014. • Time: 1:00 p.m. to 3:00 p.m. • Location: The regulated area includes all waters of Boothbay Harbor, Maine in the vicinity of Tumbler's Island within the following points (NAD 83): 43°51′02″ N, 069°37′33″ W. 43°50′47″ N, 069°37′31″ W. 43°50′23″ N, 069°37′57″ W. 43°50′01″ N, 069°37′45″ W. 43°50′01″ N, 069°38′31″ W. 43°50′25″ N, 069°38′25″ W. 43°50′49″ N, 069°37′45″ W.
Bass Harbor Blessing of the Fleet Lobster Boat Race	• Event Type: Power Boat Race. • Sponsor: Tremont Congregational Church. • Date: June 27, 2014. • Time: 10:00 a.m. to 2:00 p.m. • Location: The regulated area includes all waters of Bass Harbor, Maine in the vicinity of Lopaus Point within the following points (NAD 83): 44°13′28″ N, 068°21′59″ W. 44°13′20″ N, 068°21′40″ W. 44°14′05″ N, 068°20′55″ W. 44°14′12″ N, 068°21′14″ W.
JULY	
Moosabec Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Moosabec Boat Race Committee. • Date: July 5, 2014. • Time: 10:00 a.m. to 12:30 p.m. • Location: The regulated area includes all waters of Jonesport, Maine within the following points (NAD 83): 44°31′21″ N, 067°36′44″ W. 44°31′36″ N, 067°36′47″ W. 44°31′44″ N, 067°35′36″ W. 44°31′29″ N, 067°35′33″ W.
The Great Race	• Event Type: Rowing and Paddling Boat Race. • Sponsor: Franklin County Chamber of Commerce. • Date: July 7, 2014. • Time: 9:00 a.m. to 12:30 p.m. • Location: The regulated area includes all waters of Lake Champlain in the vicinity of Saint Albans Bay within the following points (NAD 83): 44°47′18″ N, 073°10′27″ W. 44°47′10″ N, 073°08′51″ W.
Maine Windjammer Lighthouse Parade	• Event Type: Wooden Boat Parade. • Sponsor: Maine Windjammer Association. • Date: July 11, 2014. • Time: 2:00 p.m. to 4:00 p.m. • Location: The regulated area includes all waters of Rockland Harbor, Maine in the vicinity of the Rockland Harbor Breakwater within the following points (NAD 83): 44°06′14″ N, 069°03′48″ W. 44°05′50″ N, 069°03′47″ W. 44°06′14″ N, 069°05′37″ W. 44°05′50″ N, 069°05′37″ W.
Searsport Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Searsport Lobster Boat Race Committee. • Date: July 12, 2014. • Time: 10:00 a.m. to 2:00 p.m. • Location: The regulated area includes all waters of Searsport Harbor, Maine within the following points (NAD 83): 44°26′50″ N, 068°55′20″ W. 44°27′04″ N, 068°55′26″ W. 44°27′12″ N, 068°54′35″ W.

TABLE 1—Continued

[33 CFR 100.120]

	44°26′59″ N, 068°54′29″ W.
Mayor's Cup Regatta	• Event Type: Sailboat Parade. • Sponsor: Plattsburgh Sunrise Rotary. • Date: July 12, 2014. • Time: 10:00 a.m. to 4:00 p.m. • Location: The regulated area includes all waters of Cumberland Bay on Lake Champlain in the vicinity of Plattsburgh, New York within the following points (NAD 83): 44°41′26″ N, 073°23′46″ W. 44°40′19″ N, 073°24′40″ W. 44°42′01″ N, 073°25′22″ W.
Stonington Lobster Boat Races	• Event Type: Power Boat Race. • Sponsor: Stonington Lobster Boat Race Committee. • Date: July 13, 2014. • Time: 9:30 a.m. to 3:30 p.m. • Location: The regulated area includes all waters of Stonington, Maine within the following points (NAD 83): 44°08′55″ N, 068°40′12″ W. 44°09′00″ N, 068°40′15″ W. 44°09′11″ N, 068°39′42″ W. 44°09′07″ N, 068°39′39″ W.
The Challenge Race	• Event Type: Rowing and Paddling Boat Race. • Sponsor: Lake Champlain Maritime Museum. • Date: July 13, 2014. • Time: 11:00 a.m. to 3:00 p.m. • Location: The regulated area includes all waters of Lake Champlain in the vicinity of Button Bay State Park within the following points (NAD 83): 44°12′25″ N, 073°22′32″ W. 44°12′00″ N, 073°21′42″ W. 44°12′19″ N, 073°21′25″ W. 44°13′16″ N, 073°21′36″ W.
Yarmouth Clam Festival Paddle Race	• Event Type: Rowing and Paddling Boat Race. • Sponsor: Maine Island Trail Association. • Date: July 19, 2014. • Time: 2:00 p.m. to 7:00 p.m. • Location: The regulated area includes all waters in the vicinity of the Royal River outlet and Lane's Island within the following points (NAD 83): 43°47′47″ N, 070°08′40″ W. 43°47′50″ N, 070°07′13″ W. 43°47′06″ N, 070°07′32″ W. 43°47′17″ N, 070°08′25″ W.

TABLE 2

[33 CFR 165.171]

JUNE	
Rotary Waterfront Days Fireworks	• Event Type: Fireworks Display. • Sponsor: Gardiner Rotary. • Date: June 21, 2014. • Time: 8:30 p.m. to 9:30 p.m. • Location: In the vicinity of the Gardiner Waterfront, Gardiner, Maine in approximate position: 44°13′52″ N, 069°46′08″ W (NAD 83).
Windjammer Days Fireworks	• Event Type: Fireworks Display. • Sponsor: Boothbay Harbor Region Chamber of Commerce. • Date: June 25, 2014. • Time: 8:30 p.m. to 9:30 p.m. • Location: In the vicinity of McFarland Island, Boothbay Harbor, Maine in approximate position: 43°50′38″ N, 069°37′57″ W (NAD 83).
JULY	
Burlington Independence Day Fireworks	• Event Type: Fireworks Display.

TABLE 2—Continued

[33 CFR 165.171]

	• Sponsor: City of Burlington, Vermont. • Date: July 3, 2014. • Time: 9:00 p.m. to 11:00 p.m. • Location: From a barge in the vicinity of Burlington Harbor, Burlington, Vermont in approximate position: 44°28′31″ N, 073°13′31″ W (NAD 83).
Camden 3rd of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Camden, Rockport, Lincolnville Chamber of Commerce. • Date: July 4, 2014. • Time: 8:00 p.m. to 10:00 p.m. • Location: In the vicinity of Camden Harbor, Maine in approximate position: 44°12′32″ N, 069°02′58″ W (NAD 83).
Bangor 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Bangor 4th of July Fireworks. • Date: July 4, 2014. • Time: 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Bangor Waterfront, Bangor, Maine in approximate position: 44°47′27″ N, 068°46′31″ W (NAD 83).
Bar Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Bar Harbor Chamber of Commerce. • Date: July 4, 2014. • Time: 8:00 p.m. to 10:00 p.m. • Location: In the vicinity of Bar Harbor Town Pier, Bar Harbor, Maine in approximate position: 44°23′31″ N, 068°12′15″ W (NAD 83).
Boothbay Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Boothbay Harbor. • Date: July 4, 2014. • Time: 9:00 p.m. to 9:30 p.m. • Location: In the vicinity of McFarland Island, Boothbay Harbor, Maine in approximate position: 43°50′38″ N, 069°37′57″ W (NAD 83).
Colchester 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Colchester, Recreation Department. • Date: July 4, 2014. • Time: 8:00 p.m. to 10:00 p.m. • Location: In the vicinity of Bayside Beach and Mallets Bay in Colchester, Vermont in approximate position: 44°32′44″ N, 073°13′10″ W (NAD 83).
Eastport 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Eastport 4th of July Committee. • Date: July 4, 2014. • Time: 9:00 p.m. to 10:30 p.m. • Location: From the Waterfront Public Pier in Eastport, Maine in approximate position: 44°54′25″ N, 066°58′55″ W (NAD 83).
Ellis Short Sand Park Trustee Fireworks	• Event Type: Fireworks Display. • Sponsor: William Burnham. • Date: July 4, 2014. • Time: 9:30 p.m. to 10:30 p.m. • Location: In the vicinity of York Beach, Maine in approximate position: 43°10′27″ N, 070°36′26″ W (NAD 83).
Jonesport 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Jonesport 4th of July Committee. • Date: July 4, 2014. • Time: 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Beals Island, Jonesport, Maine in approximate position: 44°31′18″ N, 067°36′43″ W (NAD 83).
Portland Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Department of Parks and Recreation, Portland, Maine.

TABLE 2—Continued

[33 CFR 165.171]

	• Date: July 4, 2014. • Rain date: July 5, 2014. • Time: 8:30 p.m. to 10:30 p.m. • Location: In the vicinity of East End Beach, Portland, Maine in approximate position: 43°40′16″ N, 070°14′44″ W (NAD 83).
Stonington 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Deer Isle—Stonington Chamber of Commerce. • Date: July 4, 2014. • Time: 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Two Bush Island, Stonington, Maine in approximate position: 44°08′57″ N, 068°39′54″ W (NAD 83).
Southwest Harbor 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Southwest Harbor-Tremont Chamber of Commerce. • Date: July 4, 2014. • Time: 9:00 p.m. to 10:30 p.m. • Location: Southwest Harbor, Maine in approximate position: 44°6′25″ N, 068°19′21″ W (NAD 83).
Prentice Hospitality Group Fireworks	• Event Type: Fireworks Display. • Sponsor: Prentice Hospitality Group. • Date: July 4, 2014. • Rain date: July 5, 2014. • Time: 8:00 p.m. to 10:30 p.m. • Location: Chebeague Island, Maine in approximate position: 43°45′12″ N, 070°06′27″ W (NAD 83).
Shelburne Triathlons	• Event Type: Swim Event. • Sponsor: Race Vermont. • Date: July 5, 2014. • Time: 7:00 a.m. to 11:00 a.m. • Location: The regulated area includes all waters of Lake Champlain in the vicinity of Shelburne Beach in Shelburne, Vermont within a 400 yard radius of the following point: 44°21′45″ N, 075°15′58″ W (NAD 83).
Lubec Bicentennial Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Lubec, Maine. • Date: July 5, 2014. • Time: 9:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Lubec Public Boat Launch in approximate position: 44°51′52″ N, 066°59′06″ W (NAD 83).
Vinalhaven 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Vinalhaven 4th of July Committee. • Date: July 6, 2014. • Time: 9:00 p.m. to 10:30 p.m. • Location: In the vicinity of Grime's Park, Vinalhaven, Maine in approximate position: 44°02′34″ N, 068°50′26″ W (NAD 83).
Main Street Heritage Days 4th of July Fireworks	• Event Type: Fireworks Display. • Sponsor: Main Street Inc. • Date: July 6, 2014. • Time: 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of Reed and Reed Boat Yard, Woolwich, Maine in approximate position: 43°54′56″ N, 069°48′16″ W (NAD 83).
St. Albans Day Fireworks	• Event Type: Fireworks Display. • Sponsor: St. Albans Area Chamber of Commerce. • Date: July 6, 2014. • Time: 9:00 p.m. to 10:00 p.m. • Location: From the St. Albans Bay dock in St. Albans Bay, Vermont in approximate position: 44°48′25″ N, 073°08′23″ W (NAD 83).
Peaks to Portland Swim	• Event Type: Swim Event. • Sponsor: Cumberland County YMCA.

TABLE 2—Continued

[33 CFR 165.171]

	• Date: July 12, 2014. • Time: 8:30 a.m. to 12:00 p.m. • Location: The regulated area includes all waters of Portland Harbor between Peaks Island and East End Beach in Portland, Maine within the following points (NAD 83). 43°39′20″ N, 070°11′58″ W. 43°39′45″ N, 070°13′19″ W. 43°40′11″ N, 070°14′13″ W. 43°40′08″ N, 070°14′29″ W. 43°40′00″ N, 070°14′23″ W. 43°39′34″ N, 070°13′31″ W. 43°39′13″ N, 070°11′59″ W.
St. George Days Fireworks	• Event Type: Fireworks. • Sponsor: Town of St. George. • Date: July 19, 2014. • Time: 8:30 p.m. to 10:30 p.m. • Location: The regulated area includes all waters of Inner Tenants Harbor, ME, in approximate position (NAD 83): 43°57′41.37″ N, 069°12′45″ W.
Richmond Days Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Richmond, Maine. • Date: July 26, 2014. • Time: 8:00 p.m. to 10:30 p.m. • Location: From a barge in the vicinity of the inner harbor, Tenants Harbor, Maine in approximate position: 44°08′42″ N, 068°27′06″ W (NAD83).
Colchester Triathlon	• Event Type: Swim Event. • Sponsor: Colchester Parks and Recreation Department. • Date: July 27, 2014. • Time: 8:00 a.m. to 11:00 a.m. • Location: The regulated area includes all waters of Malletts Bay on Lake Champlain, Vermont within the following points (NAD 83): 44°32′18″ N, 073°12′35″ W. 44°32′28″ N, 073°12′56″ W. 44°32′57″ N, 073°12′38″ W.
Tri for a Cure Swim Clinics and Triathlon	• Event Type: Swim Event. • Sponsor: Maine Cancer Foundation. • Dates & Times: July 7, 2014 6:00 p.m. to 7:30 p.m. July 12, 2014 12:00 p.m. to 1:30 p.m. July 19, 2014 3:30 p.m. to 5:00 p.m. July 20, 2014 7:00 a.m. to 10:30 a.m. • Location: The regulated area includes all waters of Portland Harbor, Maine in the vicinity of Spring Point Light within the following points (NAD 83): 43°39′01″ N, 070°13′32″ W. 43°39′07″ N, 070°13′29″ W. 43°39′06″ N, 070°13′41″ W. 43°39′01″ N, 070°13′36″ W.
Friendship Days Fireworks	• Event Type: Fireworks Display. • Sponsor: Town of Friendship. • Date: July 28, 2014. • Time: 8:00 p.m. to 10:30 p.m. • Location: In the vicinity of the Town Pier, Friendship Harbor, Maine in approximate position: 43°58′23″ N, 069°20′12″ W (NAD83).
Bucksport Festival and Fireworks	• Event Type: Fireworks Display. • Sponsor: Bucksport Bay Area Chamber of Commerce. • Date: July 26, 2014. • Time: 8:00 pm to 10:30 pm Location: In the vicinity of the Verona Island Boat Ramp, Verona, Maine in approximate position: 44°34′9″ N, 068°47′28″ W (NAD83).

For events where the date is different from the dates previously published for that event, new Temporary Rules may be issued to enforce limited access areas for the marine event. The Coast Guard may patrol each event area under the direction of a designated Coast Guard Patrol Commander (PATCOM). The PATCOM may be contacted on Channel 16 VHF–FM (156.8 MHz) by the call sign ''PATCOM.'' Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP, Sector Northern New England. For information about regulations and restrictions for waterway use during the effective periods of these events, please refer to 33 CFR 100.120 and 33 CFR 165.171.

This notice is issued under authority of 33 CFR 100.120, 33 CFR 165.171, and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners and marine information broadcasts. If the COTP determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: May 1, 2014.

B.S. Gilda,

Captain, U.S. Coast Guard, Captain of the Port Sector Northern New England.

[FR Doc. 2014–11561 Filed 5–19–14; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 51

[WC Docket No. 10–90, CC Docket No. 01–92; DA 14–434]

Connect America Fund; Developing a Unified Intercarrier Compensation Regime

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission's Wireline Competition Bureau clarifies and amends certain provisions of the Commission's new rules relating to intercarrier compensation transformation reforms adopted in the *USF/ICC Transformation Order.*

DATES: Effective June 19, 2014.

FOR FURTHER INFORMATION CONTACT: Pamela Arluk, Wireline Competition Bureau, Pricing Policy Division (202) 418–1520 or (202) 418–0484 (TTY); or Robin Cohn, Wireline Competition Bureau, Pricing Policy Division (202) 418–1520 or (202) 418–0484 (TTY).

SUPPLEMENTARY INFORMATION: This is a summary of the Wireline Competition Bureau's Order in WC Docket No. 10–90 and CC Docket No. 01–92, adopted and released on March 31, 2014. The full text of this document is available electronically via ECFS at *http://fjallfoss.fcc.gov/ecfs/* or may be downloaded at *http://hraunfoss.fcc.gov/edocs_public/attachmatch/DA-14-434A1.pdf*. The full text of this document is also available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. The complete text may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), 445 12th Street SW., Room CY–B402, Washington, DC 20554, (202) 488–5300 (voice) or (202) 488–5563 (facsimile) or via email at *fcc@bcpiweb.com*. To request materials in accessible formats for people with disabilities (*e.g.* braille, large print, electronic files, audio format, etc.) or to request reasonable accommodations (*e.g.* accessible format documents, sign language interpreters, CART, etc.), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice) or (202) 418–0432 (TTY).

I. Introduction

1. In the *USF/ICC Transformation Order,* the Commission delegated to the Wireline Competition Bureau (Bureau) the authority to make any rule revisions necessary to ensure that the reforms adopted by the Commission are properly reflected in the rules, including correction of any conflicts between the new or revised rules and addressing of any omissions or oversights. In this Order, the Bureau acts pursuant to its delegated authority to clarify and correct certain rules relating to implementation of the intercarrier compensation (ICC) transition adopted in the *USF/ICC Transformation Order.* Specifically, the Bureau clarifies language in sections 51.907 and 51.909 to reflect ongoing rate parity in the transition process for price cap and rate-of-return local exchange carriers (LECs), consistent with the intent of the *USF/ICC Transformation Order.* The Bureau also clarifies certain aspects of the Commission's rules relating to the transition of terminating end office access rates and the calculation of Eligible Recovery for price cap and rate-of-return carriers beginning in 2014. Finally, the Bureau clarifies issues related to duplicative recovery and the true-up of regulatory fees and revenue calculations.

II. Background

2. The *USF/ICC Transformation Order* adopted, among other things, an ICC reform timeline including rules that require carriers to adjust, over a period of years, many of their legacy ICC rates effective on July 1 of each of those years, with the ultimate goal of transitioning to a bill-and-keep regime. The Commission also adopted a recovery mechanism to mitigate the impact of reduced ICC revenues on carriers and to facilitate continued investment in broadband infrastructure while providing greater certainty and predictability going forward. The recovery mechanism allows incumbent LECs to recover ICC revenues reduced due to the ICC reforms, up to an amount defined for each year of the transition, which is referred to as ''Eligible Recovery.'' A carrier may recover a limited portion of its Eligible Recovery each year from its end users through a fixed monthly charge called the Access Recovery Charge (ARC), and the remainder of its Eligible Recovery for the year, if it so elects, from Connect America Fund ICC support.

3. The Bureau previously clarified and corrected several rules adopted in the *USF/ICC Transformation Order* in response to requests for clarification or correction in prior years. In this Order, we clarify and correct several rules pertaining to future filings that price cap and rate-of-return carriers will make in the 2014 annual access charge tariff filings and beyond.

III. Discussion

A. Rate Parity for Interstate and Intrastate Terminating End Office Access Service

4. In 2013, both price cap and rate-of-return regulated incumbent LECs were required to reduce certain intrastate switched access rates that exceeded comparable interstate switched access rates to interstate rate levels using the interstate rate structure. Carriers whose intrastate switched access rates were below comparable interstate rates generally were not allowed to increase such rates. Beginning in 2014, price cap carriers must reduce terminating switched end office and reciprocal compensation rates ''by one-third of the differential between end office rates and

$0.0007.'' Rate-of-return carriers must also begin making similar reductions using a target rate of $0.005 rather than $0.0007 to calculate the reductions. Because some end office rate elements are assessed on a per-minute basis and others on a flat-rated basis, the transition rules employed composite terminating end office access rates to determine the amount by which terminating end office access rates were required to be reduced in each year of the transition. The rules also employed separate interstate and intrastate composite terminating end office access rates to establish the actual rates. To the extent any flat-rated elements are included in end office rates, the use of separate interstate and intrastate composites in determining rate reductions would take interstate and intrastate rates out of parity as terminating end office access rates are reduced.

5. Price cap carriers work cooperatively with Bureau staff each year to develop tariff review plan spreadsheets that support their annual access filings. In the course of such discussions, some carriers have questioned whether the use of separate interstate and intrastate rate composites to measure whether intrastate terminating end office access rates do not exceed interstate terminating end office access rates is consistent with the *USF/ICC Transformation Order.* These carriers assert that the Commission intended for interstate and intrastate rates to remain at parity as the rate transition proceeds, which one interpretation of the existing rules would not always achieve. We agree that the Commission intended in the *USF/ICC Transformation Order* for rate parity to be maintained during the transition of terminating end office access rates to bill-and-keep beginning in 2014. The Commission noted that varying access rates ''have created incentives for arbitrage and pervasive competitive distortions within the industry.'' The Commission further noted that ''[b]y transitioning all traffic in a coordinated manner, we will minimize opportunities for arbitrage that could be presented by disparate intrastate rates.'' Having reached rate parity whenever possible in 2013, and reduced rate disparity in other cases, we find that a methodology that could be interpreted to increase rate disparity for two years, only to return to rate parity in the succeeding year, is inconsistent with the objectives described above. Thus, we clarify that the Commission intended to achieve parity between interstate and intrastate rates, not interstate and intrastate composite rates. While the composite rate is necessary to calculate the required rate reductions, we clarify that sole reliance on composite rates, rather than the rates themselves, is unnecessary to ensure that intrastate terminating end office access rates do not exceed comparable interstate terminating end office access rates. Therefore, as set forth in the Appendix, we revise sections 51.907 and 51.909 to clarify that achieving rate parity for the access rates themselves, not the composite rate for price cap and rate-of-return LECs, was the intent of the *USF/ICC Transformation Order.* Under this approach, carriers may continue to establish interstate terminating end office access rate caps that do not exceed the target composite terminating end office access rate for each year in the transition in the manner the adopted rules require. To achieve rate parity, the interstate rate caps so determined will be used in setting intrastate rate caps for the comparable intrastate terminating end office access elements rather than developing new intrastate rate caps that would satisfy a separately determined intrastate composite terminating end office access rate. To ensure the maximum rate parity, intrastate terminating end office rates will be set at the interstate rate level for the comparable rate element unless the intrastate rate for that rate element is lower, in which case the lower rate will be used. As terminating end office rates decrease, intrastate terminating end office rates that are below comparable interstate rates will begin to be reduced when rate parity is reached. This approach to developing reduced rates best achieves the Commission's goals of maintaining rate parity during the transition process.

6. An overview of the calculations necessary for reducing terminating end office access rates beginning July 1, 2014, as described above, is as follows. In broad terms, the reductions are based on rates developed to comply with targets developed from interstate rates and demand, with the interstate rates generally being used to establish intrastate rate levels. Using 2014 as a model, carriers first establish the 2011 Baseline Composite Terminating End Office Access Rate, which reflects interstate rates and demand. Next, carriers must calculate the 2014 Target Composite Terminating End Office Access Rate, by reducing the 2011 Baseline Composite Terminating End Office Access Rate by one-third of the difference between the 2011 Baseline Composite Terminating End Office Access Rate and $0.0007 for price cap carriers and $0.005 for rate-of-return carriers. Carriers will then develop terminating interstate end office access rates for their interstate tariffs that are consistent with the target composite rate. These terminating interstate end office access rates will be used to establish terminating intrastate end office access rates for comparable rate elements unless the intrastate rate for a rate element is lower than the interstate rate for that element. Carriers have the option to elect to charge a single per minute rate element for terminating end office access in both their interstate and intrastate tariffs that is no greater than the target terminating end office access rate for the year in question. This option is contingent on such an electing carrier's intrastate terminating end office access rates being at parity with the interstate rates if separate rates for different rate elements were used. Below, we clarify certain aspects of these calculations to ensure consistent implementation among carriers.

B. Calculation of Terminating End Office Access Rates

7. *2011 Baseline Composite Terminating End Office Access Rate.* Section 51.907(d) and 51.909(d) of the Commission's rules specify the access charge rate reductions that price cap and rate-of-return carriers, respectively, must make to terminating end office access rates in 2014. The first step in this process is for carriers to calculate the ''2011 Baseline Composite Terminating End Office Access Rate,'' which is calculated using Fiscal Year 2011 demand and the End Office Access Service rates at the levels in effect on December 29, 2011. This composite rate is calculated this one time, and is used in making calculations in subsequent years. Section 51.907(d)(2)(i), which is applicable to price cap carriers, does not specify whether price cap carriers should use interstate or intrastate demand and rates in making this calculation, although the comparable rule applicable to rate-of-return carriers specifies that it should be interstate rates and demand. The absence of a jurisdictional designation for the demand and rates to be used by price cap carriers creates potential ambiguity in the calculation of the required rate reductions.

8. We clarify that the 2011 Fiscal Year *interstate* demand and rates are to be utilized for the reasons explained below. The ICC rate transition started by capping interstate and intrastate switched access rates for price cap carriers at December 29, 2011, levels. The 2012 and 2013 transition steps reduced ''Transitional Intrastate Access

Service'' rates (which included reduction of end office rates that were above interstate switched access rates to interstate switched access rate levels), but did not require any changes to interstate switched access rates during that period. The 2014 annual access tariff filing begins the transition process of focusing annual rate reductions to interstate and intrastate Terminating End Office Access rates from their 2013–14 rate levels. Because intrastate switched access rates above comparable interstate rates are now reduced to interstate levels, 2011 intrastate rate and demand data are no longer relevant to the calculation of a baseline from which to reduce Terminating End Office Access Service rates in 2014. The calculation of the 2011 Baseline Composite Terminating End Office Access Rate, which is made for the first time this year, thus should only include 2011 Fiscal Year interstate demand and rates. We revise section 51.907(d)(2)(i) accordingly, as set forth in the Appendix, to eliminate any ambiguity and to facilitate the annual tariff filing process. We note further that using interstate rates and demand in calculating the required terminating end office access rate reductions for price cap carriers is consistent with how we require rate-of-return carriers to calculate their 2011 Baseline Composite Terminating End Office Access Rates.

9. *Target Composite Terminating End Office Access Rate.* Beginning this year, the ICC transition steps require carriers to calculate a Target Composite Terminating End Office Access Rate in certain years in which a target rate is not specified to determine the amount of reductions that must be made that year. Carriers have raised the question of whether separate interstate and intrastate target composite rates are required. The above clarification that the Commission intended rate parity between interstate and intrastate rates to apply during the reductions in terminating end office access rates renders this question moot. We therefore clarify that there is only one Target Composite Terminating End Office Access Rate each year, which is to be determined consistent with sections 51.907(d)(2)(iii) and 51.909(d)(3)(ii).

10. To begin the implementation of rate parity, a carrier may develop terminating end office access rates for the interstate jurisdiction whose composite rate does not exceed the composite target terminating end office access rate for the year in question. The carrier's intrastate terminating end office access rates may not exceed the carrier's interstate terminating end office access rates so developed for the comparable rate elements. A carrier's terminating intrastate end office access rates are further constrained in that the carrier may not increase any existing intrastate rate during this transition. Alternatively, the carrier may assess the target terminating end office access rate in both the interstate and intrastate jurisdictions as long as the carrier's intrastate terminating end office access rates would all be at parity with the interstate rates under the preceding approach. We amend the rules accordingly, as set forth in the Appendix.

C. Other Corrections or Clarifications

11. *Recovery Mechanism Calculations.* Sections 51.915(d)(1)(iii)(C), (iv)(C), and (v)(C) refer to the ''[i]ntrastate 2014 Composite Terminating End Office Access Rate'' in the process for establishing the rate level from which reductions in terminating end office rates are to be measured for purposes of determining a price cap carrier's Eligible Recovery for 2014. However, no methodology for calculating a 2014 Composite Terminating End Office Access Rate is specified in the rules. We clarify the procedure to be used by adding a definition of ''Intrastate 2014 Composite Terminating End Office Access Rate'' that specifies the required calculation method for price cap carriers. This definition is consistent with the calculation required under section 51.907(d) and uses 2011 Fiscal Year demand to weight the different rates used in calculating the composite rate in the same manner that the corresponding price cap carrier ICC rate transition rules weight different rates used to calculate composites. Consistent with the clarification that rate parity was to be maintained during the transition, we revise the introductory language in sections 51.915(d)(1)(iii)(C), (iv)(C) and (v)(C) that relied on composite rate comparisons to determine if rates had been reduced. The clarifying language makes clear that the recovery permitted by subparagraphs (d), (e), and (f) is allowed only if intrastate Terminating End Office Access Service rates are reduced in the year in question.

12. We also correct an inadvertent omission in section 51.907(f) by adding language clarifying that a price cap carrier has the option, in 2016, to implement a single per minute rate element for terminating End Office Access Service at a rate no greater than the 2016 Target Composite Terminating End Office Access Rate. This clarification is consistent with price cap carrier options in 2014 and 2015 and thus tracks the description in sections 51.907(d)(2)(iii) and (e)(1)(ii) of the Commission's rules specifying a price cap carrier's pricing options for terminating end office access service in those years.

13. We also make the following clarifications and corrections to the rate-of-return ICC transition and recovery rules. First, we delete the word ''interstate'' in each instance when it referred to a particular year's target composite rate. This change reflects our clarification that there is only one target composite rate each year starting in 2014, not separate interstate and intrastate target composite rates. Second, we clarify that in calculating the target composite terminating end office access rates in 2017 and 2018, rate-of-return carriers should use the 2016 Target Composite Terminating End Office Access Rate rather than the Terminating End Office Access Service Rate as of July 1, 2016 as the initial rate to reflect the uniform transition the Commission intended rather than requiring a carrier with a very low terminating rate to have to further reduce its rates before the uniform target rate falls below its rates. Finally, we add or delete ''interstate'' or ''intrastate'' in several places to more clearly reflect the intended rates.

14. *Access Recovery Charge True-Up.* Section 51.917(d) outlines the process for determining Eligible Recovery for rate-of-return carriers. The Eligible Recovery calculation set forth in section 51.917(d)(1)(iii)(D) requires rate-of-return carriers to, among other things, subtract from their Base Period Revenues (as reduced by multiplying these revenues by the Rate-of-Return Carrier Baseline Adjustment Factor) ''an amount equal to True-up Revenues for Access Recovery Charges for the year beginning July 1, 2012.'' In the *2013 ICC Clarification Order,* we substituted a defined term for the previous calculation of the ARC true-up. This substitution resulted in inadvertently reversing the order of the calculation, which would have the effect of reducing Eligible Recovery when it should have been increased, or vice versa. To correct this error in the rule language, we add the clause ''multiplied by negative one'' to the rule language in order to have the calculation described in the rule produce the intended result.

15. *True-Up of Regulatory Fees.* For rate-of-return carriers, telecommunications relay services (TRS) fees, regulatory fees, and North American Numbering Plan administration (NANPA) fees were historically recovered, in part, through interstate switched access rates. When

the Commission adopted a cap on interstate switched access rate elements in the *USF/ICC Transformation Order,* it did not address how carriers should recover any increases in these regulatory fees, or reflect any reductions in such fees in future years. In 2012, we clarified that increases in these regulatory fees that would have been assigned to capped interstate switched access services could be recovered through subscriber line charges (SLC) and/or Eligible Recovery under certain conditions. We have been asked informally whether any regulatory fees recovered pursuant to this methodology in the 2012–13 tariff period are to be trued-up in the calculation of 2014–15 Eligible Recovery. Regulatory fees are based on projected amounts just as is going-forward, tariff-year demand for rate elements in the calculation of a carrier's Eligible Recovery. Given the projected nature of these items, similar treatment in the true-up process is warranted. We clarify that if a rate-of-return carrier included an amount for these fees in its Eligible Recovery calculation in any year, it should reflect the amounts of any true-ups for the referenced regulatory fees as increases in, or reductions to, Eligible Recovery calculations on the same schedule that ARCs are trued-up—*i.e.,* two years following their initial inclusion.

16. *Duplicative Recovery.* Sections 51.915(d)(2) and 51.917(d)(1)(vii) prohibit price cap and rate-of-return carriers, respectively, from duplicative recovery. Specifically, the rules provide that if a carrier ''recovers any costs or revenues that are already being recovered as Eligible Recovery through Access Recovery Charges or the Connect America Fund from another source, that carrier's ability to recover reduced switched access revenue from Access Recovery Charges or the Connect America Fund shall be reduced to the extent it receives duplicative recovery.'' The rules do not, however, specify how Eligible Recovery should be adjusted to reflect any duplicative recovery, and carriers have informally inquired about how such adjustments should be made. We address this omission by revising the rules as set forth in the Appendix to provide that any duplicative recovery shall be reflected through reductions to the carrier's Eligible Recovery in its annual tariff supporting materials. This approach to addressing duplicative recovery is appropriate because it is carrier-specific and narrowly tailored to result in necessary Eligible Recovery reductions in specific years.

17. *Single Per-Minute Rate Element for Terminating End Office Access Service.* Beginning in 2014, the ICC transition rules permit both price cap and rate-of-return carriers, under certain conditions, to elect to implement a single per-minute rate element for Terminating End Office Access Service that is no greater than the Target Composite Terminating End Office Access rate for the respective year. Beginning on July 1, 2014, many carriers will begin to assess rates for several terminating end office rate elements, one of which will be a local switching charge assessed on all terminating minutes of use. Several carriers have informally asked whether, if they assess the single composite rate, which would be assessed on all terminating end office traffic, they can tariff it as a terminating switched access rate to avoid the expenses associated with revising their billing systems to create a new rate element. We believe that this approach implements the reforms adopted in the *USF/ICC Transformation Order* in a manner that would reduce implementation costs and burdens without any offsetting negative concerns. We thus clarify that both price cap and rate-of-return carriers may tariff the single composite rate as a terminating local switching access rate, consistent with the ICC transition, as long as all other rate elements associated with terminating end office access service are reduced to zero. If its Target Composite Terminating End Office Access Rate is higher than the terminating local switching rate such carrier tariffed the previous year that will not constitute an impermissible rate increase.

18. *Revenue True-Ups.* Carriers are required this year to begin making true-ups to certain revenue amounts projected in 2012 to reflect differences between projected and actual demand. To measure actual demand for purposes of making the true-up calculation, carriers will need to establish a cutoff date for finalizing the measured demand. Sections 51.917(d)(1)(v) and (vi) direct rate-of-return carriers who receive ARC or other revenues after the period used to measure the adjustments to reflect the differences between estimated and actual revenues, to treat such payments as actual revenue in the year the payment is received, and to reflect this as an additional adjustment for that year. This requirement addresses the potential that carriers could affect the true-up calculation by shifting the timing of the collection of revenues absent a requirement that later collections will need to be recognized in subsequent filings. The codified price cap rules are silent as to how to apply ARC revenues received after the cutoff date to adjust price cap carriers' eligible recovery in future years. This was clearly an omission because the *USF/ICC Transformation Order* did not specify that it was treating carriers differently in this regard—thus, the silence in the price cap rules is best interpreted consistently with the approach expressly adopted for rate-of-return carriers. To correct this omission, we amend the codified rules, as set forth in the Appendix, to make clear that price cap carriers will comply with the same requirements as rate-of-return carriers with respect to ARC revenues. We also take this opportunity to clarify that carriers should use revenues for services provided in tariff year 2012–13, collected through December 31, 2013, as a cut-off for making their true-ups this year. This will ensure that filings are consistent among carriers and will ease review, and the December 31 date gives carriers sufficient time to prepare their filings. Carriers shall also use December 31 as the cutoff date in future true-up calculations.

19. NECA has asked whether, in making the true-up calculations, it could use the difference between projected revenues and realized revenues. The rules generally provide for this calculation to be made by multiplying the rate for the service in question by projected demand less actual realized demand. Because projected and realized revenues are summations of the results of the calculations (including rates and demand), the proposed methodology should produce the same results as the process provided for in the rules, as long as the carrier is charging the maximum allowed rate. We find that the proposed methodology will significantly simplify the process and therefore clarify that all carriers may use revenue differences in making their true-up adjustments, as long as the carrier is charging the maximum allowed rate.

IV. Procedural Matters

A. Paperwork Reduction Act

20. This document does not contain any new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA). Therefore, the Order does not contain any new or modified information collection burdens for small businesses with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002.

B. Final Regulatory Flexibility Act Certification

21. The Regulatory Flexibility Act of 1980, as amended (RFA), requires

agencies to prepare a regulatory flexibility analysis for rulemaking proceedings, unless the agency certifies that ''the rule will not have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

22. We hereby certify that the rule revisions adopted in this Order will not have a significant economic impact on a substantial number of small entities. This Order amends rules adopted in the *USF/ICC Transformation Order* by correcting conflicts between the new or revised rules and existing rules, as well as addressing omissions or oversights. These revisions do not create any burdens, benefits, or requirements that were not addressed by the Final Regulatory Flexibility Analysis attached to the *USF/ICC Transformation Order.* The Commission will send a copy of this Order, including a copy of this final certification, to the Chief Counsel for Advocacy of the SBA. In addition, the Order (or a summary thereof) and certification will be published in the **Federal Register**.

C. Congressional Review Act

23. The Commission will send a copy of this Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

V. Ordering Clauses

24. Accordingly, *it is ordered,* that pursuant to the authority contained in sections 1, 2, 4(i), 201–203, 220, 251, 252, 254, 303(r) and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 201–203, 220, 251, 252, 254, 303(r) and 403, and pursuant to sections 0.91, 0.201(d), 0.291, 1.3, and 1.427 of the Commission's rules, 47 CFR 0.91, 0.201(d), 0.291, 1.3 and 1.427, and pursuant to the delegation of authority in paragraph 1404 of 26 FCC Rcd 17663 (2011), this Order is *adopted,* effective thirty (30) days after publication of the text or summary thereof in the **Federal Register**.

25. *It is further ordered* that part 51 of the Commission's rules, 47 CFR sections 51.907, 51.909, 51.915, and 51.917 are *amended* as set forth in the document, and such rule amendments shall be effective 30 days after the date of publication of the rule amendments in the **Federal Register**.

26. *It is further ordered* that the Commission *shall send* a copy of this Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act.

27. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Deena M. Shetler,

Associate Bureau Chief, Wireline Competition Bureau.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 51 as follows:

PART 51—INTERCONNECTION

■ 1. The authority citation for part 51 continues to read as follows:

Authority: Sections 1–5, 7, 201–05, 207–09, 218, 220, 225–27, 251–54, 256, 271, 303(r), 332, 706 of the Telecommunication Act of 1996, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 151–55, 157, 201–05, 207–09, 218, 220, 225–27, 251–54, 256, 271, 303(r), 332, 1302, 47 U.S.C. 157 note, unless otherwise noted.

Subpart J—Transitional Access Service Pricing

■ 2. Amend § 51.907 by revising paragraphs (d)(2)(i) and (iii), (e)(1)(ii), and (f) to read as follows:

§ 51.907 Transition of price cap carrier access charges.

* * * * *

(d) * * *

(2) * * *

(i) Each Price Cap Carrier shall calculate the 2011 Baseline Composite Terminating End Office Access Rate. The 2011 Baseline Composite Terminating End Office Access Rate means the Composite Terminating End Office Access Rate calculated using Fiscal Year 2011 interstate demand multiplied by the interstate End Office Access Service rates at the levels in effect on December 29, 2011, and then dividing the result by 2011 Fiscal Year interstate local switching demand.

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(iii) Beginning July 1, 2014, no Price Cap Carrier's interstate Composite Terminating End Office Access Rate shall exceed its 2014 Target Composite Terminating End Office Access Rate. A price cap carrier shall determine compliance by calculating interstate Composite Terminating End Office Access Rates using the relevant Fiscal Year 2011 interstate demand multiplied by the respective interstate rates as of July 1, 2014, and then dividing the result by the relevant 2011 Fiscal Year interstate terminating local switching demand. A price cap carrier's intrastate terminating end office access rates may not exceed the comparable interstate terminating end office access rates. In the alternative, any Price Cap Carrier may elect to implement a single per minute rate element for both interstate and intrastate terminating End Office Access Service no greater than the 2014 Target Composite Terminating End Office Access Rate if its intrastate terminating end office access rates would be at rate parity with its interstate terminating end office access rates.

* * * * *

(e) * * *

(1) * * *

(ii) Beginning July 1, 2015, no Price Cap Carrier's interstate Composite Terminating End Office Access Rate shall exceed its 2015 Target Composite Terminating End Office Access Rate. A price cap carrier shall determine compliance by calculating interstate Composite Terminating End Office Access Rates using the relevant Fiscal Year 2011 interstate demand multiplied by the respective interstate rates as of July 1, 2015, and then dividing the result by the relevant 2011 Fiscal Year interstate terminating local switching demand. A price cap carrier's intrastate terminating end office access rates may not exceed the comparable interstate terminating end office access rates. In the alternative, any Price Cap Carrier may elect to implement a single per minute rate element for both interstate and intrastate terminating End Office Access Service no greater than the 2015 Target Composite Terminating End Office Access Rate if its intrastate terminating end office access rates would be at rate parity with its interstate terminating end office access rates.

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(f) *Step 5.* Beginning July 1, 2016, notwithstanding any other provision of the Commission's rules, each Price Cap Carrier shall establish interstate terminating End Office Access Service rates such that its Composite

Terminating End Office Access Service rate does not exceed $0.0007 per minute. A price cap carrier shall determine compliance by calculating interstate Composite Terminating End Office Access Rates using the relevant Fiscal Year 2011 interstate demand multiplied by the respective interstate rates as of July 1, 2016, and then dividing the result by the relevant 2011 Fiscal Year interstate terminating local switching demand. A price cap carrier's intrastate terminating end office access rates may not exceed the comparable interstate terminating end office access rates. In the alternative, any Price Cap Carrier may elect to implement a single per-minute rate element for both interstate and intrastate Terminating End Office Access Service no greater than the 2016 Target Composite Terminating End Office Access Rate if its intrastate terminating end office access rates would be at rate parity with its interstate terminating end office access rates. Nothing in this section obligates or allows a Price Cap Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

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■ 3. Amend 51.909 by revising paragraphs (d)(3)(ii) and (iii), (e)(1)(i) and (ii), (f), (g)(1) introductory text, (g)(1)(i) and (ii), (h)(1) introductory text, and (h)(1)(i) and (ii) to read as follows:

§ 51.909 Transition of rate-of-return carrier access charges.

* * * * *

(d) * * *

(3) * * *

(ii) Each Rate-of-Return Carrier shall calculate its 2014 Target Composite Terminating End Office Access Rate. The 2014 Target Composite Terminating End Office Access Rate means $0.005 per minute plus two-thirds of any difference between the 2011 Baseline Composite Terminating End Office Access Rate and $0.005 per minute.

(iii) Beginning July 1, 2014, no Rate-of-Return Carrier's interstate Composite Terminating End Office Access Rate shall exceed its 2014 Target Composite Terminating End Office Access Rate. A rate-of-return carrier shall determine compliance by calculating interstate Composite Terminating End Office Access Rates using the relevant projected interstate demand for the tariff period multiplied by the respective interstate rates as of July 1, 2014, and then dividing by the projected interstate terminating end office local switching demand for the tariff period. A rate-of-return carrier's intrastate terminating end office access rates may not exceed the comparable interstate terminating end office access rates. In the alternative, any Rate-of-Return Carrier may elect to implement a single per minute rate element for both interstate and intrastate terminating End Office Access Service no greater than the 2014 Target Composite Terminating End Office Access Rate if its intrastate terminating end office access rates would be at rate parity with its interstate terminating end office access rates.

* * * * *

(e) * * *

(1) * * *

(i) Each Rate-of-Return Carrier shall calculate its 2015 Target Composite Terminating End Office Access Rate. The 2015 Target Composite Terminating End Office Access Rate means $0.005 per minute plus one-third of any difference between the 2011 Baseline Composite Terminating End Office Access Rate and $0.005 per minute.

(ii) Beginning July 1, 2015, no Rate-of-Return Carrier's interstate Composite Terminating End Office Access Rate shall exceed its 2015 Target Composite Terminating End Office Access Rate. A rate-of-return carrier shall determine compliance by calculating interstate Composite Terminating End Office Access Rates using the relevant projected interstate demand for the tariff period multiplied by the respective interstate rates as of July 1, 2015, and then dividing by the projected interstate terminating end office local switching demand for the tariff period. A rate-of-return carrier's intrastate terminating end office access rates may not exceed the comparable interstate terminating end office access rates. In the alternative, any Rate-of-Return Carrier may elect to implement a single per minute rate element for both interstate and intrastate terminating End Office Access Service no greater than the 2015 Target Composite Terminating End Office Access Rate if its intrastate terminating end office access rates would be at rate parity with its interstate terminating end office access rates. Nothing in this section obligates or allows a Rate-of–Return Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

* * * * *

(f) *Step 5.* Beginning July 1, 2016, notwithstanding any other provision of the Commission's rules, each Rate-of-Return Carrier shall establish interstate terminating End Office Access Service rates such that its interstate Composite Terminating End Office Access Service rate does not exceed $0.005 per minute. A rate-of-return carrier shall determine compliance by calculating interstate Composite Terminating End Office Access Rates using the relevant projected interstate demand for the tariff period multiplied by the respective interstate rates as of July 1, 2016, and then dividing by the projected interstate terminating end office local switching demand for the tariff period. A rate-of-return carrier's intrastate terminating end office access rates may not exceed the comparable interstate terminating end office access rates. In the alternative, any Rate-of-Return Carrier may elect to implement a single per minute rate element for both interstate and intrastate terminating End Office Access Service no greater than the 2016 Target Composite Terminating End Office Access Rate if its intrastate terminating end office access rates would be at rate parity with its interstate terminating end office access rates. Nothing in this section obligates or allows a Rate-of-Return Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

(g) * * *

(1) Each Rate-of-Return Carrier shall establish interstate and intrastate rates for terminating End Office Access Service using the following methodology:

(i) Each Rate-of-Return Carrier shall calculate its 2017 Target Composite Terminating End Office Access Rate. The 2017 Target Composite Terminating End Office Access Rate means $0.0007 per minute plus two-thirds of any difference between that carrier's 2016 Target Composite Terminating End Office Access Rate and $0.0007 per minute.

(ii) Beginning July 1, 2017, no Rate-of–Return Carrier's interstate Composite Terminating End Office Access Rate shall exceed its 2017 Target Composite Terminating End Office Access Rate. A rate-of-return carrier shall determine compliance by calculating interstate Composite Terminating End Office Access Rates using the relevant projected interstate demand for the tariff period multiplied by the respective interstate rates as of July 1, 2017, and then dividing by the projected interstate terminating end office local switching demand for the tariff period. A rate-of-return carrier's intrastate terminating end office access rates may not exceed the comparable interstate terminating end office access rates. In the

alternative, any Rate-of-Return Carrier may elect to implement a single per minute rate element for both interstate and intrastate terminating End Office Access Service no greater than the 2017 Target Composite Terminating End Office Access Rate if its intrastate terminating end office access rates would be at rate parity with its interstate terminating end office access rates. Nothing in this section obligates or allows a Rate-of–Return Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

* * * * *

(h) * * *

(1) Each Rate-of-Return Carrier shall establish interstate and intrastate rates for terminating End Office Access Service using the following methodology:

(i) Each Rate-of-Return Carrier shall calculate its 2018 Target Composite Terminating End Office Access Rate. The 2018 Target Composite Terminating End Office Access Rate means $0.0007 per minute plus one-third of any difference between that carrier's 2016 Target Composite Terminating End Office Access Rate and $0.0007 per minute.

(ii) Beginning July 1, 2018, no Rate-of-Return Carrier's interstate Composite Terminating End Office Access Rate shall exceed its 2018 Target Composite Terminating End Office Access Rate. A rate-of-return carrier shall determine compliance by calculating interstate Composite Terminating End Office Access Rates using the relevant projected interstate demand for the tariff period multiplied by the respective interstate rates as of July 1, 2018 and then dividing by the projected interstate terminating end office local switching demand for the tariff period. A rate-of-return carrier's intrastate terminating end office access rates may not exceed the comparable interstate terminating end office access rates. In the alternative, any Rate-of-Return Carrier may elect to implement a single per minute rate element for both interstate and intrastate terminating End Office Access Service no greater than the 2018 interstate Target Composite Terminating End Office Access Rate if its intrastate terminating end office access rates would be at rate parity with its interstate terminating end office access rates. Nothing in this section obligates or allows a Rate-of–Return Carrier that has intrastate rates lower than its functionally equivalent interstate rates to make any intrastate tariff filing or intrastate tariff revisions raising such rates.

* * * * *

■ 4. Amend § 51.915 by adding paragraph (b)(14) and revising paragraphs (d)(1)(iii)(B) and (C), (d)(1)(iv)(B) and (C), (d)(1)(v)(B) and (C), (d)(1)(vi)(B), (d)(1)(vii)(B), and (d)(2) and adding paragraph (d)(4) to read as follows:

§ 51.915 Recovery mechanism for price cap carriers.

* * * * *

(b) * * *

(14) Intrastate 2014 Composite Terminating End Office Access Rate. The Intrastate 2014 Composite Terminating End Office Access Rate as used in this section is determined by

(i) If a separate terminating rate is not already generally available, developing separate intrastate originating and terminating end office rates in accordance with § 51.907(d)(1) using end office access rates at their June 30, 2014, rate caps;

(ii) Multiplying the existing terminating June 30, 2014, intrastate end office access rates, or the terminating rates developed in paragraph (b)(14)(i) of this section, by the relevant Fiscal Year 2011 intrastate demand; and

(iii) Dividing the sum of the revenues determined in paragraph (b)(14)(ii) of this section by 2011 Fiscal Year intrastate terminating local switching minutes.

* * * * *

(d) * * *

(1) * * *

(iii) * * *

(B) The reduction in interstate switched access revenues equal to the difference between the 2011 Baseline Composite Terminating End Office Access Rate and the 2014 Target Composite Terminating End Office Access Rate determined pursuant to § 51.907(d) using Fiscal Year 2011 terminating interstate end office switching minutes, and then multiply by the Price Cap Carrier Traffic Demand Factor;

(C) If the carrier reduced its 2014 Intrastate Terminating End Office Access Rate(s) pursuant to § 51.907(d)(2), the reduction in revenues equal to the difference between either the Intrastate 2014 Composite Terminating End Office Access Rate and the Composite Terminating End Office Access Rate based on the maximum terminating end office rates that could have been charged on July 1, 2014, or the 2014 Target Composite Terminating End Office Access Rate, as applicable, using Fiscal Year 2011 terminating intrastate end office switching minutes, and then multiply by the Price Cap Carrier Traffic Demand Factor;

* * * * *

(iv) * * *

(B) The reduction in interstate switched access revenues equal to the difference between the 2011 Baseline Composite Terminating End Office Access Rate and the 2015 Target Composite Terminating End Office Access Rate determined pursuant to § 51.907(e) using Fiscal Year 2011 terminating interstate end office switching minutes, and then multiply by the Price Cap Carrier Traffic Demand Factor;

(C) If the carrier reduced its Intrastate Terminating End Office Access Rate(s) pursuant to § 51.907(e)(1), the reduction in intrastate switched access revenues equal to the difference between either the intrastate 2014 Composite Terminating End Office Access Rate and the Composite Terminating End Office Access Rate based on the maximum terminating end office rates that could have been charged on July 1, 2015, or the 2015 Target Composite Terminating End Office Access Rate, as applicable, using Fiscal Year 2011 terminating intrastate end office switching minutes, and then multiply by the Price Cap Carrier Traffic Demand Factor; and

* * * * *

(v) * * *

(B) The reduction in interstate switched access revenues equal to the difference between the 2011 Baseline Composite Terminating End Office Access Rate and $0.0007 determined pursuant to § 51.907(f) using Fiscal Year 2011 terminating interstate end office switching minutes, and then multiply by the Price Cap Carrier Traffic Demand Factor;

(C) If the carrier reduced its Intrastate Terminating End Office Access Rate(s) pursuant to § 51.907(f), the reduction in revenues equal to the difference between either the Intrastate 2014 Composite Terminating End Office Access Rate and $0.0007 based on the maximum terminating end office rates that could have been charged on July 1, 2016, or the 2016 Target Composite Terminating End Office Access Rate, as applicable, using Fiscal Year 2011 terminating intrastate end office minutes, and then multiply by the Price Cap Carrier Traffic Demand Factor;

* * * * *

(vi) * * *

(B) The reduction in interstate switched access revenues equal to the 2011 Baseline Composite Terminating End Office Access Rate using Fiscal Year 2011 terminating interstate end

office switching minutes, and then multiply by the Price Cap Carrier Traffic Demand Factor;

* * * * *

(vii) * * *

(B) The reduction in interstate switched access revenues equal to the 2011 Baseline Composite Terminating End Office Access Rate using Fiscal Year 2011 terminating interstate end office switching minutes, and then multiply by the Price Cap Carrier Traffic Demand Factor;

* * * * *

(2) If a Price Cap Carrier recovers any costs or revenues that are already being recovered through Access Recovery Charges or the Connect America Fund from another source, that carrier's ability to recover reduced switched access revenue from Access Recovery Charges or the Connect America Fund shall be reduced to the extent it receives duplicative recovery. Any duplicative recovery shall be reflected as a reduction to a carrier's Eligible Recovery calculated pursuant to § 51.915(d).

* * * * *

(4) If a Price Cap Carrier receives payment for Access Recovery Charges after the period used to measure the adjustment to reflect the differences between estimated and actual revenues, it shall treat such payments as actual revenues in the year the payment is received and shall reflect this as an additional adjustment for that year.

* * * * *

■ 5. Amend § 51.917 by revising (d)(1)(iii)(D) and (d)(1)(vii) to read as follows:

§ 51.917 Revenue recovery for rate-of-return carriers.

* * * * *

(d) * * *

(1) * * *

(iii) * * *

(D) An amount equal to True-up Revenues for Access Recovery Charges for the year beginning July 1, 2012 multiplied by negative one.

* * * * *

(vii) If a Rate-of-Return Carrier recovers any costs or revenues that are already being recovered as Eligible Recovery through Access Recovery Charges or the Connect America Fund from another source, that carrier's ability to recover reduced switched access revenue from Access Recovery Charges or the Connect America Fund shall be reduced to the extent it receives duplicative recovery. Any duplicative recovery shall be reflected as a reduction to a carrier's Eligible Recovery calculated pursuant to § 51.917(d). A Rate-of-Return Carrier seeking revenue recovery must annually certify as part of its tariff filings to the Commission and to the relevant state commission that the carrier is not seeking duplicative recovery in the state jurisdiction for any Eligible Recovery subject to the recovery mechanism.

* * * * *

[FR Doc. 2014–11479 Filed 5–19–14; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket Number FWS–HQ–ES–2013–0055; FXES111809F2070B6]

RIN 1018–AY76

Endangered and Threatened Wildlife and Plants; Listing the Southern White Rhino (Ceratotherium simum simum) as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are adopting as a final rule an interim rule to list the southern white rhino (*Ceratotherium simum simum*) as threatened under the authority of section 4(e) of the Endangered Species Act of 1973, as amended (Act), due to the similarity in appearance with the endangered Javan (*Rhinoceros sondaicus*), Sumatran (*Dicerorhinos sumatrensis*), Indian (*Rhinoceros unicornis),* black (*Diceros bicornis*) and northern white rhino (*Ceratotherium simum cottoni*). The interim rule was necessary, as differentiating between the horns and other products made from the southern white rhino and the endangered Javan, Sumatran, Indian, black, and northern white rhino is difficult for law enforcement to determine without genetic testing, decreasing their ability to enforce and further the provisions and policies of the Act. This similarity of appearance has resulted in the documented trade of listed rhinoceros species, often under the guise of being the unprotected southern white rhinoceros, and this difficulty in distinguishing between the rhino species protected under the Act and the southern white rhino constitutes an additional threat to all endangered rhinoceros species. The determination that the southern white rhino should be treated as threatened due to similarity of appearance will substantially facilitate law enforcement actions to protect and conserve all endangered rhino species. Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without substantive change.

DATES: Effective May 20, 2014, we are adopting as a final rule the interim rule published at 78 FR 55649 on September 11, 2013.

FOR FURTHER INFORMATION CONTACT: Janine Van Norman, Chief, Branch of Foreign Species, Endangered Species Program, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 420, Arlington, VA 22203; telephone 703–358–2171; facsimile 703–358–1735. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule we published in the **Federal Register** on September 11, 2013 (78 FR 55649–55656, *http://www.regulations.gov* Docket No. FWS–HQ–ES–2013–0055), we listed the southern white rhino (*Ceratotherium simum simum*) (SWR) as threatened under the ''similarity of appearance'' provisions of the Endangered Species Act of 1973, as amended (Act), 16 U.S.C. 1531 et seq. The effective date of the listing was September 11, 2013. We amended subpart B of chapter I, title 50 of the Code of Federal Regulations at § 17.11(h), by adding the southern white rhinoceros to the List of Endangered and Threatened Wildlife due to a similarity of appearance. Public comments on the interim rule were received on or before October 11, 2013.

Comments

We received 32,139 comments from both the public and nongovernmental institutions; all but two commenters supported the interim rule. One comment conditionally supported the interim rule; the other did not support the interim rule. A brief description of the two comments and our responses are provided below.

Comment: Both commenters expressed concern regarding the permitting requirements related to the legal take and importation of trophy specimens. One of the commenters also requested a special rule (under section 4(d) of the Act) that would waive the ''enhancement'' requirement associated with the ESA importation permit for SWR that are listed as Appendix I under the Convention on International Trade in Endangered Species (CITES),

including sport-hunted trophies imported from Namibia and Zimbabwe.

Response: The Service's regulatory criteria for issuance of permits for any activity otherwise prohibited with a species designated as endangered or threatened due to its similarity of appearance are found at 50 CFR 17.52(b). Under these criteria, the Director shall consider, in addition to the general permitting criteria found at 50 CFR 13.21(b), whether the information submitted by the applicant identifying the species and the origin of the wildlife or plant in question appears reliable and whether it adequately identifies the wildlife or plant so as to distinguish it from any Endangered or Threatened wildlife or plant. Therefore, ESA permits for importation of SWRs from populations listed under CITES Appendix I may be issued according to the regulatory criteria mentioned above, and there is no requirement for the Service to find that the otherwise prohibited activity involving these specimen of SWRs enhances the survival or propagation of the species. Current requirements to import legally obtained SWRs listed as CITES Appendix I already require a CITES permit from the country of origin, as well as CITES import permit issued by the U.S. For SWRs exported from South Africa or Swaziland, which are currently the only populations listed in Appendix II of CITES, no ESA regulatory permit for importation is required, provided that the specimen was legally exported from one of those two countries, the importation was not made in the course of a commercial activity, and other applicable requirements under section 9(c)(2) of the Act are met; a CITES Appendix II permit from the country of export would still be required for these specimens. More information regarding permitting requirements can be found at *http://www.fws.gov/ permits/ ImportExport/ ImportExport.html.*

Comment: One of the commenters questioned why the Service lists foreign species.

Response: The Act requires the Service to list ''species'' as endangered if they are in danger of extinction, or threatened if they are likely to become endangered in the foreseeable future, regardless of the country in which the species lives. By regulating import; export; take within the U.S., the territorial sea of the U.S, or upon the high seas; certain activities for species taken in violation of the ESA's prohibitions on take and import/export; delivery, receipt, carrying, transport, or shipment in interstate or foreign commerce in the course of a commercial activity; or sell or offer for sale in interstate or foreign commerce, the United States ensures that people under the jurisdiction of the United States do not contribute to the further decline of species that meet the definition of threatened or endangered under the Act.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule without substantive change. However, we are taking this opportunity to correct a nonsubstantive omission in the regulatory text. We are adding a number to the ''When Listed'' column of the List of Endangered and Threatened Wildlife to provide the public with the **Federal Register** citation and date of publication of the interim rule.

Required Determinations

Paperwork Reduction Act (44 U.S.C. 3501, et seq.)

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. This rule will not impose new recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

The Service has analyzed this rule in accordance with the National Environmental Policy Act of 1969 (NEPA). The Council on Environmental Quality's (CEQ) regulations implementing NEPA, at 40 CFR 1508.4, define a ''categorical exclusion'' as a category of actions which do not individually or cumulatively have a significant effect on the human environment and which have been found to have no such effect on the human environment. CEQ's regulations further require Federal agencies to adopt NEPA procedures, including the adoption of categorical exclusions for which neither an environmental assessment nor an environmental impact statement is required (40 CFR 1507.3). The Service has determined that this rule is categorically excluded from further environmental analysis under NEPA in accordance with the Department's NEPA regulations at 43 CFR 46.210(i), which categorically excludes ''[p]olicies, directives, regulations, and guidelines: that are of an administrative, financial, legal, technical, or procedural nature.'' In addition, the Service has determined that none of the extraordinary circumstances listed under the Department's regulations at 43 CFR 46.215, in which a normally excluded action may have a significant environmental effect, applies to this final rule.

References Cited

A complete list of all references cited in the interim rule is available on the Internet at *http://www.regulations.gov* or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

Author

The primary author of this rule is the staff of the Branch of Foreign Species, Endangered Species Program, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 420, Arlington, VA 22203 (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we are adopting as a final rule the interim rule that amended part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations and that was published at 78 FR 55649 on September 11, 2013, with the following changes:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; 4201–4245; unless otherwise noted.

■ 2. Amend § 17.11(h) by revising the entry for ''Rhinoceros, southern white'' under Mammals in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
*	*	*	*	*	*		*
Rhinoceros, southern white.	*Ceratotherium simum simum.*	Botswana, South Africa, Swaziland, Zambia, Zimbabwe.	Entire	T(S/A)	832	N/A	N/A
*	*	*	*	*	*		*

Dated: April 4, 2014.

Daniel M. Ashe,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–11537 Filed 5–19–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 130402317–3966–02]

RIN 0648–XD281

Atlantic Highly Migratory Species; Commercial Gulf of Mexico Aggregated Large Coastal Shark and Gulf of Mexico Hammerhead Shark Management Groups

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing the commercial aggregated large coastal sharks (LCS) and hammerhead sharks management groups in the Gulf of Mexico region. This action is necessary because the commercial landings of Gulf of Mexico aggregated LCS for the 2014 fishing season have exceeded 80 percent of the available commercial quota as of May 13, 2014.

DATES: The commercial Gulf of Mexico aggregated LCS and Gulf of Mexico hammerhead shark management groups are closed effective 11:30 p.m. local time May 20, 2014, until the end of the 2014 fishing season on December 31, 2014, or until and if NMFS announces via a notice in the **Federal Register** that additional quota is available and the season is reopened.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz or Alexis Jackson 301–427–8503; fax 301–713–1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and its implementing regulations (50 CFR part 635) issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

Under 50 CFR 635.5(b)(1), dealers must electronically submit reports on sharks that are first received from a vessel on a weekly basis through a NMFS-approved electronic reporting system, received by NMFS no later than midnight, local time, of the first Tuesday following the end of the reporting week unless the dealer is otherwise notified by NMFS. Under § 635.28(b)(2), when NMFS calculates that the landings for any species and/or management group of a linked group have reached or are projected to reach 80 percent of the available quota, NMFS will file for publication with the Office of the Federal Register a notice of closure for all of the species and/or management groups in a linked group that will be effective no fewer than 5 days from date of filing. From the effective date and time of the closure until and if NMFS announces, via a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fishery for all linked species and/or management groups is closed, even across fishing years.

On July 3, 2013 (78 FR 40318), NMFS announced the final rule for Amendment 5a to the 2006 Consolidated HMS FMP, which, among other things, established new quotas for aggregated LCS and hammerhead sharks in the Gulf of Mexico region and linked the Gulf of Mexico aggregated LCS and Gulf of Mexico hammerhead shark management groups. As a result of the quota linkage, when the quota for one management group is reached and is closed, the other management group closes at the same time. On November 26, 2013 (78 FR 70500), NMFS announced that the commercial Gulf of Mexico aggregated LCS quota for 2014 was 151.2 metric tons (mt) dressed weight (dw) (333,828 lb dw), and the Gulf of Mexico hammerhead shark quota was 25.3 mt dw (55,722 lb dw). Dealer reports recently received through May 13, 2014, indicate that 124.0 mt dw or 82 percent of the available Gulf of Mexico aggregated LCS quota has been landed, and that 10.7 mt dw or 42 percent of the available Gulf of Mexico hammerhead shark quota has been landed. Based on these dealer reports, NMFS estimates that the 80-percent limit specified for a closure notice in the regulations has been exceeded as of May 13, 2014. Accordingly, NMFS is closing both the commercial aggregated LCS and hammerhead management groups in the Gulf of Mexico region as of 11:30 p.m. local time May 20, 2014. All other shark species or management groups that are currently open will remain open, including the commercial Gulf of Mexico blacktip sharks.

At § 635.27(b)(1), the boundary between the Gulf of Mexico region and the Atlantic region is defined as a line beginning on the East Coast of Florida at the mainland at 25°20.4′ N. lat, proceeding due east. Any water and land to the south and west of that boundary is considered for the purposes of monitoring and setting quotas, to be within the Gulf of Mexico region.

During the closure, retention of aggregated LCS and hammerhead sharks in the Gulf of Mexico region is prohibited for persons fishing aboard vessels issued a commercial shark limited access permit under § 635.4. However, persons aboard a commercially permitted vessel that is also properly permitted to operate as a charter vessel or headboat for HMS and is engaged in a for-hire trip could fish under the recreational retention limits for sharks and ''no sale'' provisions (§ 635.22(a) and (c)). Similarly, persons aboard a commercially permitted vessel that possesses a valid shark research permit under § 635.32 and has a NMFS-approved observer onboard may continue to harvest and sell aggregated

LCS and hammerhead sharks in the Gulf of Mexico region pursuant to the terms and conditions of the shark research permit.

During this closure, a shark dealer issued a permit pursuant to § 635.4 may not purchase or receive aggregated LCS and/or hammerhead sharks in the Gulf of Mexico region from a vessel issued an Atlantic Shark Limited Access Permit (LAP), except that a permitted shark dealer or processor may possess aggregated LCS and/or hammerhead sharks in the Gulf of Mexico region that were harvested, off-loaded, and sold, traded, or bartered prior to the effective date of the closure and were held in storage consistent with § 635.28(b)(5). Additionally, a permitted shark dealer or processor may possess aggregated LCS and/or hammerhead sharks in the Gulf of Mexico region that were harvested by a vessel issued a valid shark research fishery permit per § 635.32 with a NMFS-approved observer onboard during the trip the sharks were taken on as long as the LCS research fishery quota remains open. Similarly, a shark dealer issued a permit pursuant to § 635.4 may, in accordance with relevant state regulations, purchase or receive aggregated LCS and/or hammerhead sharks in the Gulf of Mexico region if the sharks were harvested, off-loaded, and sold, traded, or bartered from a vessel that fishes only in state waters and that has not been issued an Atlantic Shark LAP, HMS Angling permit, or HMS Charter/Headboat permit pursuant to § 635.4.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (AA), finds that providing prior notice and public comment for this action is impracticable and contrary to the public interest because the fishery is currently underway and any delay in this action would result in overharvest of the quota and be inconsistent with management requirements and objectives. Similarly, affording prior notice and opportunity for public comment on this action is contrary to the public interest because if the quota is exceeded, the stock may be negatively affected and fishermen ultimately could experience reductions in the available quota and a lack of fishing opportunities in future seasons. For these reasons, the AA also finds good cause to waive the 30-day delay in effective date pursuant to 5 U.S.C. 553(d)(3). This action is required under § 635.28(b)(2) and is exempt from review under Executive Order 12866.

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

Dated: May 15, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–11599 Filed 5–15–14; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 121009528–2729–02]

RIN 0648–XD268

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

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the Commonwealth of Virginia is transferring a portion of its 2014 commercial summer flounder quota to the State of New Jersey. NMFS is adjusting the quotas and announcing the revised commercial quota for each state involved.

DATES: Effective May 15, 2014, through December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fishery Management Specialist, 978–281–9224.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are in 50 CFR part 648, and require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.102.

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

Virginia has agreed to transfer 2,634 lb (1,195 kg) of its 2014 commercial quota to New Jersey. This transfer was prompted by summer flounder landings of the F/V *Golden Nugget,* a Virginia vessel that was granted safe harbor in North Carolina due to a vessel fire at sea on March 6, 2014, thereby requiring a quota transfer to account for an increase in New Jersey's landings that would have otherwise accrued against the Virgina quota. The Regional Administrator has determined that the criteria set forth in § 648.102(c)(2)(i) have been met. The revised summer flounder commercial quotas for calendar year 2014 are: Virginia, 2,572,766 lb (1,166,987 kg); and New Jersey 1,912,290 lb (867,400 kg).

Classification

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

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

Dated: May 14, 2014.

James P. Burgess,

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

[FR Doc. 2014–11646 Filed 5–15–14; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 97
Tuesday, May 20, 2014

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Housing Service

7 CFR Part 3550

RIN 0575–AC97

Single Family Housing Direct Loan Program

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed rule

SUMMARY: Through this action, the Rural Housing Service (RHS or Agency) proposes to amend its regulations for the section 502 direct single family housing loan program by reinstating language pertaining to payment assistance method 1 that was inadvertently changed or omitted when the payment subsidy regulation was revised on December 27, 2007. This action will make clear to the public that under this method, the amount of subsidy granted is the difference between the installment due on the promissory note and the greater of the payment amortized at the equivalent interest rate or the payment calculated based on the required floor payment.

DATES: Comments on this proposed rule must be received by July 21, 2014 to be considered.

ADDRESSES: You may submit comments to this proposed rule by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Submit written comments via the U.S. Postal Service to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250–0742.
- *Hand Delivery/Courier:* Submit written comments via Federal Express Mail or other courier service requiring a street address to the Branch Chief, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, 300 7th Street SW., 7th Floor, Washington, DC 20024.

All written comments will be available for public inspection during regular work hours at 300 7th Street SW., 7th Floor address listed above.

FOR FURTHER INFORMATION CONTACT: Migdaliz Bernier, Acting Chief, Loan Origination Branch, Single Family Housing Direct Loan Division, Rural Housing Service, Stop 0783, 1400 Independence Avenue SW., Washington, DC 20250–0783, Telephone: 202–690–3833.

SUPPLEMENTARY INFORMATION:

Statutory Authority

Title V, Section 1480 of the Housing Act authorizes the Secretary of Agriculture to promulgate rules and regulations as deemed necessary to carry out the purpose of that title.

Executive Order 12866—Classification

This proposed rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995, the information collection activities associated with this rule are covered under OMB Number: 0575–0172. This proposed rule contains no new reporting or recordkeeping requirements that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

E-Government Act Compliance

The RHS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Executive Order 12988—Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with that Executive Order: (1) All State and local laws and regulations that are in conflict with this proposed rule will be preempted; (2) No retroactive effect will be given to this proposed rule; and (3) Administrative proceedings in accordance with the regulations of the National Appeals Division of USDA at 7 CFR part 11 must be exhausted before bringing suit in court challenging action taken under this proposed rule unless those regulations specifically allow bringing suit at an earlier time.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1501 *et seq.,* establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, RHS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RHS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal Governments or the private sector. Therefore, this proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Programs Affected

The program affected by this proposed rule is listed in the Catalog of Federal Domestic Assistance as 10.410, Very Low to Moderate Income Housing Loans.

Executive Order 12372—Intergovernmental Review of Federal Programs

For the reasons set forth in the final rule published at 7 CFR part 3015, subpart V, and the related notice (48 FR 29115), these programs are not subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Environmental Impact Statement

This proposed rule has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' It is the determination of RHS that this

action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on RHS in the development of regulatory policies that have tribal implications or preempt tribal laws. RHS has determined that the proposed rule does not have a substantial direct effect on one or more Indian tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and the Indian tribes. Thus, this proposed rule is not subject to the requirements of Executive Order 13175.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. This rule corrects a requirement on Agency borrowers. Information collection or regulatory requirements are not imposed on small entities under this proposed rule.

Executive Order 13132—Federalism

The policies contained in this proposed rule do not have any substantial direct effect on States, the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this proposed rule impose substantial direct compliance costs on State and local Governments. Therefore, consultation with the States is not required.

Background

The Agency uses payment subsidies to enhance an applicant's repayment ability for section 502 direct single family housing loans. RHS administers three types of payment subsidies: interest credit, payment assistance method 1 and payment assistance method 2. The eligibility requirements and calculation methods for payment subsidies are located in 7 CFR 3550.68.

When the final rule that introduced payment assistance method 2 at 7 CFR 3550.68(c)(1) was published in the **Federal Register** on December 27, 2007 (72 FR 73252) with an effective date of April 1, 2008, the language on calculating payment assistance method 1 in 7 CFR 3550.68(c)(2) was inadvertently modified. The language was inadvertently changed from ''The amount of payment assistance granted is the difference between the installment due on the promissory note and the greater of the payment amortized at the equivalent interest rate or the payment calculated based on the required floor payment'' to ''The amount of payment assistance granted is the difference between the annualized note rate installment as prescribed on the promissory note and the lesser of . . . (i) The floor payment . . . or (ii) The annualized note rate installment and the payment at the equivalent interest rate . . .'' (emphasis added). In addition, the sentence stated ''In leveraging situations, the equivalent interest rate will be used'' was inadvertently omitted. RHS proposes to correct these inadvertent changes.

List of Subjects in 7 CFR Part 3550

Administrative practice and procedure, Conflict of interests, Environmental impact statements, Equal credit opportunity, Fair housing, Accounting, Housing, Loan programs—Housing and community development, Low and moderate income housing, Manufactured homes, Reporting and recordkeeping requirements, Rural areas, Subsidies.

For the reasons stated in the preamble, chapter XXXV, Title 7 of the Code of Federal Regulations, is proposed to be amended as follows:

PART 3550—DIRECT SINGLE FAMILY HOUSING LOANS AND GRANTS

■ 1. The authority citation for part 3550 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 1480.

■ 2. Revise § 3550.68(c)(2) introductory text to read as follows:

§ 3550.68 Payment Subsidies.

* * * * *

(c) * * *

(2) *Payment Assistance Method 1.* The amount of payment assistance granted is the difference between the installment due on the promissory note and the greater of the payment amortized at the equivalent interest rate or the payment calculated based on the required floor payment. In leveraging situations, the equivalent interest rate will be used.

* * * * *

Dated: April 2, 2014.

Tony Hernandez,

Administrator, Rural Housing Service.

[FR Doc. 2014–11607 Filed 5–19–14; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

[SATS No. MO–042–FOR; Docket ID: OSM–2014–0002; S1D1SSS08011000SX066A00067F144S180110; S2D2SSS08011000SX066A00033F14XS501520]

Missouri Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are announcing receipt of a proposed amendment to the Missouri regulatory program (Missouri program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Missouri proposes revisions to its coal Ownership and Control Rules. Missouri intends to revise its program to be no less effective than the Federal regulations and to improve operational efficiency.

This document gives the times and locations that the Missouri program and this proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4:00 p.m., c.d.t., June 19, 2014. If requested, we will hold a public hearing on the amendment on June 16, 2014. We will accept requests to speak at a hearing until 4:00 p.m., c.d.t. on June 4, 2014.

ADDRESSES: You may submit comments, identified by SATS No. MO–042–FOR, by any of the following methods:

- *Mail/ Hand Delivery:* Len Meier, Division Chief, Alton Field Division, Office of Surface Mining Reclamation and Enforcement, 501 Belle Street, Suite 216, Alton, IL 62002.
- *Fax:* (618) 463–6470
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and

docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Comment Procedures'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Missouri program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSMRE's Alton Field Division or the full text of the program amendment is available for you to read at *www.regulations.gov.* Len Meier, Division Chief, Alton Field Division, Office of Surface Mining Reclamation and Enforcement, 501 Belle Street, Suite 216, Alton, IL 62002, Telephone: (618) 463–6460, Email: *lmeier@ osmre.gov.*

In addition, you may review a copy of the amendment during regular business hours at the following location: Department of Natural Resources, Land Reclamation Program, 1738 East Elm Street, Jefferson City, Missouri 65101, Telephone: (573) 751–4041.

FOR FURTHER INFORMATION CONTACT: Len Meier, Division Chief, Alton Field Division, Office of Surface Mining Reclamation and Enforcement, 501 Belle Street, Suite 216, Alton, IL 62002. Telephone: (618) 463–6460. Email: *lmeier@ osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Missouri Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Missouri Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''. . . State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act . . .; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Missouri program on November 21, 1980. You can find background information on the Missouri program, including the Secretary's findings, the disposition of comments, and conditions of approval, in the November 21, 1980, **Federal Register** (45 FR 77027). You can also find later actions concerning the Missouri program and program amendments at 30 CFR 925.10, 925.12, 925.15, and 925.16.

II. Description of the Proposed Amendment

By letter dated February 18, 2014 (Administrative Record No. MO–679), Missouri sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Missouri submitted the proposed amendment in response to a September 30, 2009, letter (Administrative Record No. MO–670A) that OSMRE sent to Missouri in accordance with 30 CFR 732.17(c) and to improve operational efficiency. Below is a summary of Missouri's proposed changes. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES** or at *www.regulations.gov.*

Missouri proposes to make changes to its Code of State Regulations at Title 10, Division 40 (10 CSR 40) in the following chapters:

A. For Permitting Requirements for Surface and Underground Coal Mining and Reclamation Operations and Coal Exploration: Chapter 6.030, 6.070 and 6.100

Missouri proposes to change terms, add clarifying language, make grammar changes, and correct reference errors. The items below list the affected rule sections and proposed changes.

1. *10 CSR 40–6.030—Surface Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information.* Clarifies ''owner'' as persons that own, of record, ten percent of applicant or operator. Adds requirement to list the operator's partners or principal shareholders. Adds ''of the outside right-of-way'' to the one hundred feet (100′) of a public road requirement in section (4)(C).

2. *10 CSR 40–6.070—Review, Public Participation and Approval of Permit Applications and Permit Terms and Conditions.* Adds ''operator'' throughout the chapter as an additional requirement with the term ''applicant''. Lists what applications for proposed remining operations must contain in new sections (8)(M)1, 2, 3, and (N).

Adds verbiage when the regulatory authority will consider a provisionally issued permit to be improvidently issued, and under what conditions the permits will be suspended or rescinded at section (11)(A)4.

Adds ''suspension'' to the section title of (11)(B), Rescission Procedures and throughout the section. Adds posting requirements for the notice of proposed suspension and rescission. Changes the time frame for the suspension notice from ''not to exceed ninety (90) days . . .'' to ''will provide sixty (60) days notice . . .''

3. *10 CSR 40–6.100—Underground Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information.* Clarifies ''owner'' as persons that own, of record, ten percent of applicant or operator. Adds requirement to list the operator's partners or principal shareholders.

B. For Definitions and General Requirements: Chapters 8.030 and 8.040

Missouri proposes to change terms, add clarifying language, make grammar changes, and correct reference errors. The items below list the affected rule sections and proposed changes.

1. *10 CSR 40–8.030—Permanent Program Inspection and Enforcement.* Clarifies requirements under (6) Enforcement of Cessation Orders by adding requirements in section (G) requiring the regulatory authority to notify any persons listed under 10 CSR 40–6.070(12)(E) or 10 CSR 40–6.030(1)(C) and (D), and 10 CSR 40–6.100(1)(C) and (D) that the cessation order was issued, and that the person has been identified as an owner or controller of the operation. Adds subsection (H), Post-permit issuance information requirements for permittees.

2. *10 CSR 40–8.040—Penalty Assessment.* Increases the civil penalty under section (5) Assessment of Separate Violations for Each Day, subsection (B) from not less than $750 to not less than $1025.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SATS NO. MO–042–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Alton Field Division at (618) 463–6460.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on June 4, 2014. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSMRE for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 925

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 2, 2014.

Ervin J. Barchenger,

Regional Director, Mid-Continent Region.

[FR Doc. 2014–11656 Filed 5–19–14; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[OH–255–FOR; Docket ID OSM–2013–012; S1D1SSS08011000SX066A00067 F144S180110; S2D2SSS08011 000SX066A00033F14XS501520]

Ohio Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM announces receipt of a proposed amendment to the Ohio regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Ohio's proposed amendment is prompted by requirements within the Ohio statute that all agencies must review their administrative rules every five years. Consistent with this requirement, the Ohio Reclamation Commission, (the Commission), proposes an amendment to its procedural rules in order to ensure an orderly, efficient, and effective appeals process. By submittal of this proposed amendment, Ohio intends to revise its approved program pursuant to the additional flexibility afforded by the revised Federal regulations and SMCRA, as amended, to ensure Ohio's proposed provisions are consistent with and in accordance with SMCRA and no less effective than the corresponding Federal regulations. This document provides the times and locations that the Ohio program and proposed amendment are available for public inspection, the comment period during which you may submit written comments on this amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on these amendments until 4:00 p.m., Eastern Standard Time (EST) June 19, 2014. If requested, we will hold a public hearing on the amendment on June 16, 2014. We will accept requests to speak at a hearing until 4:00 p.m., EST on June 4, 2014.

ADDRESSES: You may submit comments, identified by SATS No. OH–255–FOR by any of the following methods:

- *Mail/Hand Delivery:* Mr. Ben Owens, Chief, Pittsburgh Field Division, OSM, 3 Parkway Center, 3rd Floor, Pittsburgh, Pennsylvania 15220.
- *Fax:* (412) 937–2888.
- *Federal eRulemaking Portal:* The amendment has been assigned Docket ID OSM–2013–0012. If you would like to submit comments, go to *http://www.regulations.gov* and follow the instructions.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Comment Procedures heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Ohio regulations, this amendment, a listing of any scheduled public hearings, and all written comments received in response

to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendments by contacting OSM's Pittsburgh Field Division Office; or you can view the full text of the program amendment available for you to read at *www.regulations.gov.*

In addition, you may review a copy of the amendment during regular business hours at the following locations:

Ben Owens, Chief, Pittsburgh Field Division, OSM, 4605 Morse Road, Room 102, Columbus, OH 43230, Telephone: (614) 416–2238, Email: *bowens@osmre.gov.*

Lanny E. Erdos, Chief, Division of Mineral Resources Management, Ohio Department of Natural Resources, 2045 Morse Road, Building H–2, Columbus, OH 43229–6693, Telephone: (614) 265–6893, Email: *Lanny.Erdos@dnr.state.oh.us,* Fax: (614) 265–7999.

FOR FURTHER INFORMATION CONTACT: Ben Owens, Chief, Pittsburgh Field Division; Telephone: (614) 416–2238. Email: *bowens@osmre.gov*.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Program
II. Description and Submission of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Ohio Program

Section 503(a) of SMCRA permits a state to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this SMCRA . . . ; and rules and regulations consistent with regulations issued by the Secretary pursuant to this SMCRA.'' *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Ohio program effective August 16, 1982. You can find background information on the Ohio program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Ohio program in the August 16, 1982, **Federal Register** (41 FR 34688). You can also find later actions concerning Ohio's program and program amendments at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Description and Submission of the Proposed Amendment

The Commission is an adjudicatory board established pursuant to Ohio Revised Code (ORC) section 1513.05. The function of the Commission is to provide an administrative appeal to any person claiming to be aggrieved or adversely affected by a decision of the Ohio Department of Natural Resources, Chief of the Division of Mineral Resources Management (DMRM), relating to mining and reclamation issues. Following an adjudicatory hearing, the Commission affirms, vacates, or modifies the DMRM Chief's decision. The Commission is comprised of eight members appointed by the Governor of Ohio. Four Commission members constitute a quorum and seven members must be present for any appeal. Members represent a variety of interests relevant to mining and reclamation issues. The Commission adopts rules to govern its procedures. These rules are found at Ohio Administrative Code (OAC) sections 1513–3–01 through 1513–3–22. As discussed above, all Ohio agencies must review applicable administrative rules every five years pursuant to ORC section 119.032. Therefore, the Commission conducted a review of its procedural rules in 2013. During this review, the Commission recommended several modifications to its rules, most of which are viewed as non-substantive. The Commission intended these modifications to ensure an orderly, efficient, and effective appeal process. The proposed changes are the subject of this proposed amendment and are discussed herein in the order as they are found in the proposed, modified OAC.

1513–3–01 Definitions

Changes are proposed to clarify existing definitions and to provide additional definitions. Specifically, the definition of ''appellant'' is clarified to explicitly state actions of the Chief are the subject of appeal before the Commission. The definition of ''final order'' clarifies that the resolution of matters presented on appeal will be in writing and consistent with section 1513–3–19 of the OAC. The definition of ''full party'' is added. It is proposed that this definition will define ''full party'' to include the appellant, the appellee, and any intervenor participating in an appeal as defined by the OAC at section 1513–3–07, entitled ''Intervention.'' Additionally, the term, ''interested persons in an appeal pending before the Commission'' is added. The new term is proposed to be defined as the appellant, the appellee, any intervenors, and any other persons who have notified the Commission of an interest in a pending appeal and have requested to be notified of hearings in said pending appeal. The definition of ''intervenor'' is proposed to be modified to remove the word ''one'' and replace it with the term, ''any person.'' The definition of ''person'' is modified to encompass limited liability company. Within the definition of ''regular business hours'' it is proposed that the terms ''chairman'' and ''vice-chairman'' be replaced by ''chairperson'' and ''vice-chairperson,'' respectively. The remaining modifications are renumbering to facilitate the addition of new terms.

1513–3–02 Internal Regulations

Section (B) Quorum, was modified to clarify the conditions for satisfying quorum. Additionally, the proposed rule clarifies the procedure in the event concurrence is not reached. The full text of the section is available for your review within the docket.

Furthermore, the proposed rule clarifies that in the event a Commission member considered as part of the quorum misses any part of the proceeding, they must review the record prior to participating in the rendering of a decision. It is proposed that audio-electronic hearings before the Commission constitute the official record of the hearing. However, it is proposed that other methods of creating the official record are permitted upon the Commission's discretion, joint motion of the parties or by motion of a party and subsequent approval by the Commission. Additionally it is clarified that the issuance and service of subpoenas must comply with the Ohio Rules of Civil Procedure, and as applicable section 119.094 of the ORC, including the fee paid to witnesses outside the county in which a hearing shall be held.

1513–3–03 Appearance and Practice Before the Commission

The proposed rule clarifies that any party may appear on their own behalf or may be represented by an attorney at law admitted to practice according to Ohio law. This includes the admittance of attorneys pro hac vice.

1513–3–04 Appeals to the Reclamation Commission

While the majority of the proposed changes to this section are clerical and non-substantive, the proposed rule clarifies that email addresses, if available, should be included in the notice of appeal. Additionally, as proposed, appellants shall comply with

the requirements of section 1513.02 of the ORC, pertaining to the power and duties of the Chief of DMRM, and shall include and forward the amount of the penalty for placement in a penalty fund. The proposed rule also adds a section of what may be included in the appeal. Appellants may, but are not required to, identify the area to which the notice, order or decision relates; state whether or not the Commission is requested to view the site; and state whether or not the appellant waives the right to have the hearing within the time frames established in section 1513.13(B) of the ORC.

1513–3–05 Filing and Service of Papers

This section of the proposed rule clarifies that the filing of a notice of appeal must conform to section 1513.13 of the ORC, Appeal to the Commission. The proposed rule alters the definition of when a notice of appeal is deemed filed. It is proposed that a notice of appeal will be deemed filed when received or if the notice of appeal is sent by certified mail, registered mail, or express mail, it shall be deemed filed on the date of the postmark date placed upon the sender's receipt by the postal service. However, documents requesting temporary relief are proposed to only be deemed filed when received by the Commission. Additionally, it is proposed that all filings other than a notice of appeal or a request for temporary relief, that are not sent to the Commission by certified mail, registered mail, or express mail shall be deemed filed with the Commission on the day on which the filings are received and those that are sent by such means, shall be deemed filed on the postmark date placed upon the sender's receipt by the postal service. It is further proposed that following initiation of an appeal, the Commission may, through order, establish a filing and service protocol, which may include the electronic transmission of documents.

1513–3–06 Computation and Extension of Time

The majority of the proposed changes to this section are non-substantive and consist of renumbering for clarity. However, it is proposed that section (C)(1), be altered to definitely read that the Commission may not lengthen or reduce the time period allowed for any response or filing a request for temporary relief.

1513–3–07 Intervention

The proposed rule would require a petition for leave to intervene to be filed at least ten days prior to the beginning of an evidentiary hearing on the merits of an appeal, unless waived by the Commission for extraordinary cause. Additionally, it is proposed that a provision be added to allow the filing of amicus briefs and oral argument at hearing by amicus curiae upon leave by, and at the discretion of, the Commission.

1513–3–08 Temporary Relief

Proposed changes to this section are non-substantive and primarily propose language to make references gender neutral.

1513–3–10 Discovery

The proposed rule alters the current discovery rules by clarifying parties to an appeal may obtain discovery in accordance with the provisions of rules 26 through 36 of the Ohio Rules of Civil Procedure. Additionally, the rule explains that all parties, including intervenors, are subject to discovery and discovery from non-parties must be done through subpoena. It is proposed that if a party fails to obey an order to compel or permit discovery issued by the Commission, the Commission may make such orders in regard to the failure as it deems just.

1513–3–11 Motions

It is proposed that section (B) be removed. Currently, this section allows a party to make a written motion requesting that a hearing be conducted before the full Commission, rather than before a hearing officer for the Commission. However, this election is preserved and will be enumerated in section 1513–3–18, Reports and recommendations of the hearing officer. It is also proposed that objections to jurisdiction are non-waivable and may be raised at any point in an appeal, consistent with the Ohio Rules of Civil Procedure.

1513–3–12 Pre-Hearing Procedures

The proposed rule would allow the Commission or its hearing officer, at its own initiative or at the request of any party, to schedule and hold pre-hearing conferences regarding issues on appeal.

1513–3–14 Site Views and Location of Hearings

The proposed rule specifies the locations of Commission hearings. It also establishes the circumstances in which the Commission will conduct site views of mining operations, reclamation operations, or other relevant features. As proposed, the rule also explicitly states that the Commission shall control and direct the manner of conducting a site view. Specifically, it is proposed that where a site view is conducted on property subject to a mining and reclamation permit, parties shall be informed prior to the site view of any necessary personal protective equipment, including hard hat, safety glasses, hearing protection, safety-toed shoes or boots and additional equipment as may be required on mine property as determined by the mine operator. Additionally, the Commission reserves the right to limit the number of persons who participate in the site view. Additionally, it is proposed to alter the rule so that a hearing related to a cessation of mining or a motion for temporary relief is held in proximity to the subject area of the hearing for the convenience of the Commission and the parties. All other proceedings will continue to be held in Columbus, Ohio or at any convenient public location selected by the Commission.

1513–3–15 Consolidation of Proceedings

It is proposed that the Commission be given the right to administer consolidated appeals in the manner it deems most appropriate.

1513–3–16 Conduct of Evidentiary Hearings

The proposed rule applies to any person participating in an appeal before the Commission and definitively states that the Commission shall determine the conduct of the hearing and the order of the presentation of evidence. Additionally, it further clarifies that the Commission is not bound by the formal rules of evidence as promulgated by the Ohio Supreme Court. The proposed rule also establishes a procedure for in camera inspection of documents claimed to contain proprietary business information or trade secrets. Additionally, the proposed rule specifically details the number of copies of proposed exhibits a party must make available. In regard to written testimony, it is proposed that affidavits may be admitted only if the evidence is otherwise admissible and all full parties agree that affidavits may be used in lieu of oral testimony. This proposed alteration is limiting as it adds the adjective ''full,'' thus excluding certain parties. It is also proposed that parties wishing to use affidavits in lieu of oral testimony serve all full parties with a copy of the affidavit at least 15 days prior to a hearing. It is clarified that in the event a declarant is unavailable, testimony may be offered in compliance with Rule 804 of the Ohio Rules of Evidence. As proposed, objections to deposition testimony shall be resolved in accordance with Rule 32 of the Ohio

Rules of Civil Procedure. Further, it is proposed that in instances when a party is attempting to use written testimony, any full party shall present the Commission a schedule of objections to the written testimony prior to the commencement of the hearing. This is a change to the current rule that allows objection at the hearing following receipt of the testimony into evidence. In regard to the presentation of witnesses, it is proposed that the Commission may require that a witness be called only once during a hearing and that the parties conduct all examinations at the time when the witness is called to testify. It is proposed that an Ohio notary be given authority to administer oaths and affirmations to witnesses. Further, it is proposed that the Commission be given authority to require the parties to submit written closing arguments, post-hearing briefs or proposed findings of fact and conclusions of law.

1513–3–17 Voluntary Dismissal and Settlement

It is proposed that the adjective ''full'' be added to section (B), relative to agreement to settle. Therefore, this is limiting as not all parties may be required to reach an agreement to settle. It is also proposed that if an appeal is settled during the course of a hearing, the parties shall enter into the record a statement acknowledging that they have reached an agreement that all issues have been resolved, and that a withdrawal of the appeal will be filed.

1513–3–18 Reports and Recommendations of the Hearing Officer

It is proposed that section 1513–3–11(B) be replaced here. This section allows a party to make a written motion requesting that a hearing be conducted before the full Commission, rather than before a hearing officer for the Commission. Additionally, it is proposed that in the event a decision before a hearing officer must be rendered within a specified time period, the appeal will be heard by the Commission rather than by a hearing officer, unless there has been a waiver of the right to an expedited hearing.

1513–3–19 Decisions of the Commission

This proposed rule clarifies the procedures the Commission will follow in issuing its decisions. Additionally, as proposed, the rule allows the remission, within thirty days after issuing a final decision, of pre-paid civil penalties, where penalties are under appeal. The proposed rule also provides more detailed information regarding the procedures that will be followed if errors are found in Commission decisions. Specifically, it is proposed that during the time period after a final decision has been issued by the Commission, clerical mistakes in the final decision and errors therein from oversight or omission may be corrected before an appeal of the Commission's final decision is filed. Thereafter, while an appeal is pending before an appellant court, a final decision may be so corrected with leave of the court. As proposed, the correction of a clerical mistake or error in a final decision does not extend the time for filing a notice of appeal in the appellate court.

1513–3–20 Costs

It is proposed that this section be rescinded. As it currently exists, this section allowed the Commission to assess costs against a party to an appeal. The Commission does not assess such costs, and the rule has not been used by the Commission. Moreover, there are no filing fees associated with Commission appeals.

1513–3–21 Award of Costs and Expenses

As proposed, this rule clarifies the previous version of this rule approved by OSM in 2004. The intent is to make it clearer that the Commission is only authorized to directly hear petitions for costs, including attorneys' fees, and expenses where petitions are filed by the DMRM and allege bad faith or harassment by another party. As proposed, such petitions must conform to the ORC. Petitions by the DMRM must include an affidavit detailing all costs and expenses, receipts, and when attorneys' fees are requested, evidence that the hours expended and the fees requested are reasonable for the appeal and for the locality. Decisions relevant to award of costs and expenses are appealable pursuant to the OAC and ORC.

1513–3–22 Appeals from Commission Decisions

As proposed, this rule clarifies that parties to actions involving coal mining and reclamation raised under section 1513 of the ORC may seek review of a Commission decision in the court of appeals for the county, in which the activity addressed by the decision of the Commission occurred, is occurring or will occur. Moreover, as proposed, this rule clarifies that parties to actions involving industrial minerals mining and reclamation and brought under section 1514 of the ORC may seek review of a Commission decision in the court of common pleas in the county where the operation addressed by the decision of the Commission is located or in the Franklin County Court of Common pleas. Additionally, the proposed rules provides the Commission with the authority to control the transcription and transmission of the record to the appropriate appellate court.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), OSM is seeking your comments on whether Ohio's proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If OSM approves the amendment, it will become part of Ohio's program.

Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). OSM appreciates any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

OSM cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

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 OSM in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., EST, on June 4, 2014. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. OSM will arrange the location and time

of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, OSM will not hold a hearing.

To assist the transcriber and ensure an accurate record, OSM requests, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. OSM will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with OSM to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public; if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSM for review, regulations at 30 CFR 732.17(h) require OSM to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. OSM concludes review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, OSM will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 10, 2014.

Thomas D. Shope,

Regional Director, Appalachian Region.

[FR Doc. 2014–11661 Filed 5–19–14; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–122–FOR; Docket ID OSM–2013–0011; S1D1SSS08011000SX066A00067F144S180110; S2D2SSS08011000SX066A00033F14XS501520]

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing receipt of a proposed amendment to the West Virginia regulatory program (the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). West Virginia is submitting a proposed amendment to revise its Surface Coal Mining and Reclamation Act to conform the State's requirements for informal conferences and decisions on surface mining permit applications with parallel provisions of Federal law, and to provide tax incentives for mine operators who reclaim bond forfeiture sites.

DATES: We will accept written comments on this amendment until 4 p.m. E.S.T., on June 19, 2014. If requested, we will hold a public hearing on the amendment on June 16, 2014. We will accept requests to speak at a hearing until 4 p.m. E.S.T., on June 4, 2014.

ADDRESSES: You may submit comments, identified by WV–122–FOR; Docket ID OSM 2013–11, by any of the following methods:

- *Federal eRulemaking Portal:* The proposed rule has been assigned Docket ID OSM–2013–11. If you would like to submit comments though the Federal eRulemaking Portal, go to *http://www.regulations.gov* and follow the instructions for submitting comments.
- *Mail/Hand Delivery:* Mr. Roger W. Calhoun, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 1027 Virginia Street East, Charleston, West Virginia 25301. Please include the rule identifier (WV–122–FOR; Docket ID OSM 2013–11) with your written comments.

Instructions: All submissions received must include the agency Docket ID OSM 2013–11 for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Comment Procedures'' heading in the **SUPPLEMENTARY INFORMATION** section of this document. You may also request to speak at a public hearing by any of the methods listed above or by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Docket: The proposed rule and any comments that are submitted may be viewed over the internet at *http://www.regulations.gov.* Look for Docket ID OSM–2013–11. In addition, you may review copies of the West Virginia program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may also receive one free copy of this amendment by contacting OSM's Charleston Field Office listed below.

Mr. Roger W. Calhoun, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 1027 Virginia Street East, Charleston, West Virginia 25301, Telephone: (304) 347–7158. Email: *chfo@osmre.gov.*

West Virginia Department of Environmental Protection, 601 57th Street SE., Charleston, WV 25304, Telephone: (304) 926–0490.

In addition, you may review a copy of the amendment during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 604 Cheat Road, Suite 150, Morgantown, West Virginia 26508, Telephone: (304) 291–4004. (By Appointment Only)

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 313 Harper Park Drive, Suite 3, Beckley, West Virginia 25801, Telephone: (304) 255–5265.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office, Telephone: (304) 347–7158. Email: *chfo@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program
II. Description and Submission of the Proposed Amendment
III. Description of OSM's Proposed Action
IV. Public Comment Procedures
V. Procedural Determinations

I. Background on the West Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''. . . a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act . . .; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981, **Federal Register** (46 FR 5915). You can also find later actions concerning West Virginia's program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Description and Submission of the Proposed Amendment

The West Virginia Department of Environmental Protection (WVDEP) is submitting a proposed amendment to revise the West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA), West Virginia Code 22–3–1 through 33.

Committee Substitute for House Bill 2352 amends West Virginia Code section 22–3–11 to provide tax incentives for mine operators who reclaim bond forfeiture sites. Committee Substitute for House Bill 2352 was adopted by the West Virginia Legislature on April 13, 2013, and approved by the Governor on April 29, 2013. These changes became effective under State law on July 12, 2013.

Senate Bill 462 amends West Virginia Code sections 22–3–20 and 21 to conform the State's requirements for informal conferences and decisions on surface mining permit applications with parallel provisions of Federal law. Senate Bill 462 also contains non-substantive changes, such as ''division'' to ''department,'' ''with'' to ''pursuant to'' and ''director'' to ''Secretary'' throughout sections 20 and 21. Senate Bill 462 was passed by the West Virginia Legislature on April 11, 2013, and signed into law by the Governor on April 29, 2013. These changes became effective under State law on July 10, 2013.

III. Description of OSM's Proposed Action

1. WVSCMRA 22–3–11(g) and (h)

In accordance with Committee Substitute for House Bill 2352, the State proposes to add new language to subsections (g) and (h) of the WVSCMRA providing mine operators with tax incentives to reclaim bond forfeiture sites within the State.

Subparagraph (g)(2)(A) provides that a tax credit shall be granted against the tax imposed by subsection (i) of this section to any mine operator who performs reclamation or remediation at a bond forfeiture site which otherwise would have been reclaimed using funds from the Special Reclamation Fund or Special Reclamation Water Trust Fund. Subparagraph (2)(B) provides that the amount of the reclamation tax credit granted shall be equal to the amount that the Tax Commissioner determines based on the project costs, as shown in the records of the Secretary, that would have been spent from the Special Reclamation Fund or Special Reclamation Water Trust Fund to accomplish the reclamation or remediation performed by the mine operator, including expenditures for water treatment. Subparagraph (2)(C) provides that to claim the credit, the mine operator must file with the Tax Commissioner a written application seeking the amount of the credit earned. Within 30 days of receipt of the application, the Tax Commissioner will issue a certification of the amount of tax credit to be allocated to the eligible taxpayer. If the amount of the credit is less than the amount applied for, the Tax Commissioner must set forth in writing the reasons for the difference. If no certification is issued within the 30-day period, the application will be deemed certified. Any decision of the Tax Commissioner is appealable pursuant to the ''West Virginia Tax Procedure and Administration Act'' as set forth in Chapter 11, Article 10 of the West Virginia Code. Applications for certification of the proposed tax credit must contain the information and be in the detail and form as required by the Tax Commissioner.

New subsection (h) is added and includes language for the Tax Commissioner to promulgate rules for legislative approval to carry out the purposes of this section. The remaining subsections (i) through (o) have been re-lettered to conform to the proposed changes.

WVDEP intends these revisions to provide tax incentives to mine operators who reclaim bond forfeiture sites. The proposed revisions are intended to conform to the requirements of 30 CFR 800.50 and sections 509 and 519 of SMCRA.

2. WVSCMRA 22–3–20

In accordance with Senate Bill 462, the State proposes to revise language extending the time to hold informal conferences on surface mining permit applications. Revised subsection 20(b) of the WVSCMRA provides when an informal conference will be held on a surface mining permit application. The State currently requires that informal conferences be held within three weeks after the public comment period closes. Under the proposed amendment, the Secretary must hold the informal conference on the surface mining permit application within a reasonable time after the close of the public comment period.

WVDEP acknowledges that its proposed revisions allow the State's requirements to conform more closely to the parallel Federal requirements. The proposed revisions are intended to conform to the Federal provisions at 30 CFR 773.6(c) and 773.7 and sections 513 and 514 of SMCRA.

3. WVSCMRA 22–3–21

In accordance with Senate Bill 462, the State proposes to revise language extending the time in which the Secretary must issue or deny a permit application. Amended subsection 21(a) of the WVSCMRA provides when the Secretary must issue a decision on a permit application. Currently, if an informal conference is held, the Secretary must issue a decision granting or denying a permit, in whole or in part, within thirty days of the informal conference. Under the proposed revision, the time in which the Secretary must issue or deny a surface mining permit is extended from 30 days to 60 days.

WVDEP acknowledges that the proposed revisions allow the State's requirements to conform more closely to the parallel Federal requirements. The proposed revisions are intended to conform to the Federal provisions at 30 CFR 773.6(c) and 773.7 and sections 513 and 514 of SMCRA.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether these amendments satisfy the applicable program approval criteria of 30 CFR 732.15. If we approve these revisions,

they will become part of the West Virginia program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We may not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Charleston Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an Email or Word file avoiding the use of special characters and any form of encryption. Please also include Attn: SATS NO. WV–122–FOR; Docket ID OSM–2013–11 and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Charleston Field Office at (304) 347–7158.

Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m. E.S.T., on June 4, 2014. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 27, 2014.

Thomas D. Shope,

Regional Director, Appalachian Region.

[FR Doc. 2014–11670 Filed 5–19–14; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–121–FOR; Docket ID OSM–2013–0010; S1D1SSS08011000 SX066A00067F144S180110; S2D2SSS08011 000SX066A00033F14XS501520]

West Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing receipt of a proposed amendment to the West Virginia regulatory program (the West Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). West Virginia is submitting a proposed amendment to revise its West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA).

Senate Bill 497 creates a new section in the West Virginia Code, designated as section 22–3–33, relating to the award of attorney fees and costs by the Surface Mine Board and courts in appeals from actions taken by the West Virginia Department of Environmental Protection (WVDEP) under the approved State surface mining program.

DATES: We will accept written comments on this amendment until 4:00 p.m. (EST), on June 19, 2014. If requested, we will hold a public hearing on the amendment on June 16, 2014. We will accept requests to speak at a hearing until 4:00 p.m. (EST), on June 4, 2014.

ADDRESSES: You may submit comments, identified by ''WV–121–FOR; Docket ID OSM–2013–0010'' by any of the following methods:

- *Federal eRulemaking Portal:* The proposed rule has been assigned Docket ID OSM–2013–0010. If you would like to submit comments though the Federal eRulemaking Portal, go to *http://www.regulations.gov* and follow the instructions for submitting comments.
- *Mail/Hand Delivery:* Mr. Roger W. Calhoun, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 1027 Virginia Street, East, Charleston, West Virginia 25301. Please include the rule identifier (WV–121–FOR; Docket ID OSM–2013–0010) with your written comments.

Instructions: All submissions received must include the agency Docket ID

OSM–2013–0010 for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Comment Procedures heading in the **SUPPLEMENTARY INFORMATION** section of this document. You may also request to speak at a public hearing by any of the methods listed above or by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Docket: The proposed rule and any comments that are submitted may be viewed over the internet at *http://www.regulations.gov.* Look for Docket ID OSM–2013–0010. In addition, you may review copies of the West Virginia program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may also receive one free copy of this amendment by contacting OSM's Charleston Field Office listed below.

Mr. Roger W. Calhoun, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 1027 Virginia Street, East, Charleston, West Virginia 25301, Telephone: (304) 347–7158. Email: *chfo@osmre.gov.*

West Virginia Department of Environmental Protection, 601 57th Street, SE., Charleston, WV 25304, Telephone: (304) 926–0490.

In addition, you may review a copy of the amendment during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 604 Cheat Road, Suite 150, Morgantown, West Virginia 26508, Telephone: (304) 291–4004 (By Appointment Only).

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 313 Harper Park Drive, Suite 3, Beckley, West Virginia 25801, Telephone: (304) 255–5265.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office, Telephone: (304) 347–7158. Email: *chfo@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program
II. Description and Submission of the Proposed Amendment
III. Description of OSM's Proposed Action
IV. Public Comment Procedures
V. Procedural Determinations

I. Background on the West Virginia Program

Section 503(a) of the Act provides a State with the authority to assume primacy to regulate surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''. . . a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act; . . . [and] rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior (the Secretary) conditionally approved the West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981, **Federal Register** (46 FR 5915). You can also find later actions concerning West Virginia's program and program amendments at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Description and Submission of the Proposed Amendment

West Virginia is submitting a proposed amendment to revise WVSCMRA.

Senate Bill 497 creates a new section in the West Virginia Code, designated as section 22–3–33, relating to the award of attorney fees and costs by the Surface Mine Board and courts in appeals from actions taken by the WVDEP under the approved State surface mining program. Senate Bill 497 was adopted by the West Virginia Legislature on March 10, 2012, and signed by the Governor on March 30, 2012. These changes became effective under State law on June 8, 2012.

This action is being taken due to the apparent deletion of State statutory provisions from the approved State program which provided that any person involved in any administrative or judicial proceeding is entitled to reimbursement of all costs and expenses, including attorney fees, incurred by his participation in proceedings as determined by the Surface Mine Board or State court.

The WVDEP requests that we approve the changes in the approved State program made by Senate Bill 497. In addition, the WVDEP requests that we approve the deletion of former appeal provisions at West Virginia Code sections 22–4–2 and 22–4–3 regarding the Reclamation Board of Review from the approved State program.

III. Description of OSM's Proposed Action

The purpose of these changes is to provide authorization to the State Surface Mine Board or any reviewing State court to award attorney fees and costs in administrative proceedings arising under WVSCMRA. The proposed State revisions are intended to conform to the Federal requirements at 30 CFR 840.15, 43 CFR 4.1290–1296 and section 525(e) of SMCRA. The full text of the amendment is available for your review in the docket or online at www.regulations.gov.

IV. Public Comment Procedures

Pursuant to 30 CFR 732.17(h), we are seeking your comments on whether these amendments satisfy the applicable program approval criteria within 30 CFR 732.15. If approved, these revisions will become part of the West Virginia program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We may not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (see **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Charleston Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an Email or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SATS NO. WV–121–FOR; Docket ID OSM–2013–0010'' and your name and return address in your Internet message. If you do not receive a confirmation that we received your Internet message, contact the Charleston Field Office at (304) 347–7158.

Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m. (EST), on June 4, 2014. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the Administrative Record.

V. Procedural Determinations

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface Mining, Underground mining.

Dated: March 28, 2014.

Thomas D. Shope,

Regional Director, Appalachian Region.

[FR Doc. 2014–11678 Filed 5–19–14; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

30 CFR Part 1241

[Docket No. ONRR–2012–0005; DS63610300 DR2PS0000.CH7000 134D0102R2]

RIN 1012–AA05

Amendments to Civil Penalty Regulations

AGENCY: Office of the Secretary, Office of Natural Resources Revenue, Interior.

ACTION: Proposed rule.

SUMMARY: This rule would amend the Office of Natural Resources Revenue civil penalty regulations to: apply the regulations to all mineral leases, including solid mineral and geothermal leases, and agreements for offshore energy development; adjust civil penalty amounts for inflation; clarify and simplify the existing regulations for issuing notices of noncompliance and civil penalties; and provide notice that we will post matrices for civil penalty assessments on our Web site.

DATES: You must submit comments on or before July 21, 2014.

ADDRESSES: You may submit comments to ONRR on this proposed rulemaking by any of the following methods. (Please reference the Regulation Identifier Number (RIN) 1012–AA05 in your comments.). See also Public Availability of Comments under Procedural Matters.

- Electronically go to *www.regulations.gov.* In the entry titled ''Enter Keyword or ID,'' enter ''ONRR–2012–0005,'' and then click ''Search.'' Follow the instructions to submit public comments. ONRR will post all comments.
- Mail comments to Armand Southall, Regulatory Specialist, ONRR, P.O. Box 25165, MS 61030A, Denver, Colorado 80225.
- Hand-carry comments, or use an overnight courier service to the Office of Natural Resources Revenue, Building 85, Room A–614, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: For comments or questions on procedural issues, contact Armand Southall, Regulatory Specialist, email *armand.southall@onrr.gov.* For questions on technical issues, contact Geary Keeton, Office of Enforcement and Appeals, ONRR, telephone (303) 231–3096.

SUPPLEMENTARY INFORMATION:

I. Background

ONRR is proposing to amend its civil penalty regulations. On May 13, 1999, the Department of the Interior (Department) published a final rule (64 FR 26240) in the **Federal Register** (FR) governing Minerals Management Service (MMS) Minerals Revenue Management (MRM) issuance of notices of noncompliance and civil penalties.

On May 19, 2010, the Secretary of the Interior (Secretary) reassigned MMS's responsibilities to three separate organizations. As part of this reorganization, the Secretary renamed MMS's MRM to ONRR and directed that it report to the Assistant Secretary of Policy, Management and Budget (PMB). This change required the reorganization of title 30 of the *Code of Federal Regulations* (30 CFR). In response, ONRR published a direct final rule on October 4, 2010 (75 FR 61051), to establish a new chapter XII in 30 CFR; to remove certain regulations from Chapter II; and to recodify these regulations in the new Chapter XII. Therefore, all references to ONRR in this proposed rule include its predecessor MRM, and all references to 30 CFR part 1241 in this proposed rule include former 30 CFR part 241.

II. Explanation of Proposed Amendments

ONRR proposes to amend 30 CFR part 1241, subpart B and add new subparts A and C relating to general provisions and penalties for Federal and Indian oil and gas leases. ONRR is amending its regulations to clarify ambiguities, simplify the processes for issuing notices of noncompliance and civil penalties and for contesting notices of noncompliance and civil penalties, and rewrite the regulations in Plain Language.

III. Section-By-Section Analysis of 30 CFR Part 1241—Penalties

Subpart A—General Provisions

Before reading the additional explanatory information below, please turn to the proposed rule language that immediately follows the List of Subjects in 30 CFR part 1241 and signature page in this proposed rule. DOI will codify

this language in the CFR, if we finalize the proposed rule as written.

After you have read this proposed rule, please return to the preamble discussion below. The preamble contains additional information about this proposed rule, such as why we defined a term in a certain manner and why we chose a certain interpretation.

Purpose (Section 1241.1)

We propose to add a new § 1241.1 explaining that this part applies to recipients of Notices of Noncompliance (NONC), Failure to Correct Civil Penalty notices (FCCP), and Immediate Liability Civil Penalties (ILCP). This section also would explain when you may receive an NONC, FCCP, or ILCP, when we will assess civil penalties, and how you can appeal an NONC, FCCP, or ILCP. See the discussion of NONC, FCCP, and ILCP in § 1241.3 below.

Scope (Section 1241.2)

We propose to add a new § 1241.2 to explain what leases are subject to this part. We currently undertake civil penalty enforcement activities under § 109 of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA), 30 U.S.C. 1719, and its implementing regulations in 30 CFR part 1241. Because FOGRMA § 109 only applies to Federal and Indian oil and gas leases, the current ONRR regulations in part 1241 also only apply to Federal and Indian oil and gas leases.

However, in the 2009 Omnibus Appropriations Act, Public Law 111–88, sec. 114, 123 Stat. 2928 (2009) (codified at 30 U.S.C. 1720a), Congress authorized the Secretary of the Interior to apply FOGRMA § 109 to Federal and Indian solid mineral leases, geothermal leases, and agreements for outer continental shelf energy development under 30 U.S.C. 1337(p). Therefore, this proposed rule would implement that new authority by adding new § 1241.2 stating that this part will apply to all Federal and Indian mineral leases, geothermal leases, and agreements for outer continental shelf energy development under 30 U.S.C. 1337(p).

Definitions (Section 1241.3)

We propose to redesignate the definitions currently located at § 1241.50, rewrite them in Plain Language, and modify and clarify definitions as discussed below.

Unless specifically defined in this section, the terms in this part would have the same meaning as they do in 30 U.S.C. 1702. In order to clarify the current regulations in part 1241, this section would define certain terms used in part 1241 and in 30 U.S.C. 1719. See the proposed rule language for the list of terms and definitions not discussed in this preamble.

Under this proposed rule, we may issue either an NONC or an ILCP, depending upon the type of violation(s) we discover and whether it is knowing or willful. An NONC would mean a Notice of Noncompliance that states the violation(s) and how to correct the violations to avoid civil penalties. If you fail to correct the violations we identify in an NONC within the time period specified in the NONC, we may assess civil penalties by issuing an FCCP.

As we discuss further below, if a violation is knowing or willful, we will issue an ILCP to assess civil penalties without giving you a prior opportunity to correct the violation to avoid the penalty assessment.

We propose to add a definition for ''information.'' Under this proposed rule, information would mean any data you provided to ONRR, including but not limited to, any reports, notices, affidavits, records, data or documents you provide to ONRR, any documents you provide to ONRR in response to an ONRR information or data request, and any other written information you provide to ONRR. This definition is needed for the proposed definitions of ''maintenance'' and ''submission'' discussed below.

The proposed rule would define what ''knowing or willful'' means under 30 U.S.C. 1719(c) and (d) and part 1241. This statutory term is largely self-explanatory and readily implementable without regulation. However, ONRR believes that its enforcement efforts, adjudications of its enforcement efforts, and the regulated public would benefit from defining ''knowing or willful.'' We also believe there is a benefit to clarifying that corporations and other persons subject to FOGRMA are liable for the actions of their agents and employees regardless of the level of knowledge of managers, principals, or owners in the definition of ''knowing or willful.''

Our intent is to define ''knowing or willful'' as the lowest possible standard so that it encompasses all higher standards. Therefore, we are proposing that the definition of ''knowing or willful'' means gross negligence. ONRR believes that ''gross negligence'' requires only that it show a company or person has ''fail[ed] to exercise even that care which a careless person would use.'' *Black's Law Dictionary* 1057 (7th ed. 1999) (citations omitted). We believe penalizing prohibited acts committed with a mental state equivalent to gross negligence is appropriate given Congressional intent in FOGRMA to establish a robust enforcement system and to ensure the integrity of the royalty accounting system. 30 U.S.C. 1701 and 1711.

Because gross negligence is the lowest standard ONRR would have to prove to establish that a company acted ''knowingly or willfully,'' the proposed definition encompasses situations in which a corporation or individual in a corporation acts with actual knowledge, as well as situations in which the corporation acts with deliberate indifference or reckless disregard. It does not require specific intent. It is intended to penalize companies whose management remains deliberately ignorant of the actions of their employees and agents. It is also intended to penalize companies whose management is in reckless disregard as to whether their employees and agents are committing prohibited acts.

In addition, our intent is to hold persons who are subject to FOGRMA strictly and vicariously liable for the prohibited actions of their employees and agents. Although we believe this is already the case, the definition would specifically state that knowing or willful means the mental state of a person (which includes corporations), including the person's employees or agents. This means that the corporation/person has the same knowledge or willfulness as its employees and agents. The corporation/person is thus liable for the civil penalty even if the managers, principals, or owners may not have actual knowledge of specific prohibited acts their agents or employees commit.

In doing so, the proposed rule is guided by judicial precedent, primarily interpreting the False Claims Act, which imposes strict vicarious liability on corporations for the knowledge of their employees and agents. *American Society of Mechanical Engineers* v. *Hydrolevel Corp.,* 456 U.S. 556 (1982); *United States ex rel. Shackelford* v. *American Management Inc.,* 484 F. Supp. 2d 669 (E.D. Mich. 2007); *United States ex rel. Bryant* v. *Williams Building Corp.,* 158 F. Supp. 2d 1001 (S.D. 2001); *see also United States ex rel. Fago* v. *M&T Mortgage Corp.,* 518 F. Supp. 2d 108 (D.D.C. 2007) (noting different cases supporting strict vicarious liability).

ONRR believes that this strict vicarious liability approach implements Congressional intent underlying FOGRMA for four reasons. First, FOGRMA mandates full accounting and payment of all royalties and other payments. Second, Congress specifically called for enhanced enforcement to ensure this mandate. Third, strict vicarious liability will prevent

corporations from avoiding liability by claiming that management lacks knowledge or willfulness and that the prohibited acts were solely the acts of rogue employees and agents. Fourth, strict vicarious liability will incentivize corporations and other persons to take all necessary steps to ensure that their employees and agents are not engaging in prohibited acts.

FOGRMA section 109(d)(1), 30 U.S.C. 1719(d)(1), states that ONRR may assess civil penalties if you knowingly or willfully prepare, submit, or maintain false, inaccurate, or misleading information. This proposed rule defines ''maintenance of false, inaccurate, or misleading information'' for purposes of 30 U.S.C. 1719(d)(1), as meaning that you (1) provided information to an ONRR data system, or otherwise to ONRR for our official records, (2) later learn the information you provided was false, inaccurate, or misleading, and (3) do not correct that information or other information you provided to ONRR that you know contains the same false, inaccurate, or misleading information. This interpretation of 30 U.S.C. 1719(d)(1) is consistent with current ONRR practice.

For example, assume that you unknowingly provide Reports of Sales and Royalty Remittance (Form ONRR–2014) to ONRR with an incorrect product code for the years 2008 through 2009 for gas produced from leases located in State X. Further, assume that ONRR informs you in January 2010 of the incorrect product code and you fail to correct the information on the Forms ONRR–2014 you provided to ONRR for the years 2008 through 2009 for gas produced from leases located in State X in a timely manner. In that case, we would consider you to have knowingly or willfully maintained false, inaccurate, or misleading information on the Forms ONRR–2014 you provided to ONRR for the years 2008 through 2009 for gas produced from leases located in State X. You would therefore be subject to an ILCP. In addition, if you had provided other Forms ONRR–2014 to ONRR for the years 2008 through 2009 for gas produced from leases located in State Y with the same inaccurate information, and failed to correct those Forms ONRR–2014, you have knowingly or willfully maintained false, inaccurate, or misleading information on the Forms ONRR–2014 for the years 2008 through 2009 for gas produced from leases located in State Y. Thus, you would be subject to an additional ILCP for those violations because your failure to maintain accurate information of the same type in different states is a problem with your system of which you were aware from the earlier notice.

Under this proposed rule, for purposes of section 109, 30 U.S.C. 1719(d)(1), ''submission of false, inaccurate, or misleading information'' means that (1) you provided information to an ONRR data system, or otherwise to ONRR for our official records, and (2) you knew, or should have known, the information you submitted was false, inaccurate, or misleading at the time you submitted the information.

For example, assume that, like the example above, you provide Forms ONRR–2014 to ONRR with an incorrect product code for the years 2008 through 2009. Further, assume that ONRR informs you of the incorrect product code in January 2010 and yet you continue to provide Forms ONRR–2014 to ONRR with an incorrect product code after January 2010. In that case, you have knowingly or willfully submitted false, inaccurate, or misleading information. You would be subject to an ILCP.

ONRR Service of NONCs, FCCPs, and ILCPs (Section 1241.4)

We propose to redesignate the regulations currently located at §§ 1241.51 and 1241.61 to this section rewritten in Plain Language, with changes and clarification discussed below.

Both current 30 CFR 1241.51(b) and 1241.61 state that we serve NONCs and civil penalty notices by registered mail or personal service using the recipient's address of record under 30 CFR part 1218, subpart H, as 30 U.S.C. 1719(h) requires. Paragraph (a) of this new § 1241.4 would consolidate the two current sections to decrease redundancy.

Paragraph (b) of this section would explain that we will consider an NONC, FCCP, or ILCP ''served'' on the date on which the delivery service delivers the documents to the address of record. Thus, we will consider a properly served document to be received by the addressee of record.

Request for a Hearing on the Record on an NONC, FCCP, or ILCP (Section 1241.5)

We propose to redesignate the regulations currently located at §§ 1241.54, 1241.56, 1241.62, and 1241.64 to this section, rewrite them in Plain Language, and make the changes and clarification discussed below.

Under the current regulations in 30 CFR part 1241, recipients of an NONC can request a hearing on either their liability for the NONC under § 1241.54 or just on the amount of the penalty under § 1241.56. Likewise, under the current regulations, recipients of an ILCP can either request a hearing on their liability for the ILCP under § 1241.62 or just on the amount of the penalty under § 1241.64. We believe that having four sections to request a hearing that result in the same process is confusing and redundant. Therefore, this new § 1241.5 would consolidate all four current sections to clarify the hearing process and decrease redundancy.

Paragraph (a) of this section would explain that you may still request a hearing on an NONC, FCCP, or ILCP before an Office of Hearings and Appeals (OHA) Hearings Division Administrative Law Judge (ALJ). You would have 30 days from receipt of an NONC, FCCP, or ILCP to file a hearing request. This provision is the same as the current regulations in 30 CFR 1241.54 (hearing request for an NONC) and 1241.62 (hearing request for liability for an ILCP). However, this provision would change current regulations at 30 CFR 1241.56(b) (hearing request for an FCCP) and 1241.64(b) (hearing request on the amount of civil penalties assessed in an ILCP). The current rules allow only 10 days for you to request a hearing on a civil penalty assessment. This rule would extend the period within which to request a hearing to 30 days.

For us to consider your hearing request to be timely filed, we would have to receive all of the following within 30 days of your receipt of an NONC, FCCP, or ILCP: (1) a nonrefundable processing fee of $300 under proposed subparagraph (a)(1); (2) a Request for Hearing under proposed subparagraph (a)(2); and (3) a bond or other surety instrument or demonstration of financial solvency under 30 CFR part 1243 under proposed subparagraph (a)(3). ONRR would consider your Request for Hearing filed when it receives all of the items required under this paragraph (a), not when you mail or fax the items to ONRR. Thus, there would be no 10-day grace period like the current 30 CFR 1290.105(c)(1) (2011) or 43 CFR 4.422(a) (2011).

Under § 1241.6 of this proposed rule, like the current rules for appeals of offshore decisions and orders in 30 CFR part 1290, you must pay a $300 nonrefundable processing fee electronically through the *Pay.gov* Web site at *https://www.pay.gov/paygov/.* The proposed rule also would explain that you could find information on how to pay using *Pay.gov* on the ONRR Web site at *www.onrr.gov/ReportPay/payments.htm.*

We determined that $300 is an appropriate nonrefundable processing fee as explained below. We request comments on the amount of the processing fee, payment by Electronic Funds Transfer, and what form of identification you should include with the fee.

The Department's authority to recover its costs for the processing of complaints involving violations and penalty assessments is in the Independent Offices Appropriation Act of 1952, 31 U.S.C. 9701 (IOAA). Office of Management and Budget (OMB) Circular No. A–25, 58 FR 38144 (adopted 1959; revised July 15, 1993), establishes Federal policy regarding user charges under the IOAA. Interior Solicitor Opinion M–36987 (December 5, 1996). Further, the Department of the Interior Accounting Handbook (DAH), paragraph 6.4.3, requires bureaus to follow OMB Circular A–25 regarding cost recovery of the bureau or office costs for services which provide special benefits or privileges to an identifiable non-Federal recipient even if the public incidentally benefits as well. Thus, as part of this proposed rulemaking, we analyzed previously proposed rules' processing fees (discussed immediately below) for reasonableness according to the factors in IOAA section 501(b), 31 U.S.C. 9701(b), and the guidance contained in the Department of the Interior Handbook and OMB's Circular No. A–25.

Concerns were raised regarding fees proposed in other rules by the former MMS. *Open and Nondiscriminatory Movement of Oil and Gas as Required by the Outer Continental Shelf Lands Act,* 72 FR 17047 (April 6, 2007) (OCS Rule). We are explaining how we determined the appropriate fee to proactively address any similar concerns with this proposed rule.

The United States Court of Appeals for the District of Columbia Circuit has upheld charging processing fees under the IOAA for administrative appeals. *Ayuda, Inc.* v. *Attorney General,* 848 F.2d 1297 (D.C. Cir. 1988)(''*Ayuda*''); *United Transportation Union-Illinois Legislative Board* v. *Surface Transportation Board,* No. 97–1038, 1997 U.S. App. LEXIS 37560, (D.C. Cir., Nov. 10, 1997). In *Ayuda,* the Court held that processing fees for administrative appeals ''are for a 'service or thing of value' [under the IOAA, 31 U.S.C. 9701(a)] which provides the recipients with a special benefit.'' 848 F.2d at 1301.

Like the appellant in *Ayuda,* the party seeking review of an NONC, FCCP, or ILCP under this rule is the regulated party. Thus, we have determined that under the IOAA we have authority to recover the costs to process these hearing requests because hearing requests provide ''a private benefit that incidentally includes some public benefit'' (DAH, paragraph 6.4.3).

A fee established under the IOAA must be: ''(1) fair; and (2) based on (A) the costs to the Government; (B) the value of the service or thing to the recipient; (C) public policy or interest served; and (D) other relevant facts'' 31 U.S.C. 9701(b). Factors 2A through 2D mirror four of the six factors under section 304(b) of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1734(b), for determining the reasonableness of costs for which the Secretary may seek reimbursement from those filing applications or other documents pertaining to onshore public lands. The ''reasonableness factors'' set out in FLPMA are: (a) ''Actual costs (exclusive of management overhead);'' (b) ''the monetary value of the rights or privileges sought by the applicant;'' (c) ''the efficiency to the government processing involved;'' (d) ''that portion of the cost incurred for the benefit of the general public interest rather than for the exclusive benefit of the applicant;'' (e) ''the public service provided;'' and (f) ''other factors relevant to determining the reasonableness of the costs'' *Id.* Although the FLPMA factors apply only to onshore lands, the Department believes that using the FLPMA factors to determine fees is eminently ''fair'' under the IOAA because of the similarity between the factors used under both statutes and the open-ended ''other relevant facts'' element of the IOAA.

We propose to implement the IOAA by applying each of the FLPMA factors for hearing requests processed under this proposed rule. We first estimated the actual cost to ONRR and the Hearings Division for processing the hearing request. We then considered each of the other FLPMA factors to determine whether any factor might cause us to lower the fee to below actual cost. We then considered whether any of the remaining factors would militate against setting the fees at less than actual cost. We then decided the amount of the fee, which cannot be more than the actual processing cost. Accordingly, for hearing requests of NONCs, FCCPs, and ILCPs, we are proposing that requesters pay a fee set at $300.

Factor (a)—Actual Costs

Actual costs would mean the financial measure of resources the Hearings Division and we expend or use to process a hearing request. This includes, but is not limited to, the costs to receive Requests for Hearings, prepare or respond to motions for summary decision, consider pleadings before the Hearings Division, issue decisions, prepare or respond to discovery requests, and take any other relevant action. Actual costs include both direct and indirect costs, exclusive of management overhead. Management overhead costs mean costs associated with the ONRR and OHA directorates. Section 304(b) of FLPMA requires that we exclude management overhead from chargeable costs. Because we are applying the FLPMA factors to implement the IOAA, we are excluding management overhead costs from this analysis.

Direct costs include an agency's expenditures for labor, material, and equipment usage connected with processing a hearing request. For our costs to process a hearing request, we calculated actual costs by estimating the average time it would take ONRR personnel to perform current similar processes for appeals of ONRR royalty orders under 30 CFR part 1290. The processes include accepting and date stamping the hearing request, deciding if the hearing request was timely and properly filed, and forwarding the request to the Hearings Division if it was timely filed. We estimate that this process would take four hours at a total cost of $201 based on an average of our personnel, material, and equipment usage expenses. We calculated the $201 by multiplying $33.46 ([2011 hourly rate for an employee at the grade of GS–11, Step 5] × 1.5 [benefits cost factor]) by the 4 hours, rounding to the nearest whole dollar ($200.76, rounded up). This method of calculating costs is a generally accepted practice in both the private and public sectors. Our indirect costs include items such as rent and overhead (excluding management overhead). Our average indirect cost for fiscal years 2011 and 2012 is 16.2 percent of total costs. ONRR assumes total costs are equal to the sum of direct and indirect costs. To account for our indirect costs, we divided our direct costs of $201 by 83.8 percent (1 − .162), which estimates our total cost to be $240 ($239.86 rounded up).

The costs of processing a hearing request to the Hearings Division under 43 CFR part 4 would cover the following steps:

(1) Considering all substantive pleadings, requests to supplement the record, and extension requests;

(2) Acting on any requests; and

(3) Researching, writing, and issuing a decision.

In addition to the $240 in costs ONRR will incur to accept and process Requests for Hearings, ONRR will incur additional costs to conduct discovery and a hearing, including preparing any exhibits for responses to motions for summary decision, making or responding to discovery requests, preparing exhibits for trial, etc. The average personnel costs of a case in FY2011, when we began tracking hours spent on the hearing phase, equaled $20,749 per case. This does not include costs associated with travel, Solicitor's Office representation, court reporters, and deposition or hearing transcripts. We calculated this cost by first multiplying the total hours each Office of Enforcement employee reported working on the hearing phase by the employee's hourly pay and adding all of the resulting figures to reach a pay total of $103,745. We then divided that number by the 5 cases we handled in FY 2011 to derive the average $20,749 per case. Those cases did not go to hearing but we conducted discovery. We then divided the $20,749 in direct costs by 83.8 percent, to account for indirect costs, for a total estimated cost for this part of the process of $24,760. Thus, the total estimated average cost to ONRR to process a hearing request is $25,000 ($240 plus $24,760).

For the Hearings Division's actual costs, we used a different approach, since 100 percent of the Division's costs relates to processing requests for hearings. We first calculated the Division's total direct and indirect costs for FY 2009—2011, including personnel salaries and benefits, rent and utilities, travel, court reporting, supplies, postage, books and publications, and equipment. Those costs averaged $1,933,800 per year. We then divided the total average costs by the average number of cases completed during the three years, 123 per year. Thus, we estimated that the Hearings Division's total average costs to conduct a hearing on an NONC, FCCP, or ILCP would be $15,722 ($1,933,800 divided by 123 equals $15,721.95, rounded up).

Based on these calculations, the total actual costs to the Department of processing a single hearing request would average more than $40,722 ($25,000 for ONRR plus $15,722 for the Hearings Division).

Factor (b)—Monetary Value of the Rights and Privileges Sought

''The monetary value of the rights and privileges sought'' means the objective worth of a hearing request, in financial terms, to the requester. The value to a requester is the opportunity to have an error corrected if there is an error in an NONC, FCCP, or ILCP (See *Ayuda,* 848 F.2d at 1301).

However, the monetary value of this opportunity will vary depending, in part, on the amount of the civil penalty under review. It also will vary depending on the extent to which the requester challenges not only the penalty amount, but also liability for the alleged violation(s). There would be additional value to the requester challenging liability because we will consider the requester's history of noncompliance in determining the penalty for any future violation(s) (see proposed § 1241.70(a)(2)). This ''liability value'' is difficult to quantify. Finally, the monetary value will vary depending on the likelihood of the requester's prevailing in the hearing. Given these variables, we rejected the idea of trying to calculate monetary value on a case-by-case basis as too speculative, time-consuming, wasteful of resources, and subject to dispute. However, based on our experience, the penalty, and hence the monetary value, will always be higher than the proposed fee of $300.

Consideration of this factor includes examining equitable considerations related to monetary value, rather than precise figures. However, given the nature of these hearings, we believe the monetary value to requesters of having an error corrected would be great.

However, a major equitable consideration is whether the level of cost reimbursement could burden the requester to such an extent that the hearing request would actually end up being of no monetary value to the requester whatsoever, since the requester will also have its own costs of participating in the hearing process. A hearing with a small potential value to the requester, but which triggers high processing costs, would be an instance where the fee might reasonably be set at a figure less than the actual cost of processing due to this factor. Thus, after considering this factor, we decided that it was reasonable to set a fee greatly below our actual costs so as not to frustrate Congress' intent under FOGRMA, 30 U.S.C. 1719(e), to give recipients of penalties an opportunity for a hearing on the record. This is because recipients of penalty notices might not request a hearing if the fee equaled our substantial actual costs.

Factor (c)—Efficiency to the Government Processing Involved

''The efficiency to the government processing involved'' means the ability of the agency to process a hearing request with a minimum of waste, expense, and effort. Implicit in this factor is the establishment of a cost recovery process that does not cost more to operate than is necessary and unduly increase costs recovered.

Given the variables noted above, we believe it would be inefficient to attempt, on a case-by-case basis, to set a processing fee that accounts for both our actual costs and the value of the hearing opportunity to the requester.

Moreover, we are basing the procedures that we would use to process NONCs, FCCPs, and ILCPs on standardized steps for similar ONRR and Hearings Division processes. This would eliminate duplicative and extraneous procedures, resulting in efficient government processing.

Factor (d)—Cost Incurred for the Benefit of the General Public Interest

''The cost incurred for the benefit of the general public interest'' (public benefit) means agency expenditures in connection with the processing of a hearing request for studies or data collection, if any, determined to have value or utility to the United States or the general public apart from document processing. It is important to note that this factor addresses funds expended in connection with a hearing request. There is another level of public benefit that includes studies that we are required, by statute or regulation, to perform regardless of whether we receive a hearing request. However, we have excluded the cost of such studies from our cost recovery calculations from the outset. Therefore, no reduction from costs recovered is necessary in relation to these studies.

We concluded that the processing of a hearing request would not produce studies or data collection that might benefit the public to any appreciable degree. Accordingly, we did not adjust the proposed fee based on this factor.

Factor (e)—Public Service Provided

''The public service provided,'' means direct benefits with significant public value that we expect as a result of a hearing request. This factor considers the benefit resulting from the ultimate decision in the hearing, while the previous factor related to the benefits of the document processing itself. It is important to note that a decision may benefit the public whether or not the decision is favorable to the requester.

Deciding a hearing request provides a public service because the primary function of the hearing process is to correct errors. This helps to ensure the ''fair and proper administration of [our] operations . . . .'' (*Ayuda,* 848 F.2d at 1301). Indeed, ''the public has a keen interest in the correctness of administrative decisions'' *Id.* The public

benefits even though the requester invokes the hearings procedures for their own benefit and therefore receives a ''service or a thing of value,'' see *id.* We therefore decided that it was reasonable to set a fee below actual costs based on this factor.

Factor (f)—Other Factors

The final reasonableness factor is ''other factors relevant to determining the reasonableness of the costs.'' Under this factor, we considered fees that other government entities charge for processing similar filings (see October 28, 1996 proposed rulemaking, 61 FR at 55609 and April 6, 2007 proposed rulemaking, 72 FR at 17054). We also examined what numerous State jurisdictions charge to file a complaint in a civil action. These fees ranged from $150 to $400 with an average of approximately $300.

After considering all of the reasonableness factors, we concluded that it is reasonable under the factor of public service (e) to set the fee for filing a hearing request at $300 instead of at the actual cost. None of the other factors militate against setting the fees below actual costs. Moreover, because the proposed $300 fee meets the reasonableness factors of FLPMA, it also would be fair under the IOAA. However, if we decide to promulgate an alternate process in the final rule after considering comments, the final fee could differ from that proposed in this rulemaking.

We invite comments concerning the proposed processing fee. Specifically, we request comments on the effect the proposed fee could have on the filing of hearing requests.

Subparagraph 1241.5(a)(2) would explain that you must file your Request for Hearing with the ONRR Enforcement Operations Officer at the address stated in the NONC, FCCP, or ILCP. Your hearing request would have to explain your reasons for challenging the NONC, FCCP, or ILCP and include the following attachments: (1) a copy of the NONC, FCCP, or ILCP that you are challenging; and (2) a copy of the *Pay.gov* receipt confirmation page demonstrating our receipt of your payment of the processing fee under § 1241.6.

Under proposed § 1241.5(a)(3), the final item you would have to provide to file a hearing request would be a bond or other surety instrument or demonstration of financial solvency under 30 CFR part 1243. This would continue the requirement in the current regulations that a hearing requester post a bond or other surety instrument or demonstrate financial solvency for any unpaid penalties due under the FCCP or ILCP to stay the requirement to pay the penalties. The same standards and requirements prescribed in 30 CFR part 1243 would apply.

The bond amount would have to include (1) the principal amount of any unpaid penalties due under the FCCP or ILCP, (2) interest on the principal amount, and (3) any additional penalties that have accrued since we issued the FCCP or ILCP. For example, if we issue an ILCP to you on March 1, 2012, assessing penalties through January 30, 2012, and you request a hearing on March 31, 2012, the bond would include the original penalty assessed and any additional penalties that accrued between January 30, 2012, and March 31, 2012, plus interest. As discussed below, under proposed § 1241.12, your posting of a bond or other surety instrument, or demonstration of financial solvency, would not stay the accrual of penalties during the pendency of the hearing. However, it would stay your payment obligation.

Proposed § 1241.5(b) would explain that the 30-day period under paragraph § 1241.5(a) for us to receive your Request for Hearing, processing fee, and bond, other surety instrument, or demonstration of financial solvency cannot be extended for any reason. Subparagraph (b)(1) would explain that, if we do not receive all three items within 30 days after you are served the NONC, FCCP, or ILCP, we will not consider any Request for Hearing you submit to be filed and will return it to you. Subparagraph (b)(2) would explain that, if we return your unprocessed Request for Hearing for failure to timely file your Request for Hearing, remit the full amount of the processing fee, and post a bond or other surety instrument or demonstrate financial solvency, you may not appeal that decision.

Under proposed § 1241.5(c), if we receive your Request for Hearing, full amount of the processing fee, and bond or other surety instrument, or demonstration of financial solvency within 30 days after you are served the NONC, FCCP, or ILCP, we would forward your Request for Hearing to the Hearings Division.

Proposed paragraph (d) would provide that your hearing request on an ILCP must state whether you are contesting your liability for the ILCP, the penalties assessed, or both. If your hearing request did not state whether you are contesting your liability for the ILCP or the penalties assessed, or both, you would be deemed to have requested a hearing only on the amount of the penalty assessed. In other words, you would have waived your right to a hearing on your liability for the penalty assessed if you did not specifically contest your liability.

Proposed paragraph (e) would continue the current provision allowing you to request a hearing regardless of whether you correct the violations identified in the NONC, FCCP, or ILCP.

Processing Fee Payment (Section 1241.6)

Like the current offshore appeal regulations in 30 CFR part 590, § 1241.6 would provide that you must pay the fee using *Pay.gov* and include with your payment your taxpayer identification number, payor identification number, and the NONC, FCCP, or ILCP case number.

Enforcement Actions Not Subject to a Hearing (Section 1241.7)

In proposed § 1241.7, we would specify matters for which you may not request a hearing. Paragraph (a) would provide that you may not request a hearing on your liability for a violation in an FCCP if the violation for which we cited you is your failure to comply with an order you did not appeal under 30 CFR part 1290.

This provision would supersede the decision of the Interior Board of Land Appeals (IBLA) in *Merit Energy Co.* v. *Minerals Management Service,* 172 IBLA 137 (2007). In *Merit,* when Merit did not pay or appeal an ONRR order, we issued an NONC to enforce the order. Merit then not only requested a hearing on the NONC to the Hearings Division under the former 30 CFR part 241, but also requested a hearing on the merits of the order. The ALJ held that Merit could not challenge the merits of the order in part 241 hearing because it had failed to appeal the order under former 30 CFR part 290, subpart B. The ALJ then referred the matter to the IBLA. The IBLA disagreed with the ALJ and held that the hearing could address the merits of the order because Merit was entitled to challenge its ''underlying liability'' for penalties under former part 241 (172 IBLA at 149–51).

Because we believe that a hearing requester should not have two opportunities to seek review of an ONRR order, and thereby undermine the interest in timely due process and the finality of ONRR orders, this proposed rule would make clear that, if you receive an ONRR order and neither pay nor appeal that order under current 30 CFR part 1290, that order is the final decision of the Department. Thus, that order would not be reviewable in any

subsequent action to enforce that order under 30 CFR part 1241.

Paragraph (b) would provide that you also may not request a hearing on courtesy notices we issue to you under § 1241.12(a) of this part informing you of additional penalties that have accrued. If we issue you an FCCP or ILCP, and you do not request a hearing on those notices, you may not then request a hearing on any subsequent notices informing you of additional penalties that accrue after we issue the initial notice. The only way for you to administratively challenge penalties accruing after issuance of a FCCP or ILCP would be to file a request for hearing on the FCCP or ILCP in the first instance.

Procedures for Hearing Requests (Section 1241.8)

Under the current process in this part, hearings are generally conducted under OHA regulations in 43 CFR part 4 and include discovery (including requests for documents, interrogatories, and admissions), depositions, and a trial (with witnesses, exhibits, etc.). Under the current process, after recipients of NONCs, FCCPs, and ILCPs request a hearing, in most instances, discovery begins before any briefings that might dispose of legal issues and factual matters for which there is no genuine issue of material fact in dispute.

Proposed § 1241.8 would explicitly allow motions for summary decision to be filed at any time after the case is referred to the Hearings Division, including before discovery commences to narrow the disputed issues. We propose making this explicit because the current process of conducting discovery for all matters is costly and administratively burdensome for both the Department and the hearing requesters. We specifically request comments on this procedure.

Therefore, proposed paragraph (a) would provide that, after we forward your hearing request to the Hearings Division under § 1241.5(c), you or we could file a motion for summary decision. Under proposed paragraph (b), the opposing party could file a response to a motion for summary decision within 60 days after the opposing party is served with the motion. Paragraph (c) would provide that the moving party could file a reply to a response within 30 days after it was served with the response. Paragraph (d) would state that motions for summary decision, responses, and replies must meet the requirements of § 1241.9.

Under proposed paragraph (e), if, after briefing, the ALJ determines that there is no genuine issue of material fact and a party moving for summary decision is entitled to a decision as a matter of law, the ALJ may grant the motion in whole or part. Under proposed paragraph (f), if no party files a motion for summary decision or the ALJ denies the motion(s) for summary decision, the ALJ would, to the extent necessary, authorize discovery, conduct a hearing, and issue a decision.

We are also proposing a new paragraph (g) to clarify that by establishing our prima facie case in the NONC, FCCP, or ILCP we have met our initial burden. You would then have the burden of showing by a preponderance of the evidence that you are not liable or that the penalty amount should be reduced. We specifically request comments on this new paragraph (g).

We also propose to limit an ALJ's discretion to reduce the penalty assessed when the ALJ finds that the factual basis for imposing a civil penalty exists under new paragraph (h). Subparagraph (h)(1) would prohibit the ALJ from reducing the penalty below half of the amount assessed. Subparagraph (h)(2) would preclude the ALJ from reviewing the exercise of discretion by ONRR to impose a civil penalty. Finally, subparagraph (h)(3) would prohibit the ALJ from considering any factors in reviewing the amount of the penalty other than those specified in § 1241.70.

We are limiting ALJ review of the penalty assessed for several reasons. First, as stated below, we will be posting civil penalty matrices on our Web site in order to have greater transparency. We believe that such transparency warrants limiting review of penalty amounts because a lessee will have advance notice of its potential penalty liability for any violation of law. Second, this proposal is consistent with other Federal civil penalty regulations, for example 42 CFR 488.438(e), that limit ALJ review to determining whether the penalty was reasonable using the factors specified in the civil penalty regulation. See *Capitol Hill Community Rehabilitation and Specialty Care Center,* HHS Docket No. A–97–110, Departmental Appeals Board Decision No. 1629, 1997 HHSDAB LEXIS 576 at *8 (1997). We believe that limiting an ALJ review to the same factors ONRR is subject to when assessing penalties makes eminent sense given that the penalty amount assessed is within ONRR discretion in the first instance. Finally, the penalties we have assessed to date are already far below the maximum authorized by statute. Thus, we see no merit in further reductions during the hearings process unless the penalty amount is not reasonable in light of regulatory factors.

Lastly, proposed paragraph (i) would make clear that the provisions of 43 CFR 4.420–4.438 apply to requests for hearings under this part unless they are inconsistent with specific provisions in this part. For example, parties could request extensions of time to file motions and responses under 43 CFR 4.422(d) because that paragraph does not conflict with this subpart.

Requirements and Standards for Motions for Summary Decision and Responses (Section 1241.9)

This section would explain the requirements and standards you and we must follow when filing motions for summary decision, responses, and replies. It would explain typical requirements and standards for summary judgment motions and responses such as a verified statement of facts.

For example, proposed paragraph (c) would explain how to establish facts. For the purpose of summary decision, the ALJ would accept as true all material facts the moving party sets forth and properly supports unless the opposing party's response specifically controverts those facts. However, in the alternative, the parties could establish material facts for the purpose of summary decision by an agreement enumerating those facts.

Appeal of an ALJ's Decision (Section 1241.10)?

This section would remain the same, stating that you may appeal to the Interior Board of Land Appeals under 43 CFR part 4, subpart E, if you are adversely affected by the ALJ's decision.

Judicial Review of an IBLA Decision (Section 1241.11)

This section also would remain the same, stating that you may seek judicial review of the decision of the Interior Board of Land Appeals under 30 U.S.C. 1719(j). It also would continue to provide that a suit for judicial review in the District Court would be barred unless you file within 90 days after the final decision of the Interior Board of Land Appeals.

We note that a motion for reconsideration under 43 CFR 4.403 does not extend the 90-day period within which to seek judicial review unless the IBLA grants the motion and issues a new decision on reconsideration. In that case, the 90-day period would run from the date of the decision on reconsideration.

Penalty Accrual When You Request a Hearing (Section 1241.12)

Paragraph (a) of this section would provide that penalties would continue to accrue if you do not correct the violations identified in the FCCP or ILCP even if you request a hearing. Paragraph (b) would eliminate the provisions in the current regulations at 30 CFR 1241.55(b) and 30 CFR 1241.63(b) allowing a hearing requester to petition for a stay of the accrual of civil penalties during the pendency of the proceeding.

We are proposing to eliminate these provisions for several reasons. First, § 109 of FOGRMA explicitly states that penalties shall continue to accrue ''for each day such violation continues'' (30 U.S.C. 1719(a), (b), (c), and (d)). There is no provision in FOGRMA for a stay of such daily accrual due to a hearing. Second, although hearing requesters routinely petition for a stay, consistent with the statutory provision that penalties continue to accrue daily, we routinely oppose those petitions, and the ALJs routinely deny them.

Third, under 43 CFR 4.21(a), ''when the public interest requires,'' the Director of the Office of Hearings and Appeals or an Appeals Board may override an initial automatic stay and ''provide that a decision . . . shall be in full force and effect immediately.'' In the case of civil penalties ONRR issues under this part, we believe that the accrual of civil penalties for uncorrected violations is always in the public interest, since every violation will affect either production accountability or royalty income. Therefore, rather than continue the practice of allowing lessees to request a stay, and our opposing those stays, this rulemaking would provide that penalties will continue to accrue during the pendency of the proceeding.

Finally, this position is consistent with other penalty regulations. For example, Department of Health and Human Services civil penalty regulations state that, if a penalty assessment is upheld after a hearing, the penalties are calculated for ''the number of days of noncompliance until the date the facility achieves substantial compliance, or, if applicable, the date of termination when . . . the . . . decision of noncompliance is upheld after a final administrative decision . . . .'' 42 CFR 488.440(b)(1). In other words, the penalty continues to accrue throughout the hearing process.

We welcome comments on our proposal not to stay the accrual of penalties during the hearing process. Please include legal citations and references with your comments.

Subpart B—Notices of Noncompliance and Civil Penalties

Violation of a Statute, Regulation, Order, or Lease Term (Section 1241.50)

Effect of Correcting NONC Violation(s) (Section 1241.51)

The two sections above would be the same as current 30 CFR 1241.51 and 1241.52, respectively. However, we propose to rewrite the sections in Plain Language.

Effect of Not Correcting NONC Violation(s)(Section 1241.52)

We propose to redesignate the regulation currently located at § 1241.53 to this section rewritten in Plain Language, with one change and some clarification discussed below. The penalty would no longer run from the date of the NONC. Rather, under proposed subparagraph (a)(1)(i), if you do not correct the violations listed in the NONC, the penalty would begin to run on the day you were served with the NONC. We do not believe it is fair for penalties to begin to run prior to a recipient's receipt of the NONC.

Proposed paragraph (b) would clarify when penalties escalate if you do not correct all of the violations identified in the NONC within 40 days after you are served the NONC or within 20 days following the expiration of any longer time the NONC specifies. In such instances, we could increase the penalty to a maximum of $5,500 per day for each violation the NONC identified that you did not correct, and it would increase on the 41st day after you are served with the NONC or on the 21st day after the expiration of any longer time the NONC specifies.

Penalties Without Prior Notice and Opportunity To Correct (Section 1241.60)

This proposed section is the same as existing § 1241.60 rewritten in Plain Language, with changes discussed below and some clarification.

Proposed subparagraph (b)(1)(ii) would explain that we could consider your failure to keep, maintain, or produce documents to be a knowing or willful failure or refusal to permit an audit. In such instances, we would assess penalties of up to $11,000 per day per violation, for each day you failed to keep, maintain, or produce documents, without first giving you an opportunity to correct the violation. On March 10, 2011, we sent a Dear Reporter Letter to all reporters explaining recordkeeping requirements and the consequences of failure to produce documents upon request. We sent the Dear Reporter Letter certified mail to document which companies we have warned of the penalty consequences for the failure to keep, maintain, or timely provide documents. This preamble also puts you on notice of your recordkeeping requirements and what we may do if you fail to comply with those requirements.

Thus, we are proposing this provision to codify existing practice and to make clear to lessees that there are serious consequences if they fail to timely comply with ONRR or agent (State or Tribal) requests for documentation or data for audit, compliance reviews, and investigations.

It is important to note that selling leases does not exempt the seller or purchaser from records maintenance requirements. In addition, merged companies carry records maintenance requirements into the purchasing or surviving companies.

Delays in providing documents may result in curable NONCs under proposed § 1241.50. However, we will likely treat delays in providing documents and outright refusal to provide documents as a knowing or willful failure to permit an audit under this paragraph, resulting in an ILCP instead of an NONC. Consistent with current policy, we will consider each audit step that ONRR cannot perform for lack of requested documents as a violation.

Although we are specifically proposing that failure to permit an audit would be considered ''knowing or willful'' consistent with the existing rule and current practice, the language of FOGRMA suggest that failure to permit an audit may not require us to show it was knowing or willful. FOGRMA, 30 U.S.C. 1719(c) states that any person who—

''(1) *knowingly or willfully* fails to make any royalty payment by the date as specified by statute, regulation, order or terms of the lease;

(2) *fails or refuses to permit lawful entry, inspection, or audit;*

or

(3) *knowingly or willfully* fails or refuses to comply with subsection 102(b)(3), shall be liable for a penalty of up to $10,000 per violation for each day such violation continues.'' (Emphasis added)

Based on the Plain Language of section 1719(c)(2), it appears that ONRR may penalize failure to permit an audit without proving it was committed ''knowingly or willfully.'' We specifically request comments on whether we should eliminate the

requirement that failure to permit an audit be committed ''knowingly or willfully'' in the final rule. Please include legal citations to support your comments.

Proposed subparagraph (b)(2) would explain that ONRR may assess penalties of up to $27,500 per day per violation for each day the violation continues if you knowingly or willfully prepare, maintain, or submit false, inaccurate, or misleading reports, notices, affidavits, records, data, or any other written information.

We are also codifying our practice of penalizing repeat violations under this paragraph. Specifically, the proposed rule would state that, if you have received an email, preliminary determination letter, order, NONC, ILCP, or any other written communication identifying a violation, and you fail to make the correction or correct that violation, and commit substantially the same violation in the future, then, in some instances, we may consider the uncorrected or repeat violation to be knowing or willful preparation, maintenance, or submission of false, inaccurate, or misleading reports, notices, affidavits, records, data, or any other written information under this paragraph. For example, if you receive such a communication and do not correct the errors, we may consider that to be knowing or willful maintenance of false, inaccurate, or misleading reports or data in our system.

The proposed rule also would amend current 30 CFR 1241.53(a), 1241.53(b), 1241.60(a), and 1241.60(b) by adjusting the $500, $5,000, $10,000, and $25,000 FOGRMA civil penalty amounts for inflation consistent with the Federal Civil Penalty Inflation Adjustment Act of 1990 (Inflation Adjustment Act), Pub. L. 101–410, 104 Stat. 890–892 (uncodified, but found in a note to 28 U.S.C. 2461). The Inflation Adjustment Act requires agencies to increase civil penalties every 4 years based on specific inflation factors. We have not previously adjusted FOGRMA civil penalties for inflation but propose to do so in this rulemaking.

Consistent with the Inflation Adjustment Act, we identified the percentage of the Consumer Price Indices for all Urban Consumers (CPI–U) for June of the preceding year (2011) and June of the year the civil monetary penalties were set by law (FOGRMA 1982) and computed the potential adjustment as 136.6 percent. However, the maximum penalty increase that may be applied under a 1996 amendment to the Inflation Adjustment Act, Public Law 104–134, 110 Stat. 1321–373, is only ten percent. Therefore, in this proposed rule, we would adjust the FOGRMA maximum penalties of $500, $5,000, $10,000, and $25,000 to $550, $5,500, $11,000, and $27,500 respectively, in the new 30 CFR 1241.53(a)(2), 1241.53(b), 1241.60(b)(1), and 1241.60(b)(2).

Subpart C—Penalty Amount, Interest, Collections, and Criminal Penalties

Penalty Assessment (Section 1241.70)

Paragraph (a) would retain the existing regulatory criteria used to determine the amount of the penalty to assess: (1) the severity of the violations; (2) your history of noncompliance; and (3) the size of your business. To determine the size of your business, we may consider the number of employees in your company, parent company or companies, and any subsidiaries and contractors. For example, if your company has 10 employees, but employs 400 contractors as agents to do its business, we would consider the size of your company to be 410 employees. This would not include all employees of the contractor, just those who actually conduct business on your behalf.

Proposed paragraph (b) would explain that we would not consider the royalty consequences of the underlying violation when determining the amount of the civil penalty for violations under §§ 1241.50, 1241.60(b)(1)(ii), and 1241.60(b)(2). For example, assume that we issued a penalty to a lessee for the knowing or willful submission of false or inaccurate reports under § 1241.60(b)(2). Assume further that after the lessee corrected its reporting to comply with the penalty notice, there was no royalty consequence—what industry refers to as ''net zero'' errors. In that case, we would not issue a reduced penalty merely because there was no royalty consequence. This is consistent with our existing practice and FOGRMA legislative history.

Research on Congressional intent reveals several facts leading to the conclusion that the royalty consequences of a violation are not relevant in determining the severity of the penalty for violations subject to NONCs, reporting errors, and failures to permit audit, and that Congress already considered the royalty consequence when it established different penalties for different violations. First, Congress enacted the FOGRMA civil penalty provisions in response to the Linowes Commission Report. The report concluded, ''the industry is essentially on an honor system.'' The Commission found that:

> The [ONRR accounting] system does not provide for the verification of data reported by oil and gas lessees, and lease account records are so unreliable that federal royalty managers often do not know which lessees have paid royalties and which lessees have not. Penalties for late payment or underpayment are rarely imposed.

S. Rep. No. 97–512, at 9 (1982). Based on its findings, the Commission made 60 recommendations including that the Department seek legislation authorizing DOI to ''assess civil penalties for site security violations, nonpayments, late payments, underpayments, error-ridden reports, and failure to submit or update the required payor plan'' *Id.* Secretary Watt agreed with all the recommendations, *id.* at 10, and Congress ultimately enacted FOGRMA. What is clear from this history is that Congress was not solely concerned with ''payment'' errors but also with failure to submit data and reporting errors—regardless of the royalty consequences. Indeed, many reporting errors and failures to submit data result in delay of audits or an inability to audit in the first instance, which was a concern of Congress's in enacting FOGRMA.

Moreover, regardless of whether a lessee owes additional royalties, there are consequences to failures to follow ONRR regulations, misreporting, and failures to permit audit because a lessee does not timely provide documents ONRR requests. For example, many companies' reporting is so erroneous that we cannot even audit to determine if there are royalty consequences. As stated above, this was a concern the Linowes Commission raised and that Congress addressed in FOGRMA. Specifically, the Linowes Commission recommended ''[t]hat the Department systematically cross-check production and sales records to determine if the correct amount of royalties are being paid'' (S. Rep. No. 97–512, at 10 (1982)). This is because the Commission found that ''lease account records are so unreliable that federal royalty managers often do not know which lessees have paid royalties and which lessees have not'' *id.* at 9. Thus, it would contradict Congressional intent for ONRR to assess a lower penalty for failures to follow ONRR regulations, misreporting so egregious that we cannot audit, and failures to provide documents that prevent us from completing an audit simply because there is no royalty underpayment.

As discussed below, when we propose the rule, we will be posting our penalty matrices. Those matrices show the penalty type and range of assessments for very small, small, and large companies. In addition, as those

matrices will demonstrate, in order to not issue penalties so high that a company cannot possibly pay, our assessments are already far below the maximum allowable under the law. For example, although FOGRMA authorizes penalties up to $10,000 per day per violation for knowing or willful failure to pay royalties, for a very small company (less than 25 employees), our standard assessment is $100 per day per violation. However, mitigating factors may result in a lower assessment per day per violation and aggravating factors may result in a higher assessment per day per violation.

Proposed paragraph (c) would state that we will post our penalty assessment matrices for FCCPs and ILCPs, and any adjustments to that matrix, on the ONRR Web site at *www.onrr.gov/CivilPenalties/default.htm*. In 1999, we published the civil penalty matrix, as it existed at that time, in response to a comment requesting that we provide more specific regulatory criteria for calculating civil penalties (64 FR 26240, 26242 (1999)). The commenters believed that the purpose of FOGRMA civil penalties is to encourage voluntary compliance. The commenters also believed there was a lack of transparency in calculation of the civil penalties.

We agree that our civil penalty process could be more transparent. We also agree that knowing the potential monetary consequence of noncompliance would encourage voluntary compliance and deter violations. Currently, BSEE publishes its civil penalty matrix in a Notice to Lessees, which is available at the BSEE Web site, *www.bsee.gov/Inspection-and-Enforcement/Civil-Penalties-and-Appeals/Civil-Penalties-and-Appeals.aspx*. Additionally, every 3 years, BSEE publishes in the **Federal Register** any adjustments to the maximum civil penalty amount to reflect any increase in the Consumer Price Index. Like BSEE, we propose to publish the civil penalty matrices we use on the ONRR Web site at *www.onrr.gov*. However, unlike BSEE, we will post any adjustments to the matrices for inflation, or any other reason, on our Web site rather than through notices in the **Federal Register**.

Late Payment Interest on Penalty Assessments, Underpayments, and Unpaid Debts (Section 1241.71)

This section would retain the provision of existing § 1241.71(a) that the penalties under this part are in addition to interest you may owe on any underlying underpayments or unpaid debt.

ONRR proposes to modify existing § 1241.71(b), which currently provides that interest will run from the date required under existing § 1241.75(d). Existing § 1241.75(d) requires you to pay penalties 40 days after you receive the penalty if you do not request a hearing and 40 days after decisions in various stages of the hearing and appeal process, if you do not or cannot appeal those decisions. However, this proposed rule would state that interest would run from the due date in the invoice accompanying the penalty notice until the date you pay the civil penalty assessed. This change is consistent with 30 CFR 1218.50(b), which states ''[p]ayments made on an invoice are due as specified by the invoice.''

Penalty Payment (Section 1241.72)

Penalty Reduction (Section 1241.73)

Penalty Collection (Section 1241.74)

We propose to redesignate the regulations currently located at 30 CFR 1241.75, 1241.76, and 1241.77 to these sections, respectively, rewritten in Plain Language.

Criminal Violation(s) (Section 1241.75)

We propose to redesignate the regulation currently located at 30 CFR 1241.80 to this section rewritten in Plain Language.

Procedural Matters

1. Summary Cost and Royalty Impact Data

This is a technical rule that would (1) apply our civil penalty regulations to solid mineral and geothermal leases consistent with Federal law, (2) adjust civil penalty amounts for inflation as required by Federal law, and (3) announce our practice of publishing our civil penalty assessment matrices on the ONRR Web site. These proposed changes would have no royalty impacts on industry, State and local governments, Indian Tribes, individual Indian mineral owners, and the Federal Government. As explained below, industry would not incur significant additional administrative costs under this proposed rulemaking. However, industry could realize some increased penalties under this proposed rulemaking. The Federal Government, and any States and Tribes that are eligible to share civil penalties under 30 U.S.C. 1736, would benefit from these increased penalties.

A. Industry

(1) Royalty Impacts. None.

(2) Administrative Costs—Processing Fee. This rulemaking would result in an increase in administrative costs to industry due to our proposal to recover a portion of the Department's costs to process a hearing request by requiring requesters to pay a $300 processing fee. We received 15 hearing requests in the last three fiscal years, for an average of five per year. We therefore estimate that the processing fee would cost industry $1,500 ($300 × 5 hearing requests) in the first year and the same each year thereafter.

(3) Penalties. This rulemaking may result in some increase in civil penalties that lessees must pay. First, consistent with the inflation adjustment in this proposed rule, we could increase civil penalty collections by ten percent. We collected an average of $1,022,462 in civil penalties annually for fiscal years 2007 through 2011. Thus, for the potential increases in civil penalties that we could collect due to the inflation adjustment, we based our calculations on ten percent of the annual average amount of civil penalties we currently collect under 30 CFR part 1241. We calculated a possible increase in civil penalties we would collect from industry of $102,246 per year (10% × $1,022,462 average total annual civil penalty collections).

Second, we estimated the potential increase in civil penalties due to application of part 1241 to solid mineral and geothermal leases by estimating how many lessees, operators, and royalty payors of solid mineral and geothermal leases there are in relation to all mineral leases that reported production and royalties as of June 2012. That estimate came to 6 percent of our current mineral reporter universe (120 solids and geothermal payors and reporters divided by 1,970 total payors and reporters (oil and gas, solids, and geothermal)). Therefore, we multiplied the $1,022,462 in average annual civil penalties by 6 percent (solid mineral and geothermal payors and reporters) to estimate an increase in civil penalties we collect of $61,348.

Thus, we estimate the total impact to industry of implementing this proposed rule would be $163,594 annually ($102,246 for the inflation adjustment + $61,348 for application of part 1241 to solid mineral and geothermal leases). Accordingly, the impact to industry of implementing the new provisions of law would be minimal.

B. State and Local Governments

(1) Royalty Impacts. None.

(2) Administrative Costs. None.

(3) Penalties. State governments having delegated audit authority under 30 U.S.C. 1735 would receive a 50 percent share of civil penalties collected as a result of their activities under

ONRR delegations of authority (30 U.S.C. 1736). However, how much a State government could receive due to the estimated increase discussed above would be purely speculative.

C. Indian Tribes and Individual Indian Minerals Owners

(1) Royalty Impacts. None.

(2) Administrative Costs. None.

(3) Penalties. Indian tribal governments having cooperative agreements with ONRR under 30 U.S.C. 1732 would receive a 50 percent share of civil penalties collected as a result of their activities under ONRR delegations of authority (30 U.S.C. 1736). However, how much a tribal government could receive due to the estimated increase discussed above would be purely speculative.

D. Federal Government

(1) Royalty Impacts. None.

(2) Administrative Costs. The application of FOGRMA penalties to solid minerals and geothermal leases would produce a slight increase in the enforcement workload, which ONRR likely would absorb using current staff.

(3) Penalties. As discussed above, we estimate that the Federal Government could receive $163,594 in increased civil penalties as a result of this rule if no State or Tribe shared in those civil penalties.

2. Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) of OMB will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

3. Regulatory Flexibility Act

The Department of the Interior certifies that this proposed rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This proposed rule would affect large and small entities but would not have a significant economic effect on either.

4. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This proposed rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This proposed rule:

a. Would not have an annual effect on the economy of $100 million or more. See Item 1 above.

b. Would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, local government agencies, or geographic regions.

c. Would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

5. Unfunded Mandates Reform Act

This proposed rule would not impose an unfunded mandate on State, local, or tribal governments, or the private sector of more than $100 million per year. This proposed rule would not have a significant or unique effect on State, local, or tribal governments, or the private sector. Therefore, we are not providing a statement containing the information that the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) requires. See Item 1 above.

6. Takings (Executive Order 12630)

Under the criteria in section 2 of E.O. 12630, this proposed rule would not have any significant takings implications. This proposed rule would not be a governmental action capable of interference with constitutionally protected property rights. This proposed rule does not require a Takings Implication Assessment.

7. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this proposed rule would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposed rule would not substantially and directly affect the relationship between Federal and State governments. A Federalism Assessment is not required.

8. Civil Justice Reform (E.O. 12988)

This proposed rule would comply with the requirements of E.O. 12988. Specifically, this rule:

a. Would meet the criteria of § 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

b. Would meet the criteria of § 3(b)(2) requiring that we write all regulations in clear language and contain clear legal standards.

9. Consultation With Indian Tribes (E.O. 13175)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. Under the Department's consultation policy and the criteria in E.O. 13175, we evaluated this proposed rule and determined that it would have no substantial direct effects on federally recognized Indian Tribes. Likewise, these proposed amendments to 30 CFR part 1241, subpart B, would not affect Indian Tribes because the changes are only technical in nature.

10. Paperwork Reduction Act

This proposed rule does not contain information collection requirements and a submission to OMB would not be required under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). See 5 CFR 1320.4(a)(2).

11. National Environmental Policy Act

This proposed rule would not constitute a major Federal action, and it would not significantly affect the quality of the human environment. The procedural changes resulting from these amendments have no consequences with respect to the physical environment. We are not required to provide a detailed statement under the National Environmental Policy Act of 1969 (NEPA) because this rule qualifies for categorical exclusion under 43 CFR 46.210(c) and (i) and the DOI Departmental Manual, part 516, section 15.4.D: ''(c) Routine financial transactions including such things as . . . audits, fees, bonds, and royalties . . . (i) Policies, directives, regulations, and guidelines: That are of an administrative, financial, legal, technical, or procedural nature.'' We have also determined that this proposed rule does not involve in any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

12. Effects on the Energy Supply (E.O. 13211)

This proposed rule would not be a significant energy action under the definition in E.O. 13211. A Statement of Energy Effects is not required.

13. Clarity of This Regulation

Executive Orders 12866 (section 1(b)(2)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and the Presidential Memorandum of June 1, 1998, require us to write all rules in Plain Language. This means that each rule we publish must: (a) Be logically organized; (b) use the active voice to address readers directly; (c) use common, everyday words, and clear language rather than jargon; (d) be divided into short sections and sentences; and (e) use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To help revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, and the sections where you feel lists or tables would be useful, etc.

14. Public Availability of Comments

We will post all comments, including names and addresses of respondents, at *www.regulations.gov.* Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that we may make your entire comment—including your personal identifying information—publically 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.

List of Subjects in 30 CFR part 1241

Notices of noncompliance, Civil penalties.

Dated: April 18, 2014.

Rhea Suh,

Assistant Secretary for Policy, Management and Budget.

For the reasons stated in the preamble, the Office of Natural Resources Revenue proposes to revise 30 CFR part 1241 to read as follows:

PART 1241—PENALTIES

Subpart A—General Provisions

Sec.
1241.1 What is the purpose of this part?
1241.2 What leases are subject to this part?
1241.3 What definitions apply to this part?
1241.4 How will ONRR serve NONCs, FCCPs, and ILCPs?
1241.5 How do I request a hearing on the record on an NONC, FCCP, or ILCP?
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Subpart B—Notices of Noncompliance and Civil Penalties

Penalties With a Period To Correct

1241.50 What may ONRR do if I violate a statute, regulation, order, or lease term relating to a lease subject to this part?
1241.51 What if I correct the violation(s) identified in an NONC?
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Penalties Without a Period To Correct

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Subpart C—Penalty Amount, Interest, Collections, and Criminal Penalties

1241.70 How does ONRR decide the amount of the penalty to assess?
1241.71 Do I owe interest on both the penalty assessed and any underlying underpayment(s) or unpaid debt(s)?
1241.72 When must I pay the penalty?
1241.73 May ONRR reduce my penalty once it is assessed?
1241.74 How may ONRR collect my penalty?
1241.75 May the United States criminally prosecute me for violations under Federal and Indian oil and gas leases?

Authority: 25 U.S.C. 396 et seq., 396a et seq., 2101 et seq.; 30 U.S.C. 181 et seq., 351 et seq., 1001 et seq., 1701 et seq.; 43 U.S.C. 1301 et seq., 1331 et seq., 1801 et seq.

Subpart A—General Provisions

§ 1241.1 What is the purpose of this part?

This part applies to you if you are the recipient of a Notice of Noncompliance (NONC), Failure to Correct Civil Penalty Notice (FCCP), or Immediate Liability Civil Penalty Notice (ILCP). This part explains:

(a) When you may receive an NONC, FCCP, or ILCP;

(b) How we assess civil penalties; and

(c) How to appeal an NONC, FCCP, or ILCP.

§ 1241.2 What leases are subject to this part?

This part applies to:

(a) All Federal mineral leases onshore and on the Outer Continental Shelf; and

(b) All federally administered mineral leases on Indian tribal and individual Indian mineral owners' lands, regardless of the statutory authority under which the lease was issued or maintained; and

(c) All leases, easements, rights of way, and other agreements subject to 30 U.S.C. 1337(p).

§ 1241.3 What definitions apply to this part?

(a) Unless specifically defined in paragraph (b) of this section, the terms in this part have the same meaning as 30 U.S.C. 1702.

(b) The following definitions apply to this part:

Agent means any individual or other person—

(i) With the actual authority of;

(ii) With the apparent authority of; or

(iii) Designated by a person subject to FOGRMA who acts or purports to act on behalf of the person subject to FOGRMA.

ALJ means an administrative law judge in the Hearings Division.

FCCP means a Failure to Correct Civil Penalty notice, which assesses civil penalties if you fail to correct the violations in a NONC.

Hearings Division means the Departmental Cases Hearings Division, Office of Hearings and Appeals.

IBLA means the Interior Board of Land Appeals, Office of Hearings and Appeals.

ILCP means an Immediate Liability Civil Penalty notice, which assesses civil penalties for specified violation(s) without providing a prior opportunity to correct the violation(s).

Information means any data you provide to an ONRR data system, or otherwise provide to ONRR for our official records, including but not limited to, any reports, notices, affidavits, records, data or documents you provide to us, any documents you provide to us in response to our request, and any other written information you provide to us.

Knowing or willful means that a person, including its employee or agent, with respect to the prohibited act, acts with gross negligence.

Maintenance of false, inaccurate, or misleading information means you provided information to an ONRR data system, or otherwise to us for our official records, and you later learn the information you provided was false, inaccurate, or misleading, and you do not correct that information or other information you provided to us that you know contains the same false, inaccurate, or misleading information.

NONC means a Notice of Noncompliance, which states the

violation(s) and how to correct the violations to avoid civil penalties.

Notices means NONCs, FCCPs, and ILCPs as defined in this section.

ONRR (we, our) means the Office of Natural Resources Revenue.

Prohibited act means any act or failure to act subject to civil penalties under 30 U.S.C. 1719(c) or (d).

Submission of false, inaccurate, or misleading information means you provide information to an ONRR data system, or otherwise to us for our official records, and you knew, or should have known, the information that you provided was false, inaccurate, or misleading at the time you provided the information.

You (*I*) means the recipient of an NONC, FCCP, or ILCP.

§ 1241.4 How will ONRR serve notices?

(a) We will serve NONCs, FCCPs, and ILCPs by registered mail or personal service to the addressee of record under 30 CFR 1218.520 consistent with 30 CFR 1218.540(b).

(b) We will consider the notice served on the date it was delivered to the addressee of record.

§ 1241.5 How do I request a hearing on the record on a notice?

(a) You may request a hearing on the record before an ALJ on an NONC, FCCP, or ILCP by filing a request with ONRR. We will consider your Request for Hearing filed when we receive all of the items required under this paragraph, not when you mail or fax the items to us. For your Request for Hearing to be filed, we must receive all of the following from you within 30 days after you are served the notice:

(1) A nonrefundable processing fee of $300 under § 1241.6.

(2) A Request for Hearing that:

(i) You file with the ONRR Enforcement Operations Officer at the address stated in the NONC, FCCP, or ILCP;

(ii) Explains your reasons for challenging the notice; and

(iii) Includes the following attachments:

(A) A copy of the notice, that you are challenging; and

(B) A copy of the Pay.gov receipt confirmation page demonstrating our receipt of your payment of the processing fee under § 1241.6.

(3) A bond or other surety instrument or demonstration of financial solvency under 30 CFR part 1243 for:

(i) The principal amount of any unpaid penalties due under the FCCP or ILCP;

(ii) Interest on the principal amount; and

(iii) Any additional penalties that have accrued since ONRR issued the FCCP or ILCP.

(b) The 30-day period for you to meet all of the requirements of paragraph (a) of this section cannot be extended for any reason.

(1) If we do not receive all of the items you are required to submit under paragraph (a) of this section, then we cannot consider your Request for Hearing to be filed and will return it to you.

(2) If we return your unprocessed Request for Hearing under paragraph (b)(1) of this section, then you may not appeal that decision.

(c) If ONRR receives all of the items you are required to submit under paragraph (a) of this section, 30 days after you are served the notice, then we will forward your Request for Hearing to the Hearings Division.

(d) If you request a hearing on an ILCP, your hearing request must state whether you are contesting your liability for the ILCP or the penalties assessed, or both. If your hearing request does not state whether you are contesting your liability for the ILCP or the penalties assessed, or both, you will be deemed to have requested a hearing only on the amount of the penalty assessed.

(e) You may request a hearing even if you correct the violations identified in the NONC or ILCP.

§ 1241.6 How do I pay the processing fee?

(a) You must pay the $300 fee electronically through the Pay.gov Web site at *https://www.pay.gov/paygov.* You must provide the following information with the payment:

(1) Your taxpayer identification number;

(2) Your payor identification number, if applicable; and

(3) The NONC, FCCP, or ILCP case number.

(b) Information on how to pay using the Pay.gov Web site is available on the ONRR Web site at *www.onrr.gov/ReportPay/payments.htm.*

§ 1241.7 Which ONRR enforcement actions are not subject to a hearing?

You may not request a hearing on:

(a) Your liability for a violation in an FCCP if the violation is your failure to comply with an order you did not timely appeal under 30 CFR part 1290; and

(b) A courtesy notice we send to you under § 1241.12(a) informing you that additional penalties have accrued.

§ 1241.8 What procedures apply to my hearing request?

(a) After we forward your Request for Hearing to the Hearings Division under § 1241.5(c), then either party may submit a motion for summary decision.

(b) The opposing party may file a response to a motion for summary decision within 60 days after service of the motion.

(c) The moving party may file a reply to a response to a motion for summary decision within 30 days after service of the response.

(d) Motions for summary decision and responses must meet the requirements of § 1241.9.

(e) The ALJ will grant a party's motion for summary decision, in whole or in part, if there is no genuine issue of material fact and the party is entitled to a decision as a matter of law.

(f) If neither party files a motion for summary decision or the ALJ denies the motion for summary decision, then the ALJ will, to the extent necessary, authorize discovery, conduct a hearing, and issue a decision.

(g) You have the burden of showing that you are not liable or that the penalty amount should be reduced by a preponderance of the evidence.

(h) In issuing any decision on a hearing request, if the ALJ finds that the factual basis for imposing a civil penalty exists, the ALJ may not:

(1) Reduce a penalty below half of the amount assessed;

(2) Review the exercise of discretion by ONRR to impose a civil penalty; or

(3) Consider any factors in reviewing the amount of the penalty other than those specified in § 1241.70.

(i) The provisions of 43 CFR 4.420–4.438 apply to hearings under this part except when they are inconsistent with the provisions of this part.

§ 1241.9 What are the requirements and standards for a motion for summary decision and response?

(a) *Motion requirements.* For a motion for summary decision to be properly made and supported, the party filing a motion for summary decision must:

(1) Rely on more than mere allegations in its own pleadings;

(2) Concisely state the material facts which the party contends are undisputed;

(3) Verify those facts with supporting affidavits, declarations, or other evidentiary materials;

(4) Include references to the specific portions of the record which verify those facts; and

(5) State why the party is entitled to summary decision as a matter of law.

(b) *Response requirements.* When a motion for summary decision is

properly made and supported, an opposing party's response must:

(1) Not rely merely on allegations or denials in its own pleadings, but must:

(i) Concisely state the material facts that the opposing party contends are disputed;

(ii) Verify that those facts are disputed with supporting affidavits, declarations, or other evidentiary materials; and

(iii) Include references to the specific portions of the record that verify that those facts are disputed: and/or

(2) State why the moving party is not entitled to summary decision as a matter of law.

(c) *Establishing facts.* (1) All material facts set forth by the moving party and properly supported by the record will be taken as true and considered undisputed for the purpose of a summary decision unless specifically controverted by the opposing party's response.

(2) The parties may stipulate to by an agreement of the parties enumerating those facts.

§ 1241.10 May I appeal the ALJ's decision?

If you are adversely affected by the ALJ's decision, you may appeal that decision to IBLA under 43 CFR part 4, subpart E.

§ 1241.11 May I seek judicial review of the IBLA decision?

You may seek judicial review of the IBLA decision under 30 U.S.C. 1719(j) in Federal District Court. You must file a suit for judicial review in district court within 90 days after the final IBLA decision.

§ 1241.12 Does my hearing request affect the penalties?

(a) If you do not correct the violations identified in the FCCP or ILCP, the penalties will continue to accrue, even if you request a hearing. We may issue courtesy notices to you informing you of any additional penalties that have accrued after we issue an FCCP or ILCP.

(b) Neither the ALJ nor the IBLA may stay the accrual of penalties pending a decision on your hearing request.

Subpart B—Notices of Noncompliance and Civil Penalties

Penalties With a Period To Correct

§ 1241.50 What may ONRR do if I violate a statute, regulation, order, or lease term relating to a lease subject to this part?

If we believe that you have not followed any requirement of a statute, regulation, or order, or the terms of a lease subject to this part, we may serve you with an NONC explaining:

(a) What the violation is;

(b) How to correct the violation to avoid civil penalties; and

(c) That you have 20 days after the date on which you are served the NONC to correct the violation, unless the NONC specifies a longer period. The period for you to correct the violations specified in the NONC cannot be extended for any reason.

§ 1241.51 What if I correct the violation(s) identified in an NONC?

If you correct all of the violations we identified in the NONC within 20 days after the date on which you are served the NONC, or any longer period the NONC specifies, then we will close the matter and will not assess a civil penalty. However, we will consider the violations as part of your history of noncompliance for future penalty assessments under § 1241.70(a)(2).

§ 1241.52 What if I do not correct the violation(s) identified in an NONC?

(a) If you do not correct all of the violations we identified in the NONC within 20 days after the date on which you are served the NONC, or any longer period the NONC specifies, then we may send you an FCCP.

(1) The FCCP will state the amount of the penalty you must pay. The penalty will:

(i) Begin to run on the day on which you were served with the NONC; and

(ii) Continue to accrue for each violation identified in the NONC until it is corrected.

(2) The penalty may be up to $550 per day for each violation identified in the NONC that you have not corrected.

(b) If you do not correct all of the violations identified in the NONC within 40 days after you are served the NONC, or within 20 days following the expiration of any longer time the NONC specifies, then we may increase the penalty to a maximum of $5,500 per day for each violation identified in the NONC that you have not corrected. The increased penalty will:

(1) Begin to run on the 41st day after the date on which you were served the NONC, or on the 21st day after the expiration of any longer time the NONC specifies; and

(2) Continue to accrue for each violation identified in the NONC until it is corrected.

Penalties Without a Period To Correct

§ 1241.60 Am I subject to penalties without prior notice and an opportunity to correct?

(a) We may assess penalties without first giving you an opportunity to correct the violation. We will inform you of violations without a period to correct by issuing an ILCP explaining:

(1) What the violation is;

(2) How to correct the violation; and

(3) The amount of the civil penalty assessed.

(b) We may assess civil penalties of up to;

(1) $11,000 per day per violation for each day the violation continues if you knowingly or willfully:

(i) Fail to make any royalty payment by the date specified by statute, regulation, order or terms of the lease; or

(ii) Fail or refuse to permit lawful entry, inspection, or audit. We may consider your failure to keep, maintain, or produce documents to be a knowing or willful failure or refusal to permit an audit; and

(2) $27,500 per day per violation for each day the violation continues for knowing or willful preparation, maintenance, or submission of false, inaccurate, or misleading reports, notices, affidavits, records, data, or any other written information. You also may be deemed to have knowingly or willfully prepared, maintained, or submitted false, inaccurate, or misleading information if you have received an email, preliminary determination letter, order, NONC, ILCP, or any other written communication identifying a violation, and you:

(i) Fail to correct that violation; or

(ii) Correct that violation but commit substantially the same violation in the future.

Subpart C—Penalty Amount, Interest, Collections, and Criminal Penalties

§ 1241.70 How does ONRR decide the amount of the penalty to assess?

(a) We will determine the amount of the penalty to assess by considering:

(1) The severity of the violations;

(2) Your history of noncompliance; and

(3) The size of your business. To determine the size of your business, we may consider the number of employees in your company, parent company or companies, and any subsidiaries and contractors.

(b) We will not consider the royalty consequences of the underlying violation when determining the amount of the civil penalty for violations under §§ 1241.50, 1241.60(b)(1)(ii), and 1241.60(b)(2).

(c) We will post the FCCP and ILCP assessment matrix and any adjustments to that matrix, on the ONRR Web site at *www.onrr.gov/CivilPenalties/default.htm.*

§ 1241.71 Do I owe interest on both the penalty assessed and any underlying underpayment(s) or unpaid debt(s)?

(a) The penalties under this part are in addition to interest you may owe on any underlying underpayment(s) or unpaid debt(s).

(b) If you do not pay the penalty assessed by the due date in the bill accompanying the FCCP or ILCP, you will owe late payment interest on the penalty amount under 30 CFR 1218.54 from the date the civil penalty payment was due until the date you pay the civil penalty assessed.

§ 1241.72 When must I pay the penalty?

(a) If you do not request a hearing on an FCCP or ILCP under this part, you must pay the penalties assessed by the due date specified in the bill accompanying the FCCP or ILCP.

(b) If you request a hearing on an FCCP or ILCP under this part, the ALJ affirms the civil penalty, and:

(1) You do not appeal the ALJ's decision to the IBLA under § 1241.10, you must pay the civil penalty amount determined by the ALJ within 30 days of the ALJ's decision; or

(2) You appeal the ALJ's decision to the IBLA under § 1241.10, the IBLA affirms a civil penalty, and:

(i) You do not seek judicial review of the IBLA's decision under 30 U.S.C. 1719(j), you must pay the civil penalty amount determined by the IBLA within 120 days of the IBLA decision; or

(ii) You seek judicial review of the IBLA decision, and a court of competent jurisdiction affirms the penalty, you must pay the penalty assessed within 30 days after the court enters a final non-appealable judgment.

§ 1241.73 May ONRR reduce my penalty once it is assessed?

The ONRR Director or his or her delegate may compromise or reduce civil penalties assessed under this part.

§ 1241.74 How may ONRR collect my penalty?

(a) If you do not pay a civil penalty we assess by the date payment is due under § 1241.72, we may use all available means to collect the penalty including, but not limited to:

(1) Requiring the lease surety, for amounts owed by lessees, to pay the penalty;

(2) Deducting the amount of the penalty from any sums the United States owes to you;

(3) Referring the debt to the Department of the Treasury for collection under 30 CFR part 218, subpart J; and

(4) Using the judicial process to compel your payment under 30 U.S.C. 1719(k).

(b) If we use the judicial process to compel your payment, or if you seek judicial review under 30 U.S.C. 1719(j), and the court upholds the assessment of a penalty, the court will have jurisdiction to award the amount assessed plus interest assessed from the date of the expiration of the 90-day period referred to in 30 U.S.C. 1719(j). The amount of any penalty, as finally determined, may be deducted from any sum owing to you by the United States.

§ 1241.75 May the United States criminally prosecute me for violations??

If you commit an act for which a civil penalty is provided in 30 U.S.C. 1719(d) and 30 CFR 1241.60(b)(2), the United States may pursue criminal penalties as provided in 30 U.S.C. 1720 in addition to any authority for prosecution under other statutes.

[FR Doc. 2014–11552 Filed 5–19–14; 8:45 am]

BILLING CODE 4310–T2–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0253]

RIN 1625–AA00

Safety Zone; Bullhead City River Regatta; Bullhead City, AZ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a temporary safety zone on the navigable waters of the Colorado River in Bullhead City, Arizona. The safety zone is necessary to provide for the safety of the Bullhead City River Regatta marine event participants. The safety zone will temporarily restrict vessel movement and public waterway use within the designated area. During the annual one-day event, held on August 9, 2014, non-authorized event persons and vessels would be prohibited from entering into, transiting through or anchoring within the enforced period of the safety zone unless authorized by the Captain of the Port or his designated representative.

DATES: Comments and related material must be received by the Coast Guard on or before June 19, 2014.

Requests for public meetings must be received by the Coast Guard on or before June 4, 2014.

ADDRESSES: You may submit comments identified by docket number using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–493–2251.

(3) *Mail or Delivery:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Deliveries accepted between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. The telephone number is 202–366–9329.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for further instructions on submitting comments. To avoid duplication, please use only one of these three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander John Bannon, Waterways Management, U.S. Coast Guard Sector San Diego; telephone (619) 278–7656, email *John.E.Bannon@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. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided.

1. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at *http://www.regulations.gov,* or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as

having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* type the docket number [USCG–2014–0253] in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number (USCG–2014–0253) 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.

3. Privacy Act

Anyone can search the electronic form of 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 a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

4. Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one, using one of the methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

B. Basis and Purpose

The request for a waterway safety zone was submitted by the organizer of the annual event, Bullhead City, Arizona. The safety zone will provide a safety buffer from vessel traffic for the estimated 25,000 participants floating down a six mile portion of the Colorado River during the annual marine event.

The Bullhead City River Regatta is a reoccurring marine event listed in 33 CFR 100.1102 Table 1, Item number 16.

The Bullhead City River Regatta is held on the navigable waters of the Colorado River adjacent to Bullhead City, Arizona and Laughlin, Nevada. The waterway is under federal jurisdiction due to the division of two states. The proposed safety zone is deemed necessary by Coast Guard Sector San Diego Captain of the Port to provide for the safety of the event participants and to support the state-led waterway safety efforts. This popular event involves a high number of people, with paid event permits, floating down a six mile portion of the Colorado River on inflatable rafts, inner tubes and floating platforms. This is the only event on this portion of the waterway that restricts public access for a defined period of time during one day of the year.

Because of the high amount of participants, narrow and treacherous portions of the waterway, public access for this small portion of the waterway is limited at the request of local law enforcement and city officials. The sponsor provides adequate notice and the annual event occurs each year on the same approximate date and time, as well as the same portion of the waterway. The small part of the waterway impacted will be reopened as soon as the waterway is deemed safe by the Coast Guard Captain of the Port or his designated representative. The sponsor will provide over 35 patrol and rescue vessels to help facilitate the event and ensure public safety.

D. Discussion of Proposed Rule

The proposed temporary safety zone will encompass a six mile portion of the Colorado River, directly adjacent to Bullhead City, Arizona and Laughlin, Nevada. Specifically, the closed portion of the Colorado River includes the waters between Davis Camp and Rotary Park in Bullhead City, Arizona. In the interest of public and event participant safety, general navigation within the safety zone by non-event participants will be restricted. Except for vessels authorized by the Coast Guard Captain of the Port or his representative, working closely with Bullhead City event command staff, no person or vessel may enter or remain in the regulated area for the safety of event participants. This zone will be in effect from 6 a.m. to 6 p.m. on August 9, 2014. Before the effective period, the Coast Guard will publish a Local Notice to Mariners (LNM) and marine information broadcasts on the day of the event. Should the safety zone no longer be required, the waterway will be reopened as soon as possible for full public use.

E. Regulatory Analyses

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

1. Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. This determination is based on the size and location of the safety zone. Although the safety zone would apply to the entire width of the river for a six mile stretch, traffic would be allowed to pass through the zone before and immediately after the marine event. In addition, with the permission of the Captain of the Port or his designated representative, limited traffic may be authorized on a case-by-case basis. Additionally, before the effective period, the Coast Guard will publish a Local Notice to Mariners (LNM).

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 proposed rule will not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might

be small entities: The owners or operators of private or commercial vessels intending to transit or anchor in that portion of the Colorado River between Davis Camp and Rotary Park between 6 a.m. and 6 p.m. on August 9, 2014.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. Although the safety zone would apply to the entire width of the river for a six mile portion and a majority of the day, traffic may be allowed to pass through the zone on a case-by-case basis with the permission of the Coast Guard Captain of the Port or his designated representative, working closely with marine event law enforcement leadership. In addition, early morning and late afternoon traffic can pass through prior to and immediately after the event. The reopening of the waterway will occur as soon as the waterway is deemed safe. A phased reopening will occur from north to south as the last participants are allowed to enter the waterway on their six mile floating transit. Before the effective period, the Coast Guard and Bullhead City, Arizona will issue maritime and local advisories widely available to the users of the waterway.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

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 proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

4. Collection of Information

This proposed 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 proposed 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This proposed rule would 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 proposed 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 From Environmental Health Risks

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

11. Indian Tribal Governments

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

12. Energy Effects

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

14. Environment

We have analyzed this proposed 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 made a preliminary determination 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 proposed rule involves establishing a temporary safety zone. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A preliminary 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 proposed 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 proposes to amend 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; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T11–632 to read as follows:

§ 165.T11–632 Safety Zone; Bullhead City River Regatta; Bullhead City, AZ.

(a) *Regulated area.* The following area is a temporary safety zone: This zone includes six miles of the Colorado River, from Davis Camp, Bullhead City, Arizona to Rotary Park, Bullhead City, Arizona.

(b) *Regulations.* Before the effective period, the Coast Guard will publish a Local Notice to Mariners (LNM). If the event concludes prior to the scheduled termination time, the Captain of the Port will cease enforcement of this safety zone and will announce the reopening of portions or entire waterway via Broadcast Notice to Mariners. In addition, the following regulations apply:

(1) Entry into, transit through or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port of San Diego or his designated representative.

(2) Mariners can request permission to transit through the safety zone from the Patrol Commander. The Patrol Commander can be contacted on VHF–FM channels 16 and 23.

(3) The operator of any vessel within or in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign, and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a Coast Guard Ensign

(iii) The Coast Guard may be assisted by other federal, state, or local agencies.

(c) *Definitions.* The following definition applies to this section:

(1) Captain of the Port San Diego means the Commander, Coast Guard Sector San Diego.

(2) Designated representative means any commissioned, warrant, or petty officer of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels who have been authorized to act on the behalf of the Captain of the Port.

(d) *Enforcement.* The U.S. Coast Guard may be assisted by Federal, State and local agencies in the patrol and notification of the safety zone.

(e) *Enforcement period.* This section will be enforced from 6 a.m. to 6 p.m. on August 9, 2014 unless cancelled earlier by the Captain of the Port.

Dated: April 15, 2014.

S.M. Mahoney,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2014–11568 Filed 5–19–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

RIN 0648–XD275

Sakhalin Bay-Amur River Beluga Whales; Notice of Petition Availability

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

ACTION: Notification of availability; request for comment.

SUMMARY: NMFS has received a petition to ''designate the Sakhalin Bay-Amur River stock of beluga whales (*Delphinapterus leucas*) as a depleted stock under the Marine Mammal Protection Act (MMPA).'' In accordance with the MMPA, NMFS announces the receipt of the petition and its availability for public review and is soliciting comments on the petition.

DATES: Comments must be received by close of business on June 19, 2014.

ADDRESSES: The petition is available in electronic form via the Internet at *http://www.nmfs.noaa.gov/pr/.* A copy of the petition may be requested from Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

You may submit comments, identified by [NOAA–NMFS–2014–0056], by any of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.*

Mail: Send comments to: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Dr. Shannon Bettridge, Office of Protected Resources, Silver Spring, MD (301) 427–8402.

SUPPLEMENTARY INFORMATION:

Background

Section 3(1)(A) of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1362(1)(A)) defines the term ''depletion'' or ''depleted'' to include any case in which ''the Secretary, after consultation with the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals . . . determines that a species or a population stock is below its optimum sustainable population.'' Section 3(9) of the MMPA (16 U.S.C. 1362(9)) defines ''optimum sustainable population [(OSP)] . . . with respect to any population stock, [as] the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity [(K)] of the habitat and the health of the ecosystem of which they form a constituent element.'' NMFS' regulations at 50 CFR 216.3 clarify the definition of OSP as a population size that falls within a range from the population level of a given species or stock that is the largest supportable within the ecosystem (i.e., K) to its maximum net productivity level (MNPL). MNPL is the population abundance that results in the greatest net annual increment in population numbers resulting from additions to the population from reproduction, less losses due to natural mortality.

The MMPA provides for interested parties to submit a petition to designate a species or stock of marine mammals as depleted. Section 115(a)(3) of the MMPA (16 U.S.C. 1383b(a)(3)) requires NMFS to publish a notice in the **Federal Register** that such a petition has been

received and is available for public review. Within 60 days of receiving a petition, NMFS must publish a finding in the **Federal Register** as to whether the petition presents substantial information indicating that the petitioned action may be warranted.

If NMFS makes a positive 60-day finding, NMFS must promptly initiate a review of the status of the affected population stock of marine mammals. No later than 210 days after receipt of the petition, NMFS must publish a proposed rule as to the status of the species or stock, along with the reasons underlying the proposed status determination. Following a 60-day minimum comment period on the proposed rule, NMFS must publish a final rule within 90 days of the close of the comment period on the proposed rule.

Petition on Sakhalin Bay-Amur River Beluga Whales

On April 23, 2014, NMFS received a petition from the Animal Welfare Institute, Whale and Dolphin Conservation, Cetacean Society International and Earth Island Institute to ''designate the Sakhalin Bay-Amur River stock of beluga whales as depleted under the MMPA.'' The petition alleges that the causes of the decline include the following:

(1) Large-scale commercial hunting from 1915–1963;

(2) Unsustainable removal quotas;

(3) Hunting permits;

(4) Incidental mortality from fishing operations;

(5) Accidental drowning during live-capture operations;

(6) Vessel strikes; and

(7) Other anthropogenic threats.

In accordance with the MMPA, NMFS announces the receipt of this petition, and its availability for public review (see **ADDRESSES**). NMFS also solicits comments and information related to the statements in the petition and additional background on the status of Sakhalin Bay-Amur River beluga whales.

Dated: May 13, 2014.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–11540 Filed 5–19–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–BD81

Fisheries of the Caribbean, Gulf of Mexico and South Atlantic; Amendment 8 to the Fishery Management Plan for Coral, Coral Reefs, and Live/Hardbottom Habitats of the South Atlantic Region

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

ACTION: Notice of availability; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) has submitted Amendment 8 to the Fishery Management Plan for Coral, Coral Reefs, and Live/Hardbottom Habitats of the South Atlantic Region (FMP) (Amendment 8) for review approval, and implementation by NMFS. Amendment 8 proposes actions to expand portions of the northern and western boundaries of the Oculina Bank habitat area of particular concern (HAPC) (Oculina Bank HAPC) and allow transit through the Oculina Bank HAPC by fishing vessels with rock shrimp onboard; modify vessel monitoring systems (VMS) requirements for rock shrimp fishermen transiting through the Oculina Bank HAPC; expand a portion of the western boundary of the Stetson Reefs, Savannah and East Florida Lithotherms, and Miami Terrace Deepwater Coral HAPC (CHAPC) (Stetson-Miami Terrace CHAPC), including modifications to the shrimp fishery access area 1; and expand a portion of the northern boundary of the Cape Lookout Lophelia Banks Deepwater CHAPC (Cape Lookout CHAPC).

DATES: Written comments must be received on or before July 21, 2014.

ADDRESSES: You may submit comments, identified by ''NOAA–NMFS–2014–0065'', by any one of the following methods:

- *Electronic submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2014-0065,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Karla Gore, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of Amendment 8 may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov.* Amendment 8 includes a draft environmental assessment, a Regulatory Flexibility Act analysis, a Regulatory Impact Review, and a Fishery Impact Statement.

FOR FURTHER INFORMATION CONTACT: Karla Gore, telephone: 727–824–5305.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any fishery management plan or amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the **Federal Register** notifying the public that the plan or amendment is available for review and comment.

Background

Recent scientific exploration has identified areas of high relief features and hard bottom habitat outside the boundaries of the existing HAPCs and CHAPCs. During its 2011 October meeting, the Council's Coral Advisory Panel (AP) (Coral AP) recommended the Council revisit the boundaries of the Oculina Bank HAPC, Stetson-Miami Terrace CHAPC, and the Cape Lookout CHAPC to incorporate areas of additional deepwater coral habitat that were previously uncharacterized. The Council reviewed the Coral AP recommendations for expansion of these areas and associated VMS analyses of rock shrimp fishing activity, and approved the measures for public scoping through Comprehensive

Ecosystem-Based Amendment 3. The Council subsequently moved these measures into Amendment 8. The Council's Coral, Habitat, Deepwater Shrimp, and Law Enforcement APs worked collectively to refine the Coral AP recommendations and provided input to the Council on expanding the boundaries of the HAPC and CHAPCs and establishing a transit provision in the Oculina Bank HAPC.

The Council approved the amendment during its September 2013 meeting and submitted Amendment 8 to NMFS for agency review under procedures of the Magnuson-Stevens Act.

Management Measures Contained in Amendment 8

Amendment 8 would expand the boundaries of the Oculina Bank HAPC, the Stetson-Miami Terrace CHAPC, and the Cape Lookout CHAPC to protect deepwater coral ecosystems. The amendment would also allow transit through the Oculina HAPC by fishing vessels with rock shrimp onboard. In addition, Amendment 8 would modify the VMS requirements for rock shrimp fishermen.

Expansion of Oculina Bank HAPC

The Oculina Bank HAPC was first established in 1984, with implementation of the FMP (49 FR 29607, August 22, 1984). Within the Oculina Bank HAPC, it is unlawful to use a bottom longline, bottom trawl, dredge, pot or trap, and if aboard a fishing vessel, it is unlawful to anchor, use an anchor and chain, or use a grapple and chain. Additionally, it is unlawful to fish for or possess rock shrimp in or from the Oculina Bank HAPC on board a fishing vessel. Currently, the Oculina Bank HAPC is a 289-square mile (749-square km) area. If implemented, Amendment 8 would increase the size of the Oculina HAPC by 405.42 square miles (1,050 square km), for a total area of 694.42 square miles (1,798.5 square km) and would extend these prohibitions to the larger area (except for a limited transit provision described below) and increase the protection of coral.

Transit Provision Through Oculina Bank

Amendment 8 proposes a transit provision to allow fishing vessels with rock shrimp onboard to transit the Oculina Bank HAPC under limited circumstances. To be considered to be in transit, vessels would be required to maintain a minimum speed of 5 knots, maintain a VMS ping (signal) rate of 1 ping per 5 minutes, and a vessel's gear would be required to be appropriately stowed (*i.e.,* doors and nets would be required to be out of water and onboard the deck or below the deck of the vessel). This transit provision would allow rock shrimp fishermen with rock shrimp onboard their vessel to access additional fishing grounds in less time using less fuel than if the fishermen were required to travel around the Oculina Bank HAPC.

Expansion of the Stetson-Miami Terrace CHAPC and the Cape Lookout CHAPC

The Stetson-Miami Terrace CHAPC and the Cape Lookout CHAPC were established in 2010 through the Comprehensive Ecosystem-Based Amendment 1 to protect deepwater coral ecosystems (75 FR 35330, June 22, 2010). Within the CHAPCs, including the Stetson-Miami Terrace and Cape Lookout CHAPCs, it is unlawful to use a bottom longline, trawl (mid-water or bottom), dredge, pot or trap, and if aboard a fishing vessel, it is unlawful to anchor, use an anchor and chain, or use a grapple and chain. Additionally, it is unlawful to fish for or possess coral in or from the CHAPCs on board a fishing vessel. Amendment 8 would increase the size of the Stetson-Miami Terrace CHAPC by 490 square mile (1,269 square km), for a total area of 24,018 square miles (62,206 square km), and increase the size of the Cape Lookout CHAPC by 10 square miles (26 square km), for a total area of 326 square miles (844 square km), and would extend the gear prohibitions to the larger area to increase protection of deepwater coral ecosystems. The expansion of the Stetson-Miami Terrace CHAPC would also provide royal red shrimp fishermen a new zone adjacent to the existing shrimp access area A (proposed to be renamed in the rulemaking associated with Amendment 8 to be shrimp access area 1) within which they can haul back fishing gear without drifting into an area where their gear is prohibited. Thus, this shrimp fishery access area would be expanded to include the new haul-back zone if this rule is implemented.

A proposed rule that would implement measures outlined in Amendment 8 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating Amendment 8 to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If the determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Councils submitted Amendment 8 for Secretarial review, approval, and implementation. Comments received by July 21, 2014, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the amendment. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: May 15, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–11622 Filed 5–19–14; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 79, No. 97

Tuesday, May 20, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

WTO Agricultural Quantity-Based Safeguard Trigger Levels

AGENCY: Foreign Agricultural Service, U.S. Department of Agriculture.

ACTION: Notice of product coverage and trigger levels for safeguard measures provided for in the World Trade Organization (WTO) Agreement on Agriculture.

SUMMARY: This notice lists the updated quantity-based trigger levels for products which may be subject to additional import duties under the safeguard provisions of the WTO Agreement on Agriculture. This notice also includes the relevant period applicable for the trigger levels on each of the listed products.

DATES: May 20, 2014.

FOR FURTHER INFORMATION CONTACT: Souleymane Diaby, International Trade Specialist, Import Policies and Export Reporting Division, Office of Trade Programs, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1021, 1400 Independence Avenue SW., Washington, DC 20250–1021; by telephone (202) 720–2916; by fax (202) 720–0876; or by email *Souleymane.Diaby@fas.usda.gov*.

SUPPLEMENTARY INFORMATION: Article 5 of the WTO Agreement on Agriculture provides that additional import duties may be imposed on imports of products subject to tariffication as a result of the Uruguay Round, if certain conditions are met. The agreement permits additional duties to be charged if the price of an individual shipment of imported products falls below the average price for similar goods imported during the years 1986–88 by a specified percentage. It also permits additional duties to be imposed if the volume of imports of an article exceeds the average of the most recent 3 years for which data are available by 5, 10, or 25 percent, depending on the article. These additional duties may not be imposed on quantities for which minimum or current access commitments were made during the Uruguay Round negotiations, and only one type of safeguard, price or quantity, may be applied at any given time to an article.

Section 405 of the Uruguay Round Agreements Act requires that the President cause to be published in the **Federal Register** information regarding the price and quantity safeguards, including the quantity trigger levels, which must be updated annually based upon import levels during the most recent 3 years. The President delegated this duty to the Secretary of Agriculture in Presidential Proclamation No. 6763, dated December 23, 1994, 60 FR 1005 (Jan. 4, 1995). The Secretary of Agriculture further delegated this duty, which lies with the Administrator of the Foreign Agricultural Service (*7 CFR 2.43*(a)(2)). The Annex to this notice contains the updated quantity trigger levels.

Additional information on the products subject to safeguards and the additional duties which may apply can be found in subchapter IV of Chapter 99 of the Harmonized Tariff Schedule of the United States (2014) and in the Secretary of Agriculture's Notice of Uruguay Round Agricultural Safeguard Trigger Levels, published in the **Federal Register** at *60 FR 427* (Jan. 4, 1995).

Notice: As provided in Section 405 of the Uruguay Round Agreements Act, consistent with Article 5 of the WTO Agreement on Agriculture, the safeguard quantity trigger levels previously notified are superceded by the levels indicated in the Annex to this notice. The definitions of these products were provided in the Notice of Safeguard Action published in the **Federal Register**, at 60 FR 427 (Jan. 4, 1995).

Issued at Washington, DC, this 25th day of April, 2014.

Suzanne Palmieri,

Acting Administrator, Foreign Agricultural Service.

ANNEX-QUANTITY-BASED SAFEGUARD TRIGGER

Product	Trigger level	Period
Beef	237,876 mt	January 1, 2014 to December 31, 2014.
Mutton	5,278 mt	January 1, 2014 to December 31, 2014.
Cream	129,711 liters	January 1, 2014 to December 31, 2014.
Evaporated or Condensed Milk	952,925 kilograms	January 1, 2014 to December 31, 2014.
Nonfat Dry Milk	482,615 kilograms	January 1, 2014 to December 31, 2014.
Dried Whole Milk	3,315,900 kilograms	January 1, 2014 to December 31, 2014.
Dried Cream	10,935 kilograms	January 1, 2014 to December 31, 2014.
Dried Whey/Buttermilk	41,537 kilograms	January 1, 2014 to December 31, 2014.
Butter	6,689,056 kilograms	January 1, 2014 to December 31, 2014.
Butter Oil and Butter Substitutes	5,321,260 kilograms	January 1, 2014 to December 31, 2014.
Dairy Mixtures	12,688,511 kilograms	January 1, 2014 to December 31, 2014.
Blue Cheese	4,499,916 kilograms	January 1, 2014 to December 31, 2014.
Cheddar Cheese	8,055,448 kilograms	January 1, 2014 to December 31, 2014.
American-Type Cheese	201,684 kilograms	January 1, 2014 to December 31, 2014.
Edam/Gouda Cheese	6,927,820 kilograms	January 1, 2014 to December 31, 2014.
Italian-Type Cheese	18,259,276 kilograms	January 1, 2014 to December 31, 2014.
Swiss Cheese with Eye Formation	25,055,569 kilograms	January 1, 2014 to December 31, 2014.
Gruyere Process Cheese	3,293,010 kilograms	January 1, 2014 to December 31, 2014.
Lowfat Cheese	157,337 kilograms	January 1, 2014 to December 31, 2014.
NSPF Cheese	46,496,622 kilograms	January 1, 2014 to December 31, 2014.

ANNEX-QUANTITY-BASED SAFEGUARD TRIGGER—Continued

Product	Trigger level	Period
Peanuts	21,598 mt	April 1, 2013 to March 31, 2014.
	20,493 mt	April 1, 2014 to March 31, 2015.
Peanut Butter/Paste	3,789 mt	January 1, 2014 to December 31, 2014.
Raw Cane Sugar	1,033,635 mt	October 1, 2013 to September 30, 2014.
	599,416 mt	October 1, 2014 to September 30, 2015.
Refined Sugar and Syrups	215,423 mt	October 1, 2013 to September 30, 2014.
	198,613 mt	October 1, 2014 to September 30, 2015.
Blended Syrups	145 mt	October 1, 2013 to September 30, 2014.
	60 mt	October 1, 2014 to September 30, 2015.
Articles Over 65% Sugar	238 mt	October 1, 2013 to September 30, 2014.
	269 mt	October 1, 2014 to September 30, 2015.
Articles Over 10% Sugar	14,942 mt	October 1, 2013 to September 30, 2014.
	15,471 mt	October 1, 2014 to September 30, 2015.
Sweetened Cocoa Powder	124 mt	October 1, 2013 to September 30, 2014.
	84 mt	October 1, 2014 to September 30, 2015.
Chocolate Crumb	8,996,737 kilograms	January 1, 2014 to December 31, 2014.
Lowfat Chocolate Crumb	173,391 kilograms	January 1, 2014 to December 31, 2014.
Infant Formula Containing Oligosaccharides	380,061 kilograms	January 1, 2014 to December 31, 2014.
Mixes and Doughs	178 mt	October 1, 2013 to September 30, 2014.
	170 mt	October 1, 2014 to September 30, 2015.
Mixed Condiments and Seasonings	593 mt	October 1, 2013 to September 30, 2014.
	653 mt	October 1, 2014 to September 30, 2015.
Ice Cream	2,241,098 liters	January 1, 2014 to December 31, 2014.
Animal Feed Containing Milk	74,236 kilograms	January 1, 2014 to December 31, 2014.
Short Staple Cotton	2,385,410 kilograms	September 20, 2013 to September 19, 2014.
	2,899,397 kilograms	September 20, 2014 to September 19, 2015.
Harsh or Rough Cotton	60 kilograms	August 1, 2013 to July 31, 2014.
	0 kilograms	August 1, 2014 to July 31, 2015.
Medium Staple Cotton	57,587 kilograms	August 1, 2013 to July 31, 2014.
	57,587 kilograms	August 1, 2014 to July 31, 2015.
Extra Long Staple Cotton	505,834 kilograms	August 1, 2013 to July 31, 2014.
	860,694 kilograms	August 1, 2014 to July 31, 2015.
Cotton Waste	589,849 kilograms	September 20, 2013 to September 19, 2014.
	443,246 kilograms	September 20, 2014 to September 19, 2015.
Cotton, Processed, Not Spun	50,873 kilograms	September 20, 2013 to September 19, 2014.
	4,035 kilograms	September 20, 2014 to September 19, 2015.

[FR Doc. 2014–11613 Filed 5–19–14; 8:45 am]
BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Mendocino National Forest; Upper Lake Ranger District; California; Pine Mountain Late-Successional Reserve Habitat Protection and Enhancement Project

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Mendocino National Forest, Upper Lake Ranger District, proposes to conduct fuels reduction and habitat enhancement treatments on approximately 7,830 acres southwest of Lake Pillsbury in the Pine Mountain vicinity. The Planning Area is 10,200 acres in size and comprises both Late Successional Reserve (LSR) and Matrix land designations. Of the approximately 7,830 acres to be treated, ~5690 acres are within the Pine Mountain LSR and ~2,140 acres are in Matrix lands. The project emphasizes fuel reduction activities and habitat management for the protection and enhancement of late-successional species. The project area was chosen for treatment based on past fire history and the existing conditions that pose a threat to late-successional habitat.

The Pine Mountain LSR is one of the smaller LSRs within the Forest and provides a link between the Blue Slides LSR seven miles to the southeast and the Sanhedrin LSR, 1.25 miles to the north. This LSR also provides a critical link to State and other Federal lands to the south and west. This area is currently part of Northern Spotted Owl Critical Habitat (Unit 11, Subunit ICC 5), a designated land allocation by U.S. Fish and Wildlife Service, and also includes 1.6 miles of critical habitat for anadromous fish. These habitats are located within both the LSR and matrix lands. The Project Area is located approximately 15 miles north of the town of Upper Lake, primarily in T18N, R10W, and portions of T18N, R11W; T17N, R10W; and T17N, R11W, Mount Diablo Base Meridian.

DATES: Comments concerning the scope of the analysis must be received by June 19, 2014. The draft environmental impact statement is expected in August 2014 and the final environmental impact statement is expected in December 2014.

ADDRESSES: Send written comments to Forest Supervisor, 825 N. Humboldt Avenue, Willows, CA 95988. Comments may also be sent via email to *comments-pacificsouthwest-mendocino@fs.fed.us*, or via facsimile to (530) 934–7384.

A public meeting will be held on May 30, 2014 to enable those with interest in the project to obtain more information, ask questions, and make comments for the development of the EIS and the alternatives. A field trip the following day may be held if enough interest is shown.

FOR FURTHER INFORMATION CONTACT: Frank Aebly, at the Upper Lake Ranger District, 10025 Elk Mountain Road, Upper Lake, CA 95485, (707) 275–2361, or *faebly@fs.fed.us*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information

Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

Treatments in the Pine Mountain area are being proposed for several reasons: To reduce the risk to late-successional habitat loss from wildfire through vegetative treatments designed to modify and restore characteristic fire regimes and forest structure; improve forest health, vigor, and resilience to fire, insects and disease as well as enhance the diversity of plant and animal habitat found within the project area while restoring and enhancing late successional habitat; and to manage National Forest lands (including roads and trails) to meet the Aquatic Conservation Strategy Objectives and direction set forth in the Mendocino National Forest Land and Resource Management Plan (LRMP).

Proposed Action

The Proposed Action includes the following treatments to achieve the desired conditions:

- Fuel treatments may be applied as prescribed fire only or as a combination of prescribed fire with mechanical treatments, piling and pile burning.
- Mechanical treatments will include mastication or thinning of trees. Thinning of trees less than 10 inches in diameter at breast height (dbh) will be implemented by Forest Service personnel or through service contracts. Thinning of trees greater than 10 inches dbh will be implemented through a commercial contract. These treatments are intended to achieve ecological objectives such as restoring a fire-resilient stand structure, managing for open habitat (that includes shrubs and hardwoods), hastening the development of desired late successional stand characteristics in plantations as well as accelerating the development and vigor of larger trees outside plantations. Treatments would reduce competition between trees for onsite resources such as moisture, light, nutrients and growing space; and would reduce overly dense stand conditions which have led to declining stand health and uncharacteristic fire regimes.
- Prescribed fire treatments will be applied in chaparral areas, following direction provided by the LRMP, to create a mosaic of age classes which provides for the development of heterogeneous chaparral habitat and interruption of fuel continuity.
- Prescribed fire treatment will be applied in forested areas with excessive accumulations of natural fuels, following direction provided by the LRMP.
- Shaded fuel breaks will be constructed following direction provided by LSR Assessment to provide a buffer against fires originating from the west and moving eastward with the prevailing winds. The fuel breaks will also assist in prescribed fire activities.

Other proposed activities include road management such as road maintenance, drainage improvement, road decommissioning, temporary road construction and rehabilitation, and non-system trail closures. The Interdisciplinary Team is developing design features and Best Management Practices to protect water, wildlife, aquatic, archaeological, cultural, and botanical resources.

Responsible Official

The Responsible Official for this project is Sherry Tune, Forest Supervisor, 825 N. Humboldt Avenue, Willows, CA 95988.

Nature of Decision To Be Made

The Forest Supervisor will decide whether to implement the proposed action, take an alternative action that meets the purpose and need, or take no action.

Scoping Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. A public meeting will be held on May 30, 2014, to enable those with interest in the project to obtain more information, ask questions, and make comments for the development of the EIS and the alternatives. A field trip the following day may be held if enough interest is shown.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this project. Comments submitted anonymously will be accepted and considered, however.

Dated: May 7, 2014.

Sherry A. Tune,

Forest Supervisor.

[FR Doc. 2014–11609 Filed 5–19–14; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Commodity Credit Corporation

[Docket No. NRCS–2014–0004]

Notice of Request for Revision of a Currently Approved Information Collection

AGENCY: Natural Resources Conservation Service (NRCS) and the Commodity Credit Corporation (CCC), United States Department of Agriculture (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 NRCS' intention to request an extension for, and a revision to, a currently approved information collection for Long-Term Contracting.

DATES: *Effective Date:* This is effective May 20, 2014.

Comment Date: Submit comments on or before July 21, 2014.

ADDRESSES: Comments should be submitted, identified by Docket Number NRCS–2014–0004, using any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Public Comments Processing, Attention: Docket No. NRCS–2014–0004, Regulatory and Agency Policy Team, Strategic Planning and Accountability, Department of Agriculture, Natural Resources Conservation Service, 5601 Sunnyside Avenue, Building 1–1112D, Beltsville, Maryland 20705.

NRCS will post comments on *http://www.regulations.gov.* In general, personal information provided with comments will be posted. If your comment includes your address, phone number, email, or other personal identifying information, your entire comments, including personal information, may be available to the public. You may ask in your comment that your personal identifying information be withheld from public view, but this cannot be guaranteed.

FOR FURTHER INFORMATION CONTACT: Decunda Duke-Bozeman, Room 6817

South Building, Easement Program Division, U.S. Department of Agriculture, Natural Resources Conservation Service, 1400 Independence Avenue SW., Washington, DC 20250; telephone: (202) 260–9099.

SUPPLEMENTARY INFORMATION:

Title: Long-Term Contracting.

OMB Number: 0578–0013.

Expiration Date of Approval: 3 years from date of approval.

Type of Request: To revise a currently approved information collection to update and clarify information in the information collection.

Abstract: The primary objective of NRCS is to work in partnership with the American people and the farming and ranching community to conserve and sustain our natural resources on privately owned land. The purpose of the Long-Term Contracting information collection is to allow for programs to provide Federal technical and financial cost-sharing assistance through long-term contracts to eligible producers, landowners, and entities. These contracts provide for making land use changes and installing conservation measures and practices to conserve, develop, and use the soil, water, and related natural resources on private lands. Under the terms of the agreement, the participant agrees to apply, or arrange to apply, the conservation treatment specified in the conservation plan. In return for this agreement, Federal financial assistance payments are made to the land user, or third party, upon successful application of the conservation treatment. Additionally, NRCS purchases easements for the long-term protection of the property and provides for the protection and management of the property for the life of the easement.

The information collected through this package is used by NRCS to ensure the proper use of program funds.

The programs in this information collection that continue to be subject to the requirements of the Paperwork Reduction Act are listed in Table A. This request will clarify the programs in this information collection. Table B shows only the burden for those programs that are subject to the requirements of the Paperwork Reduction Act. The two new forms added to this information collection are the Agreements for the Purchase of Conservation Easements NRCS–LTP–70 for the Healthy Forests Reserve Program and the NRCS–LTP–80 for the Emergency Watershed Program Floodplain Easement.

TABLE A—CONSERVATION PROGRAMS SUBJECT TO THE REQUIREMENTS OF THE PAPERWORK REDUCTION ACT

Program	Description
Emergency Conservation Program (ECP) (7 CFR part 701).	USDA Farm Service Agency's ECP provides emergency funding and technical assistance for farmers and ranchers to rehabilitate farmland damaged by natural disasters and for carrying out emergency water conservation measures in periods of severe drought. Funding for ECP is appropriated by Congress.
Emergency Watershed Program (EWP) (7 CFR part 624)	The EWP was initiated in 1950 and is administered by NRCS. It provides technical and financial assistance to local institutions for the removal of storm and flood debris from stream channels and for the restoration of stream channels and levees to reduce the threat to life and property. The program also provides for establishing permanent easements in floodplains with private landowners.
Healthy Forests Reserve Program (HFRP) (7 CFR part 625).	HFRP is a voluntary program established for the purpose of restoring and enhancing forest ecosystems to: 1) Promote the recovery of threatened and endangered species; 2) improve biodiversity; and 3) enhance carbon sequestration. The HFRP was signed into law as part of the Healthy Forests Restoration Act of 2003 and amended by the 2008 Act. The Agricultural Act of 2014 made minor changes to HFRP land eligibility and funding.
Resource Conservation and Development Program (RC&D).	The RC&D was initiated in 1962 and is administered by NRCS. Through this program, NRCS assists multi-county areas in enhancing conservation, water quality, wildlife habitat, recreation, and rural development. The program provides technical and limited financial assistance for the planning and installation of approved projects.
Watershed Protection and Flood Prevention Program (WRFPP) (7 CFR part 622).	The WPFPP, otherwise known as P.L. 566, was initiated in 1954 and is administered by NRCS. It assists State and local units of government in flood prevention, watershed protection, and water management. Part of this effort involves the establishment of conservation practices on private lands to reduce erosion, sedimentation, and runoff.

TABLE B—BURDEN FOR REQUIRED PROGRAMS UNDER THE PAPERWORK REDUCTION ACT

Form	Purpose	Program(s)	* Number submitted annually
AD–1153, NRCS–CPA–1200	Application	EWP, WPFPP, HFRP	750; Estimated time per participant is .69 per response.
AD–1154, NRCS–CPA–1202	Contract or Agreement	EWP, HFRP	150; Estimated time per participant is .69 per response.
AD–1155, NRCS–CPA–1155	Schedule of Practices/Costs and signature sheet.	EWP, WPFPP, HFRP	300; Estimated time per participant is .75 per response.
AD–1156, NRCS–CPA–1156	Schedule Modification	EWP, WPFPP, HFRP	25; Estimated time per participant is .60 per response.
AD–1157	Option Agreement to Purchase	EWP, HFRP	165; Estimated time per participant is .69 per response.
AD–1157A	Option Agreement to Purchase Amendment.	EWP, HFRP	120; Estimated time per participant is .69 per response.
AD–1158	Subordination Agreement and Limited Lien Waiver.	EWP, HFRP	100; Estimated time per participant is .69 per response.

TABLE B—BURDEN FOR REQUIRED PROGRAMS UNDER THE PAPERWORK REDUCTION ACT—Continued

Form	Purpose	Program(s)	* Number submitted annually
AD–1159	Notice of Intent to Continue	Not used by any non-exempt programs	
AD–1160	Compatible Use Authorization	EWP, HFRP	200; Estimated time per participant is .66 per response.
AD–1161	Application for Payment	EWP, HFRP	200; Estimated time per participant is .58 per response.
NRCS–CPA–68	Conservation Plan	CTA, EWP, HFRP	2,700; Estimated time per participant is .69 per response.
NRCS–LTP–13, NRCS–CPA–013	Status/Contract Review	EWP, WPFPP, HFRP	250; Estimated time per participant is .69 per response.
NRCS–LTP–20, NRCS–CPA–260	Warranty Easement Deed, Conservation Easement Deed.	EWP, HFRP	150; Estimated time per participant is .69 per response.
NRCS–LTP–70	Agreement for the Purchase of Conservation Easement.	HFRP	50; Estimated time per participant is .69 per response.
NRCS–LTP–80	Agreement for the Purchase of Conservation Easement.	EWP	120; Estimated time per participant is .69 per response.
NRCS–LTP–151	Contract Violation Notification	EWP, HFRP	20; Estimated time per participant is .69 per response.
NRCS–LTP–152	Transfer Agreement	EWP, HFRP	5; Estimated time per participant is 1.0 per response.
NRCS–LTP–153	Agreement Covering Non-Compliance With Provisions of the Contract.	EWP, HFRP	10; Estimated time per participant is .69 per response.

* The number submitted annually provides the number of forms completed by respondents and the approximate number of hours to complete each form. The response time is taken from the forms themselves as identified in the OMB Disclosure Statement where available.

Estimate of Burden: Public reporting burden for this collection of information is as identified by Form in Table B and ranges from .58 hour to 1 hour per respondent.

Respondents: Program Participants.

Estimated Number of Respondents: 5,315.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 3,656.65 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.

Signed this May 2, 2014, in Washington, DC.

Jason A. Weller,

Chief, Natural Resources Conservation Service and Vice President, Commodity Credit Corporation.

[FR Doc. 2014–11680 Filed 5–19–14; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Funding Availability for the Intermediary Relending Program

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces $18.9 million in program funding available for Fiscal Year 2014 for the Intermediary Relending Program (IRP). The IRP provides direct loans to intermediaries that establish programs for the purpose of providing loans to ultimate recipients for business facilities and community developments in a rural area. The Agency will make awards each of the remaining Federal fiscal quarters. In the event all program funds are not obligated in a quarter, the remaining unobligated funds will be carried over to the subsequent quarter.

This Notice is being issued in accordance with the new requirements set forth by the Agricultural Act of 2014 (Farm Bill). The 2014 Farm Bill consolidates IRP's authority under the Consolidated Farm and Rural Development Act (Con Act). Consequently, the Agency must comply with the standard 'rural' and 'rural area' definition in the Con Act under 7 U.S.C. 1991(a)(13).

DATES: For Fiscal Year 2014, applications for regular IRP funding must be received by June 30, 2014, for consideration for Fiscal Year 2014 funds. Requests for set-aside funding must be received by June 19, 2014. Other than the Rural Economic Area Partnership (REAP) set-aside, unused set-aside funding described below will be pooled and revert to the national reserve on July 1, 2014. The REAP set-aside will terminate after August 15, 2014. Any unused REAP set-aside will revert to the national reserve thereafter. Applications received after June 30, 2014, may be considered for funding in Fiscal Year 2014, subject to availability of funds or will be considered for award of funds available in the first quarter of Fiscal Year 2015, if the Agency determines that program requirements remain substantially unchanged.

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** for addresses concerning IRP applications for Fiscal Year 2014 funds.

FOR FURTHER INFORMATION CONTACT: For further information on this Notice, please contact the U.S. Department of Agriculture (USDA) Rural Development State Office for your respective State, as provided in the **SUPPLEMENTARY INFORMATION** section of this Notice.

SUPPLEMENTARY INFORMATION:

Fiscal Year 2014 Applications for the Intermediary Relending Program

Applications. Applications and forms may be obtained from any Rural Development State Office. Applicants must submit an original complete application to the USDA Rural Development State Office in the State where the applicant's project is located. A list of the USDA Rural Development State Offices addresses and telephone numbers can be found online at: *http://www.rurdev.usda.gov/StateOfficeAddresses.html.*

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act, the information collection requirements associated with the IRP, as covered in this Notice, has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0062.

Overview

Federal Agency Name: Rural Business-Cooperative Service.

Solicitation Opportunity Title: Intermediary Relending Program.

Announcement Type: Initial announcement.

Catalog of Federal Domestic Assistance Number. The Catalog of Federal Domestic Assistance Number for this Notice is 10.767.

DATES: Completed applications must be received in the USDA Rural Development State Offices no later than the Federal fiscal quarter deadline of June 30, 2014, to be considered for funds available in Fiscal Year 2014. Requests for set-aside funding must be received by June 19, 2014. Other than the REAP set-aside, unused set-aside funding will be pooled and revert to the national reserve on July 1, 2014. The REAP set-aside will be pooled and revert to the national reserve on August 16, 2014. Applications received after the FY 2014 Federal fiscal quarter deadline will be considered for award with other carryover applications for funds available in the first quarter of Fiscal Year 2015 provided the Agency determines that program requirements remain substantially unchanged.

Availability of Notice and Rule. This Notice for the IRP is available on the USDA Rural Development Web site at *http://www.rurdev.usda.gov/BCP_IRP.html.*

I. Funding Opportunity Description

A. *Purpose of the Intermediary Relending Program.* The program purpose is to provide direct loans to intermediaries that establish programs for the purpose of providing loans to ultimate recipients for business facilities and community developments in a 'rural' area, as defined in 7 U.S.C. 1991(a)(13).

B. *Statutory Authority.* This program is authorized by Section 6017 of the Farm Bill.

C. *Definition of Terms.* Other than as provided herein, the definitions applicable to this Notice are published at 7 CFR 4274.302.

II. Award Information

A. *Type of Award:* Loan

B. *Fiscal Year Funds:* FY 2014

C. *Funding Availability:* The Agency has available a program level in Fiscal Year 2014 of $18.9 million. Of this total, $2.457 million is be available for Native American Set-Aside, $4.725 million is available for Mississippi Delta Region Counties Set-Aside, and $2.314 million is available for Rural Economic Area Partnership (REAP) zones Set-Aside.

Requests for set-aside funding must be received by June 19, 2014. Except for the REAP set-aside, unused set-aside funding will be pooled and revert to the national reserve on July 1, 2014. The REAP set-aside will be pooled and revert to the national reserve on August 16, 2014. IRP regular funding must be obligated by September 30, 2014.

D. *Approximate Number of Awards:* 25

E. *Awards:* Intermediaries submitting a loan request may receive a maximum award up to $1 million. Requests for set-aside funding may receive a maximum award up to $1 million.

F. *Anticipated Award Dates:*

- August 31, 2014, for applications received by June 30, 2014.

III. Eligibility Information

A. *Eligible Applicants.* To be eligible for this program, the applicant must meet the eligibility requirements in 7 CFR 4274.307. Loan applications submitted and approved for funding by the Agency prior to February 7, 2014, are eligible under the ''rural area'' definition at 7 CFR 4274.302. All other applications must meet the definition of ''rural'' or ''rural area'' as described in 7 U.S.C. 1991(a)(13) of the 2014 Consolidated Farm and Rural Development Act.

C. *Cost Share Requirements.* The IRP revolving fund share of the eligible project cost of an ultimate recipient's project funded under this Notice shall not exceed the lesser of (a) $250,000 or (b) 75 percent of the total cost of the ultimate recipient's project for which the loan is being made. The cost share requirement shall be met by the intermediary in accordance with the requirements specified in 7 CFR 4274.331(b).

D. *Other Eligibility Requirements.* Applications will only be accepted from eligible intermediaries as described in 7 CFR 4274.314(b). Awards each Federal 2014 fiscal quarter will be based on ranking with the highest ranking applications being funded first, subject to available funding.

E. *Completeness Eligibility.* All applications must be submitted as a complete application, in one package. Applications will not be considered for funding if they do not provide sufficient information to determine eligibility or are otherwise not suitable for evaluation. Such applications will be withdrawn.

IV. Fiscal Year 2014 Application and Submission Information

A. *Application Submittal.* Loan applications must be submitted in paper format. Applications may not be submitted by electronic mail.

Applications must be organized in the same order set forth in 7 CFR 4274.343(a). To ensure timely delivery, applicants are strongly encouraged to submit their applications using an overnight, express, or parcel delivery service.

All applicants must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number, which can be obtained at no cost via a toll-free request line at 1–866–705–5711 or online at *http://fedgov.dnb.com/webform.* This also includes sub-recipients.

Please note that applicants can locate the downloadable application package for this program by the Catalog of Federal Domestic Assistance Number, which is 10.767.

B. *Content and Form of Submission.* An application must contain all of the required elements outlined in 7 CFR 4274.343(a). Each application must address the applicable scoring criteria presented in 7 CFR 4274.344(c).

C. *Submission Dates and Times.* The original complete application must be received by the USDA Rural Development State Office no later than 4:30 p.m. local time by the application deadline dates listed above, regardless of the postmark date, in order to be considered for funds available in that Federal 2014 fiscal quarter.

Unless withdrawn by the applicant and as long as the Agency determines that program requirements remain substantially unchanged, completed applications that have not yet been funded will be retained by the Agency for consideration in subsequent reviews through a total of four consecutive quarterly reviews. Applications that

remain unfunded after four quarterly reviews, including the initial quarter in which the application was completed, will not be considered further for an award. The applicant must submit a new application at that time if it desires further funding consideration.

V. Application Review Information

Awards under this Notice will be made on a competitive basis. Each application received in the USDA Rural Development State Office will be reviewed, scored, and ranked in accordance with the program requirements. Applications will be scored based on the applicable scoring criteria contained in 7 CFR 4274.344(c).

VI. Award Administration Information

Successful applicants will receive notification for funding from the USDA Rural Development State Office. Applicants must comply with all applicable statutes and regulations before the award will be approved. Unsuccessful applications will receive notification by mail.

VII. Agency Contacts

For general questions about this Notice, please contact your USDA Rural Development State Office as provided in the Addresses section of this Notice.

Federal Funding Accountability and Transparency Act

All applicants, in accordance with 2 CFR part 25, must have a DUNS number, which can be obtained at no cost via a toll-free request line at 1–866–705–5711 or online at *http://fedgov.dnb.com/webform.* Similarly, all grant applicants must be registered in the System for Award Management (SAM) prior to submitting an application. Grant applicants may register for the SAM at *http://www.sam.gov.* All recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive total compensation in accordance with 2 CFR part 170.

Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the basis of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or whether all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form (PDF), found online at *http://www.ascr.usda.gov/complaint_filing_cust.html,* or at any USDA office, or call (866) 632–9992 to request the form. You may write a letter containing all of the information requested in the form. Send your completed complaint from or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov.*

Individuals who are deaf, hard of hearing or have speech disabilities and wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish.)

Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD.)

Dated: May 13, 2014.

Ashli Palmer,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2014–11450 Filed 5–19–14; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Funds Availability for the Rural Microentrepreneur Assistance Program for Fiscal Year 2014

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the funds available for loans and grants under the Rural Microentrepreneur Assistance Program (RMAP) pursuant to 7 CFR part 4280, subpart D for fiscal year (FY) 2014.

Total Funding: $25,461,661
Microlender TA Grants: $1,500,000
Loans: $23,961,661

The minimum loan amount a Microenterprise Development Organization (MDO) may borrow under this program is $50,000. The maximum loan any MDO may borrow in any given year is $500,000. The commitment of program dollars will be made to applicants of selected responses that have fulfilled the necessary requirements for obligation.

All applicants are responsible for any expenses incurred in developing their applications.

DATES: Applications will be accepted on a quarterly basis using Federal fiscal quarters. Completed applications must be received in the U.S. Department of Agriculture (USDA) Rural Development State Offices no later than the deadline of June 30, 2014, to be considered for funds available in FY 2014. Applications received after a Federal fiscal quarter deadline will be reviewed and evaluated for funding in the next Federal fiscal quarter. Depending on funding availability, eligible applications not funded in FY 2014 may continue to be considered in FY 2015.

ADDRESSES: Applications and forms may be obtained from any Rural Development State Office. Applicants must submit an original complete application to the USDA Rural Development State Office in the State where the applicant's headquarters is located. A list of the USDA Rural Development State Offices addresses and telephone numbers can be found online at: *http://www.rurdev.usda.gov/StateOfficeAddresses.html.*

FOR FURTHER INFORMATION CONTACT: For further information on this Notice, please contact the USDA Rural Development State Office for your respective State, as provided in the **ADDRESSES** section of this Notice.

SUPPLEMENTARY INFORMATION:

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' Rural Development has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 et seq., an Environmental Impact Statement is not required.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act, the paperwork burden associated with this Notice has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0570–0062.

Overview

Federal Agency Name: Rural Business-Cooperative Service (an agency of the U.S. Department of Agriculture in the Rural Development mission area).

Solicitation Opportunity Title: Rural Microentrepreneur Assistance Program.

Announcement Type: Initial announcement.

Catalog of Federal Domestic Assistance Number (CFDA): The CFDA number for this Notice is 10.870.

Dates: Applications will be accepted on a quarterly basis using Federal fiscal quarters. Completed applications must be received in the U.S. Department of Agriculture (USDA) Rural Development State Offices no later than the deadline of June 30, 2014, to be considered for funds available in FY 2014. Applications received after a Federal fiscal quarter deadline will be reviewed and evaluated for funding in the next Federal fiscal quarter. Depending on funding availability, eligible applications not funded in FY 2014 may continue to be considered in FY 2015.

Availability of Notice and Rule. This Notice and the interim rule for RMAP are available on the USDA Rural Development Web site at *http://www.rurdev.usda.gov/BCP_RMAP.html.*

I. Funding Opportunity Description

A. *Purpose of the Program.* The purpose of RMAP is to support the development and ongoing success of rural microentrepreneurs and microenterprises (businesses generally with 10 employees or fewer and in need of financing in the amount of $50,000 or less as defined in 7 CFR 4280.302).

Assistance provided to rural areas under this program may include the provision of loans and grants to rural MDOs for the provision of microloans to rural microenterprises and microentrepreneurs; provision of business-based training and technical assistance to rural microborrowers and potential microborrowers; and other such activities as deemed appropriate by the Secretary to ensure the development and ongoing success of rural microenterprises.

B. *Statutory Authority.* The RMAP is authorized by Section 379E of the Consolidated Farm and Rural Development Act (7 USC 2008s). Regulations are contained in 7 CFR part 4280, subpart D.

C. *Definition of Terms.* The definitions applicable to this Notice are published at 7 CFR 4280.302.

II. Award Information

A. *Type of Award:* Loan and/or Grant

B. *Fiscal Year Funds:* FY 2014

C. *Total Funding:* $25,461,661

Microlender TA Grants: $1,500,000
Loans: $23,961,661

D. *Approximate Number of Awards:* 50

E. *Anticipated Award Date:* Fourth Quarter, September 1, 2014

In the event some program funds allocated for a particular quarter of FY 2014 are not obligated, the remaining unobligated funds will be carried over to the next Federal fiscal quarter. Any FY 2014 funds not obligated under this Notice will be carried over into FY 2015.

III. Eligibility Information

A. *Eligible Applicants.* To be eligible for this program, the applicant must meet the eligibility requirements in 7 CFR 4280.310. As mentioned later in this Notice regarding corporate Federal tax delinquencies, applicants that are not delinquent on any Federal debt or otherwise disqualified from participation in this program are eligible to apply. All other restrictions in this Notice will apply.

B. *Cost Share Requirements.* The Federal share of the eligible project cost of a microborrower's project funded under this Notice shall not exceed 75 percent. The cost share requirement shall be met by the microlender in accordance with the requirements specified in 7 CFR 4280.311(d).

C. *Matching Fund Requirements.* The MDO is required to provide a match of not less than 15 percent of the total amount of the grant in the form of matching funds, indirect costs, or in-kind goods or services.

D. *Other Eligibility Requirements.* Applications will only be accepted from eligible MDOs. Eligible MDOs must score a minimum of 70 points out of 100 points to be considered to receive an award. Awards each Federal fiscal quarter will be based on ranking with the highest ranking applications being funded first, subject to available funding.

E. *Completeness Eligibility.* All applications must be submitted as a complete application, in one package. Applications will not be considered for funding if they do not provide sufficient information to determine eligibility or are unbound, falling apart, or otherwise not suitable for evaluation. Such applications will be withdrawn.

IV. Fiscal Year 2014 Application and Submission Information

A. *Application Submittal.* MDOs may submit an initial application for a loan with a microlender TA grant or an initial or subsequent loan only (without a microlender TA grant). A MDO does not need to submit an application for its microlender TA grant. The procedures for annual microlender TA grants are addressed in section VI.

Loan applications must be submitted in paper format. If applications are submitted in paper format, they must be bound in a 3-ring binder and must be organized in the same order set forth in 7 CFR 4280.315. To ensure timely delivery, applicants are strongly encouraged to submit their applications using an overnight, express, or parcel delivery service.

Federal Funding Accountability and Transparency Act. All applicants, in accordance with 2 CFR Part 25, must have a Dun and Bradstreet Data Universal Number System (DUNS) number, which can be obtained at no cost via a toll-free request line at 1–866–705–5711 or online at *http://fedgov.dnb.com/webform.* Similarly, all applicants for grants must be registered in the System for Award Management (SAM) prior to submitting an application. Applicants may register for the SAM at *http://www.sam.gov.* All recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive total compensation in accordance with 2 CFR Part 170.

B. *Content and Form of Submission.* An application must contain all of the required elements outlined in 7 CFR 4280.315. Each application must address the applicable scoring criteria presented in 7 CFR 4280.316 for the type of funding being requested.

C. *Submission Dates and Times.* The original complete application must be received by the USDA Rural Development State Office no later than 4:30 p.m. local time by the application deadline dates listed above, regardless of the postmark date, in order to be considered for funds available in that Federal fiscal quarter.

Unless withdrawn by the applicant, completed applications that receive a score of at least 70 (the minimum required to be considered for funding), but have not yet been funded, will be retained by the Agency for consideration in subsequent reviews through a total of four consecutive quarterly reviews. Applications that remain unfunded after four quarterly reviews, including the initial quarter in which the application was competed, will not be considered further for an award.

V. Application Review Information

Awards under this Notice will be made on a competitive basis each

Federal fiscal quarter. Each application received in the USDA Rural Development State Office will be reviewed, scored, and ranked to determine if it is consistent with the program requirements. Applications will be scored based on the applicable scoring criteria contained in 7 CFR 4280.316. Failure to address any of the applicable scoring criteria will result in a zero-point score for that section. An application must receive at least 70 points to be considered for funding in the quarter in which it is scored.

VI. Subsequent Annual Microlender Technical Assistance Grants

In accordance with 7 CFR 4280–D, section 4280.313(b)(2), ''Microlender Technical Assistance (TA) grants will be limited to an amount equal to not more than 25 percent of the total outstanding balance of microloans made under this program and active by the microlender as of the date the grant is awarded for the first $400,000 plus an additional 5 percent of the loan amount owed by the microborrowers to the lender under this program over $400,000 up to and including $2.5 million. Funds cannot be used to pay off the loans. Any grant dollars obligated, but not spent, from the initial grant, will be subtracted from the subsequent year grant to ensure that obligations cover only microloans made and active.''

To determine the Microlender TA Grant awards for FY 2014, the Agency will use the Microlender's outstanding balance of microloans as of June 30, 2014, to calculate this amount. MDO's that are eligible for an annual grant may apply.

Awards will be determined non-competitively based on Agency appropriations for the fiscal year. The MDO must submit a prescribed worksheet listing the outstanding balance of their microloans and unexpended grant funds as of the date of their request and a letter certifying that their organization still meets all the requirements set forth in 7 CFR 4280 and that no significant changes have occurred within the last year that would affect its ability to carry out their MDO functions. In addition, all MDOs who request Subsequent Annual Microlender Technical Assistance Grants must complete their reporting into the Lenders Interactive Network Connection (LINC) for the Federal fiscal quarter ending June 30, 2014. The deadline for reporting into LINC and requesting TA grant is no later than 4:30 p.m. (local time) on July 31, 2014.

VII. Award Administration Information

Successful applicants will receive notification for funding from the USDA Rural Development State Office. Applicants must comply with all applicable statutes and regulations before the award will be approved. Unsuccessful applications will receive notification by mail.

VIII. Agency Contacts

For general questions about this Notice, please contact your USDA Rural Development State Office as provided in the Addresses section of this Notice.

Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete *the USDA Program Discrimination Complaint Form* (PDF), found online at *http://www.ascr.usda.gov/complaint_filing_cust.html*, or at any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov.*

Individuals who are deaf, hard of hearing, or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities, who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Dated: May 1, 2014.

Lillian E. Salerno,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 2014–11447 Filed 5–19–14; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Bureau of Industry And Security

Order Denying Export Privileges

In the Matter of:

Juan Victorian Gimenez, Inmate #—95463–004, FPC Duluth, Federal Prison Camp, P.O. Box 1000, Duluth, MN 55814

On March 21, 2012, in the U.S. District Court, Southern District of Florida, Juan Victorian Gimenez (''Gimenez''), was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2006 & Supp. IV 2010)) (''AECA''). Specifically, Gimenez knowingly and willfully attempted to export defense articles, that is AR–15/M–16 firearm barrels, receivers, components, parts and accessories, from the United States to Honduras, without having first obtained a license or written approval from the United States Department of State. Gimenez was sentenced to 63 months of imprisonment and two years of supervised release, and fined a $100 assessment. Gimenez is also listed on the U.S. Department of State Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2013). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. §§ 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2013 (78 FR 49107 (August 12, 2013)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Gimenez's conviction for violating the AECA, and have provided notice and an opportunity for Gimenez to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have received a submission from Gimenez.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Gimenez's export privileges under the Regulations for a period of 10 years from the date of Gimenez's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Gimenez had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. Until March 21, 2022, Juan Victorian Gimenez, with a last known address at: Inmate #—95463–004, FPC Duluth, Federal Prison Camp, P.O. Box 1000, Duluth, MN 55814, and when acting for or on behalf of Gimenez, his representatives, assigns, agents or employees (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Gimenez by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order is effective immediately and shall remain in effect until March 21, 2022.

V. In accordance with Part 756 of the Regulations, Gimenez may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VI. A copy of this Order shall be delivered to the Gimenez. This Order shall be published in the **Federal Register**.

Issued this 9th day of May, 2014.

Eileen M. Albanese,

Acting Director, Office of Exporter Services.

[FR Doc. 2014–11672 Filed 5–19–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–916]

Laminated Woven Sacks From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results and Amended Final Results of the Antidumping Duty Administrative Review; 2009–2010

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On December 13, 2013, the United States Court of Appeals for Federal Circuit (CAFC), issued its decision in *AMS Associates, Inc.* v. *United States,* 737 F.3d 1338 (CAFC 2013) (*AMS II*), affirming the Court of International Trade's (CIT) decision in *AMS Associates, Inc.* v. *United States,* 881 F. Supp. 2d 1374 (CIT 2012) (*AMS I*). In *AMS I,* the CIT held that the Department of Commerce (the Department) exceeded its authority under 19 CFR 351.225(l) by retroactively suspending liquidation of entries of laminated woven sacks (LWS) produced in the People's Republic of China (PRC) using fabric imported from third-countries. Accordingly, the CIT remanded the case and ordered the Department to issue instructions to U.S. Customs and Border Protection (CBP) to lift the suspension of liquidation and liquidate the affected entries without regard to duties. Consistent with the decision of the CAFC in *Timken*,[1] as clarified by *Diamond Sawblades,*[2] the Department is notifying the public that the final judgment in this case is not in harmony with the Department's *AR2 Final Results,*[3] that it will liquidate the

[1] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (''*Timken*'').

[2] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (''*Diamond Sawblades*'').

[3] *See Laminated Woven Sacks From the People's Republic of China: Final Results of Second Antidumping Duty Administrative Review,* 76 FR 21333 (April 15, 2011) (''*AR2 Final Results*'').

entries at issue in *AMS I* and *AMS II* without regard to duties, and that it is amending the effective date of its country of origin determination regarding LWS produced in the PRC from imported fabric.

DATES: *Effective Date:* March 24, 2014.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC, 20230; telephone: (202) 482–6905.

SUPPLEMENTARY INFORMATION:

Background

On August 7, 2008, the Department issued an antidumping duty order on LWS from the PRC.[4] The scope of the *Order* stated that:

> The merchandise covered by this investigation is laminated woven sacks. Laminated woven sacks are bags or sacks consisting of one or more plies of fabric consisting of woven polypropylene strip and/or woven polyethylene strip, regardless of the width of the strip; with or without an extrusion coating of polypropylene and/or polyethylene on one or both sides of the fabric; laminated by any method either to an exterior ply of plastic film such as biaxially-oriented polypropylene (''BOPP'') or to an exterior ply of paper that is suitable for high quality print graphics; printed with three colors or more in register; with or without lining; whether or not closed on one end; whether or not in roll form (including sheets, lay-flat tubing, and sleeves); with or without handles; with or without special closing features; not exceeding one kilogram in weight. Laminated woven sacks are typically used for retail packaging of consumer goods such as pet foods and bird seed.

First Administrative Review

In the first administrative review of the antidumping duty order on LWS from the PRC, the Department preliminarily determined that the country of origin of LWS produced in the PRC from imported woven fabric is the PRC.[5] As a result, the Department issued instructions notifying CBP to continue suspending liquidation of all LWS from the PRC, regardless of the country of origin of the woven fabric, consistent with the suspension of liquidation instructions issued following the *Order*.[6]

Following the preliminary results, the Department issued additional instructions to CBP to mitigate inaccurate reporting of entries arising from the technical restrictions of CBP's electronic filing system. These instructions created a series of 10-digit case numbers to allow LWS produced in the PRC from fabric originating in a third country to be properly claimed as LWS subject to the *Order* upon entry into the United States.[7]

In its March 18, 2011 final results, the Department finalized its country of origin determination and continued to find that the LWS finishing process, which includes lamination and printing processes, substantially transforms the inherent nature of the woven fabric input. The Department also continued to find that, when such substantial transformation takes place in the PRC, the country of origin for the produced LWS is the PRC.[8]

Second Administrative Review

On September 29, 2010, the Department initiated the second administrative review of LWS from the PRC.[9] Because parties only requested a review of Zibo Aifudi Plastic Packaging Co. Ltd. (Zibo Aifudi), we initiated the review with Zibo Aifudi as the sole mandatory respondent. Thereafter, Zibo Aifudi notified the Department of its intent to withdraw from the review and refused to participate in the review. Thus, in the preliminary results, we determined that, because Zibo Aifudi failed to respond to the Department's antidumping duty questionnaires and withdrew its participation from the review, it was not eligible for a separate rate and should treated as part of the PRC-wide entity, to which we subsequently assigned an adverse facts available rate.[10]

AMS Associates, Inc., (d/b/a Shapiro Packaging) (AMS), the U.S. importer of LWS exported by Zibo Aifudi, entered an appearance in the second administrative review and filed its case brief, contending that the Department's country of origin determination in the first administrative review was procedurally erroneous and that the Department had no statutory or regulatory basis to issue suspension instructions to CBP in the context of an annual administrative review. However, AMS did not challenge the Department's (1) country of origin determination on LWS produced in the PRC from imported fabric, (2) preliminary determination of Zibo Aifudi's ineligibility for a separate rate, (3) application of adverse facts available to the PRC-wide entity, or (4) the adverse facts available rate applied to the PRC-wide entity. In the *AR2 Final Results,* the Department continued to find that the application of adverse facts available was warranted for the PRC-wide entity and that it followed the correct procedures in making the country of origin determination in the prior review.[11]

Court Rulings

Subsequently, AMS challenged the Department's *AR2 Final Results,* arguing that the Department did not act in accordance with its own regulations by conducting a scope analysis during the course of the first administrative review and exceeded its authority by issuing instructions to CBP to suspend LWS produced in the PRC from imported fabric.[12] On December 18, 2012, the CIT held that the Department exceeded its authority by suspending liquidation of all entries of LWS produced in the PRC from imported fabric, which AMS reported as non-subject merchandise based solely on the country of origin of the fabric input.[13] The CIT remanded the case and ordered the Department to issue instructions to CBP to lift the suspension and liquidate the affected entries (LWS produced in the PRC from imported fabric) without regard to duties.[14]

On December 21, 2012, the United States moved to stay execution of the judgment pending appeal. On January 11, 2013, the CIT granted the United States' motion and ordered that execution of the judgment, including liquidation of the entries at issue, be stayed through the conclusion of any appeal.

On appeal, the CAFC affirmed the CIT's judgment, holding that the Department (1) erred in failing to

[4] *See Notice of Antidumping Duty Order: Laminated Woven Sacks from the People's Republic of China,* 73 FR 45941 (August 7, 2008) (''*Order*'').

[5] *See Laminated Woven Sacks from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review,* 75 FR 55568, 55569 (September 13, 2010).

[6] *See* CBP Message No. 020431 (July 23, 2010); *see also* CBP Message No. 8234202 (August 21, 2008) (ordering CBP to suspend imports of LWS from the PRC that were entered or withdrawn from warehouse for consumption on or after January 31, 2008).

[7] *See* CBP Message No. 0327303 (November 23, 2010); *see also* CBP Message No. 0327306 (November 23, 2010).

[8] *See Laminated Woven Sacks from the People's Republic of China: Final Results of First Antidumping Order Administrative Review,* 76 FR 14906, 14906–07 (March 18, 2011) (''*AR1 Final Results*'') and accompanying Issues and Decision Memorandum at Comments 1b and 1d.

[9] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* 75 FR 60076 (September 29, 2010).

[10] *See Laminated Woven Sacks From the People's Republic of China: Preliminary Results of the Second Administrative Review,* 75 FR 81218 (December 27, 2010).

[11] *See AR2 Final Results,* 76 FR at 21334, and accompanying Issues and Decision Memorandum at Comment 1.

[12] *See AMS I,* 881 F. Supp. 2d at 1378–79.

[13] *See id.,* at 1382–83.

[14] *See id.,* at 1383.

conduct a formal scope inquiry in this case because the scope of the original antidumping order was unclear, and (2) exceeded its authority under 19 CFR 351.225(l)(2) by ordering the suspension of liquidation retroactive to the beginning of the period of review when the order did not clearly cover LWS manufactured in the PRC from imported fabrics.[15]

Timken Notice

In its decision in *Timken,* 893 F.2d at 341, as clarified by *Diamond Sawblades,* the CAFC held that, pursuant to section 516A(e) of the Act, the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CAFC's December 13, 2013, judgment in *AMS II* constitutes a final decision of that court that is not in harmony with the *AR2 Final Results.* This notice is published in fulfillment of the publication requirements of *Timken.* Accordingly, as instructed, the Department will lift the suspension of liquidation of the entries at issue.

Amended Final Results

Because there is now a final court decision, we are amending the *AR2 Final Results* to reflect the results of the litigation. The revised effective date of the Department's country of origin determination is now the publication date of the final results of the first administrative review, March 18, 2011.[16] Accordingly, the Department will instruct CBP to liquidate entries of LWS produced in the PRC from imported fabric that were entered, or withdrawn from warehouse, for consumption, before March 18, 2011 without regard to duties.[17] The Department will release the draft instructions to interested parties prior to transmission of these instructions to CBP.

This notice is issued and published in accordance with sections 516A(e), 751(a)(1), and 777(i)(1) of the Act.

Dated: May 14, 2014.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–11693 Filed 5–19–14; 8:45 am]

BILLING CODE 3510–DS–P

[15] *See AMS II,* 737 F.3d at 1344.

[16] *See AR1 Final Results,* 76 FR at 14906.

[17] *See AMS II,* 737 F.3d at 1344 (affirming a remand to lift the liquidation suspension for the entries which were the subject of the AMS litigation).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–841]

Polyethylene Terephthalate Film, Sheet, and Strip From Brazil: Rescission of Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is rescinding the administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET film) from Brazil for the period November 1, 2012 through October 31, 2013.

DATES: *Effective Date:* May 20, 2014.

FOR FURTHER INFORMATION CONTACT: Tyler Weinhold or Robert James, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1121 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION: On December 30, 2013, based on a timely request by DuPont Teijin Films, Mitsubishi Polyester Film, Inc. and SKC, Inc. (collectively, petitioners), the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on PET film from Brazil covering the period November 1, 2012 through October 31, 2013.[1] The review covers one firm, Terphane, Ltda. (Terphane). On March 31, 2014, petitioners withdrew their request for review of Terphane.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review if the party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. Petitioners withdrew their request within the 90-day deadline.[2] No other party requested an administrative review of this antidumping duty order. As a result, we are rescinding the administrative review of PET film from Brazil for the period November 1, 2012 through October 31, 2013.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issues appropriate assessment instructions to CBP 15 days after the publication of this notice.

Notifications

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this 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 doubled antidumping duties.

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: May 13, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–11673 Filed 5–19–14; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Initiation of Antidumping Duty and Countervailing Duty Administrative Reviews, and Request for Revocation, in Part,* 78 FR 79392 (December 30, 2013).

[2] The 90-day deadline fell on Sunday, March 30, 2014; therefore, petitioners had until the next business day, or Monday, March 31, 2014, to withdraw their request for review.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–935, C–570–936]

Circular Welded Carbon Quality Steel Line Pipe From the People's Republic of China: Continuation of Antidumping and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the ''Department'') has determined that revocation of the antidumping duty (''AD'') order on circular welded carbon quality steel line pipe from the People's Republic of China (''PRC'') would likely lead to continuation or recurrence of dumping, and that revocation of the countervailing duty (''CVD'') order on circular welded carbon quality steel line pipe from the PRC would likely lead to continuation or recurrence of a countervailable subsidy. The U.S. International Trade Commission (the ''USITC'') has also determined that revocation of these AD and CVD orders would likely lead to a continuation or recurrence of material injury to an industry in the United States. The Department is publishing this notice of the continuation of these AD and CVD orders.

DATES: *Effective Date:* May 20, 2014.

FOR FURTHER INFORMATION CONTACT: Lori Apodaca (AD order) or Kristen Johnson (CVD order), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4551 and (202) 482–4793, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 2, 2013, the Department initiated the first five-year (''sunset'') reviews of the AD and CVD order on circular welded carbon quality steel line pipe from the PRC pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (the ''Act'').[1] As a result of its reviews, the Department found that revocation of the AD order would likely lead to continuation or recurrence of dumping and that revocation of the CVD order would likely lead to continuation or recurrence of subsidization, and notified the USITC of the margins of dumping and the subsidy rates likely to prevail were the orders to be revoked.[2]

On May 8, 2014, the USITC published its determination, pursuant to section 751(c)(1) and section 752(a) of the Act, that revocation of the AD and CVD orders on circular welded carbon quality steel line pipe from the PRC would likely lead to continuation or recurrence of material injury within a reasonably foreseeable time.[3]

Scope of the Orders

The products covered by these AD and CVD orders are circular welded carbon quality steel pipe of a kind used for oil and gas pipelines (welded line pipe) not more than 406.4 mm (16 inches) in outside diameter, regardless of wall thickness, length, surface finish, end finish or stenciling.

The term ''carbon quality steel'' includes both carbon steel and carbon steel mixed with small amounts of alloying elements that may exceed the individual weight limits for non alloy steels imposed in the Harmonized Tariff Schedule of the United States (''HTSUS''). Specifically, the term ''carbon quality'' includes products in which (1) iron predominates by weight over each of the other contained elements, (2) the carbon content is 2 percent or less by weight and (3) none of the elements listed below exceeds the quantity by weight respectively indicated:

(i) 2.00 percent of manganese,
(ii) 2.25 percent of silicon,
(iii) 1.00 percent of copper,
(iv) 0.50 percent of aluminum,
(v) 1.25 percent of chromium,
(vi) 0.30 percent of cobalt,
(vii) 0.40 percent of lead,
(viii) 1.25 percent of nickel,
(ix) 0.30 percent of tungsten,
(x) 0.012 percent of boron,
(xi) 0.50 percent of molybdenum,
(xii) 0.15 percent of niobium,
(xiii) 0.41 percent of titanium,
(xiv) 0.15 percent of vanadium, or
(xv) 0.15 percent of zirconium.

Welded line pipe is normally produced to specifications published by the American Petroleum Institute (''API'') (or comparable foreign specifications) including API A–25, 5LA, 5LB, and X grades from 42 and above, and/or any other proprietary grades or non-graded material. Nevertheless, all pipe meeting the physical description set forth above that is of a kind used in oil and gas pipelines, including all multiple-stenciled pipe with an API welded line pipe stencil is covered by the scope of the orders.

Excluded from the scope are pipes of a kind used for oil and gas pipelines that are multiple-stenciled to a standard and/or structural specification and have one or more of the following characteristics: Is 32 feet in length or less; is less than 2.0 inches (50 mm) in outside diameter; has a galvanized and/or painted surface finish; or has a threaded and/or coupled end finish. (The term ''painted'' does not include coatings to inhibit rust in transit, such as varnish, but includes coatings such as polyester.)

The welded line pipe products that are the subject of the orders are currently classifiable in the HTSUS under subheadings 7306.19.10.10, 7306.19.10.50, 7306.19.51.10, and 7306.19.51.50. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the orders is dispositive.

Continuation of the Orders

As a result of the determinations by the Department and the USITC that revocation of these AD and CVD orders would likely lead to continuation or recurrence of dumping or a countervailable subsidy, and material injury to an industry in the United States, pursuant to sections 751(c) and 751(d)(2) of the Act, the Department hereby orders the continuation of the AD and CVD orders on circular welded carbon quality steel line pipe from the PRC.

U.S. Customs and Border Protection will continue to collect cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of these orders is the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of these orders not later than 30 days prior to the fifth anniversary of the effective date of the continuation.

These five-year (sunset) reviews and notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

[1] *See Initiation of Five-Year (''Sunset'') Review,* 78 FR 72061 (December 2, 2013).

[2] *See Circular Welded Carbon-Quality Steel Line Pipe From the People's Republic of China: Final Results of the Expedited First Sunset Review of the Antidumping Duty Order,* 79 FR 19052 (April 7, 2014) and *Circular Welded Carbon Quality Steel Line Pipe From the People's Republic of China: Final Results of Expedited Sunset Review of the Countervailing Duty Order,* 79 FR 15313 (March 19, 2014).

[3] *See Circular Welded Carbon-Quality Steel Line Pipe From China,* 79 FR 26454 (May 8, 2014); *see also* USITC Publication 4464 (May 2014) entitled *Circular Welded Carbon-Quality Steel Line Pipe From China* (Inv. Nos. 701–TA–455 and 731–TA–1149 (Review)).

Dated: May 13, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–11682 Filed 5–19–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Preliminary Results of the New Shipper Review of Jinxiang Merry Vegetable Co., Ltd. and Cangshan Qingshui Vegetable Foods Co., Ltd.

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is conducting a new shipper review of Jinxiang Merry Vegetable Co., Ltd. (''Merry'') and Cangshan Qingshui Vegetable Foods Co., Ltd. (''Qingshui'') regarding the antidumping duty order on fresh garlic from the People's Republic of China (''the PRC''). The period of review (''POR'') is November 1, 2012, through April 30, 2013. We preliminarily find that Merry and Qingshui made sales of subject merchandise at less than normal value. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* May 20, 2014.

FOR FURTHER INFORMATION CONTACT: Sean Carey or Hilary E. Sadler, Esq., AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3964 or (202) 482–4340, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by this order is all grades of garlic, whether whole or separated into constituent cloves.[1] The subject merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheadings: 0703.20.0000, 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, 0703.20.0005, 2005.99.9700 and 0703.20.0015. A full description of the scope of the order is contained in the Preliminary Decision Memorandum. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description is dispositive.

Methodology

The Department is conducting this review in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.214. Export prices have been calculated in accordance with section 772 of the Act. Because the PRC is a nonmarket economy within the meaning of section 771(18) of the Act, normal value has been calculated in accordance with section 773(c) of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's centralized electronic service system (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Department's Central Records Unit, Room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of New Shipper Reviews

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter	Weighted-average dumping margin ($ per kg)
Cangshan Qingshui Vegetable Foods Co., Ltd	$3.06 per kg
Jinxiang Merry Vegetable Co., Ltd	3.33 per kg

Disclosure and Public Comment

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit written comments by no later than 30 days after the date of publication of these preliminary results of review.[2] Rebuttals to written comments may be filed by no later than five days after the written comments are filed.[3]

Any interested party may request a hearing within 30 days of publication of this notice.[4] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230.[5]

The Department will issue the final results of this new shipper review, which will include the results of its analysis of issues raised in any such comments, within 90 days of publication of these preliminary results, pursuant to section 751(a)(2)(B)(iv) of the Act.

Assessment Rates

Upon issuing the final results of this new shipper review, the Department shall determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries covered by this review.[6] The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this new shipper review.

In this new shipper review, we calculated a per-unit rate for each importer by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject merchandise. If the respondent's weighted-average dumping margin is above *de minimis,* we will calculate an importer-specific *ad valorem* duty assessment rate based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). Then, we will instruct

[1] *See* the Department Memorandum, ''Decision Memorandum for the Preliminary Results of the Antidumping Duty New Shipper Reviews of Fresh Garlic From the People's Republic of China: Jinxiang Merry Vegetable Co., Ltd. and Cangshan Qingshui Vegetable Foods Co., Ltd.,'' dated concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum), for a complete description of the Scope of the Order.

[2] *See* 19 CFR 351.309(c).

[3] *See* 19 CFR 351.309(d).

[4] *See* 19 CFR 351.310(c).

[5] *See* 19 CFR 351.310(d).

[6] *See* 19 CFR 351.212(b)(1).

CBP to assess antidumping duties on all appropriate entries covered by this new shipper review. Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The final results of this new shipper review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this new shipper review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For merchandise produced and exported by Merry and Qingshui, the cash deposit rates will be that established in the final results of these reviews (except, if the rate is zero or *de minimis,* then zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing producer/exporter-specific combination rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC producer/exporter combination that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

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.

The Department is issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.214 and 351.221(b)(4).

Dated: May 13, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Methodology
V. Date of Sale
VI. Fair Value Comparisons
VII. Differential Pricing Analysis
VIII. U.S. Price
IX. Normal Value
X. Factor Valuations
XI. Currency Conversion
XII. Recommendation

[FR Doc. 2014–11677 Filed 5–19–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Baylor College of Medicine, et al. Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscope

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 3720, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 14–001. Applicant: Baylor College of Medicine, Houston, TX 77030. Instrument: Electron Microscope. Manufacturer: FEI Company, Czech Republic. Intended Use: See notice at 79 FR 11760, March 3, 2014.

Docket Number: 14–003. Applicant: Western Kentucky University, Bowling Green, KY 42101. Instrument: Electron Microscope. Manufacturer: JEOL Ltd., Japan. Intended Use: See notice at 79 FR 18013, March 31, 2014.

Docket Number: 14–004. Applicant: Utah State University, Logan, UT 84322–8300. Instrument: Electron Microscope. Manufacturer: FEI Company, Czech Republic. Intended Use: See notice at 79 FR 18013, March 31, 2014.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States at the time the instrument was ordered. Reasons: Each foreign instrument is an electron microscope and is intended for research or scientific educational uses requiring an electron microscope. We know of no electron microscope, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

Dated: May 13, 2014.

Gregory W. Campbell,

Director, Subsidies Enforcement Office, Enforcement and Compliance.

[FR Doc. 2014–11690 Filed 5–19–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Southwest Region Vessel Identification Requirements

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, as amended.

DATES: Written comments must be submitted on or before July 21, 2014.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov).*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Chris Fanning, (562) 980–4198, *Chris.Fanning@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a current information collection.

Regulations at 50 CFR 660.704 require that all vessels with permits issued under authority of the National Marine Fishery Service's (NMFS) Fishery Management Plan for United States (U.S.) West Coast Highly Migratory Species Fisheries display the vessel's official number. The numbers must be of a specific size and format and located at specified locations. The display of the identifying number aids in fishery law enforcement.

II. Method of Collection

The vessels' official numbers are displayed on the vessels.

III. Data

OMB Number: 0648–0361.

Form Number: None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,000.

Estimated Time per Response: 45 minutes.

Estimated Total Annual Burden Hours: 1,500.

Estimated Total Annual Cost to Public: $20,000.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 14, 2014.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–11531 Filed 5–19–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RIN 0648–BD68]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment 28 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico

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

ACTION: Supplemental Notice of Intent (NOI) to prepare a draft environmental impact statement (DEIS); request for comments.

SUMMARY: NMFS, Southeast Region, in collaboration with the Gulf of Mexico Fishery Management Council (Council) intends to prepare a DEIS to describe and analyze management alternatives to be included in Amendment 28 to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Amendment 28). Actions considered in Amendment 28 were initially limited to alternatives to reallocate Gulf of Mexico (Gulf) red snapper resources between the commercial and recreational sectors. However, NMFS and the Council have since modified the scope of Amendment 28 to consider actions that would revise the recreational accountability measures (AMs) for Gulf red snapper. These actions would establish an annual catch target (ACT) by applying a buffer to the recreational quota and establish recreational quota overage adjustment provisions (paybacks). These additional actions will support management efforts to maintain landings within the recreational quota and mitigate recreational quota overages should they occur. The purpose of this NOI is to solicit public comments on the modified scope of issues to be addressed in the DEIS.

DATES: Written comments on the scope of issues to be addressed in the DEIS must be received by NMFS by June 19, 2014.

ADDRESSES: You may submit comments on Amendment 28 identified by ''NOAA–NMFS–2013–0146'' by any of the following methods:

- *Electronic submissions:* Submit electronic comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0146,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Peter Hood, Southeast Regional Office, telephone: (727) 824–5305; or email: *peter.hood@noaa.gov.*

SUPPLEMENTARY INFORMATION: An NOI to prepare a DEIS for Amendment 28 was published in the **Federal Register** on November 7, 2013 (78 FR 66900) and requested public comment through December 9, 2013. Management alternatives initially considered in Amendment 28 were to reallocate red snapper resources between the commercial and recreational sectors with the purpose of increasing the net benefits and the stability of the red snapper component of the reef fish fishery.

In September 2013, individual commercial fishermen and two commercial fishing interest groups filed a lawsuit challenging the rules that implemented the red snapper quotas for the 2013 fishing year and set the 2013 recreational red snapper fishing season. In March 2014, the U.S. District Court for the District of Columbia (Court) in *Guindon* v. *Pritzker,* 2014 WL 1274076 (D.D.C. Mar. 26, 2014) ruled in favor of the plaintiffs, finding, in relevant part, that NMFS failed to require adequate AMs for the recreational sector, failed to prohibit the retention of fish after the recreational quota had been harvested, and failed to use the best scientific information available when determining if the quota had been met.

The Council reviewed the Court's opinion and determined further AMs were needed to improve red snapper management and reduce the probability of exceeding the recreational quota. The

Council decided to add AM actions to Amendment 28, including an ACT and quota overage adjustments, but could also consider other AM alternatives. Although the red snapper stock is not undergoing overfishing, it is considered overfished and under a rebuilding plan. Therefore, constraining recreational landings within the recreational quota and mitigating quota overages will aid in the stock recovery.

NMFS, in collaboration with the Council, will develop a DEIS to describe and analyze alternatives to address the management needs described above including the ''no action'' alternative. In accordance with NOAA's Administrative Order 216–6, Section 5.02(c), Scoping Process, NMFS, in collaboration with the Council, has identified preliminary environmental issues as a means to initiate discussion for scoping purposes only. The public is invited to provide written comments on the preliminary issues, which are identified as actions and alternatives in the Amendment 28 draft options paper and action guide. These preliminary issues may not represent the full range of issues that eventually will be evaluated in the DEIS. A copy of the Amendment 28 action guide is available at *http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/index.html.*

After the DEIS associated with Amendment 28 is completed, it will be filed with the Environmental Protection Agency (EPA). After filing, the EPA will publish a notice of availability of the DEIS for public comment in the **Federal Register**. The DEIS will have a 45-day comment period. This procedure is pursuant to regulations issued by the Council on Environmental Quality (CEQ) for implementing the procedural provisions of the National Environmental Policy Act (NEPA; 40 CFR parts 1500–1508) and to NOAA's Administrative Order 216–6 regarding NOAA's compliance with NEPA and the CEQ regulations.

The Council and NMFS will consider public comments received on the DEIS in developing the final environmental impact statement (FEIS), and before voting to submit the final amendment to NMFS for Secretarial review, approval, and implementation. NMFS will announce in the **Federal Register** the availability of the final amendment and FEIS for public review during the Secretarial review period, and will consider all public comments prior to final agency action to approve, disapprove, or partially approve the final amendment.

NMFS will announce, through a document published in the **Federal Register**, all public comment periods on the final amendment, its proposed implementing regulations, and the availability of its associated FEIS. NMFS will consider all public comments received during the Secretarial review period, whether they are on the final amendment, the proposed regulations, or the FEIS, prior to final agency action.

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

Dated: May 15, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–11606 Filed 5–19–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Highly Migratory Species Advisory Subpanel (HMSAS) will hold a webinar, which is open to the public.

DATES: The HMSAS will hold the webinar on Wednesday, June 4, 2014, from 1:30 to 4:30 p.m.

ADDRESSES: To attend the webinar, visit *http://www.joinwebinar.com.* Enter the webinar ID, which is 825–962–039, and your name and email address (required). Once you have joined the webinar, choose either your computer's audio or select ''Use Telephone.'' If you do not select ''Use Telephone'' you will be connected to audio using your computer's microphone and speakers (VoIP). It is recommended that you use a computer headset as GoToMeeting allows you to listen to the meeting using your computer headset and speakers. If you do not have a headset and speakers, you may use your telephone for the audio portion of the meeting by dialing this TOLL number 1–702–489–0008 (not a toll-free number); phone audio access code 686–529–816; audio phone pin shown after joining the webinar. System Requirements for PC-based attendees: Required: Windows® 7, Vista, or XP; for Mac®-based attendees: Required: Mac OS® X 10.5 or newer; and for mobile attendees: iPhone®, iPad®, Android™ phone or Android tablet (See the GoToMeeting Webinar Apps). You may also send an email to Mr. Kris Kleinschmidt or contact him at 503–820–2280 for technical assistance. A listening station will also be provided at the Pacific Council office.

Council address: Pacific Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Dr. Kit Dahl, Pacific Council; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The HMSAS will discuss items on the Pacific Council's June meeting agenda. These are: Update on Regulations and International Activities, Drift Gillnet Transition Issues, Exempted Fishing Permit Process Confirmation, Initial Scoping of Biennial Specifications and Management Measures. Public comments during the webinar will be received from attendees at the discretion of the HMSAS Chair.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2425 at least 5 days prior to the meeting date.

Dated: May 15, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–11630 Filed 5–19–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Mid-Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (Council) River

Herring and Shad (RH/S) Advisory Panel (AP) will meet to develop recommendations for the 2015 RH/S Cap on the Atlantic mackerel fishery and provide general input on RH/S conservation.

DATES: The meeting will be Friday, June 6, 2014 at 1:30 p.m.

ADDRESSES: The meeting will be held via webinar, but anyone can also attend at the Council office address (see below). The webinar link is: *http://mafmc.adobeconnect.com/rhsap/*. Please call the Council in advance if you wish to attend at the Council office.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Council's River Herring and Shad (RH/S) Advisory Panel (AP) will meet to develop recommendations for the 2015 RH/S Cap on the Atlantic mackerel fishery and provide general input on RH/S conservation. There will also be time for public questions and comments. The Council will utilize the input of the RH/S AP at the June 2014 Council meeting when setting the 2015 RH/S Cap on the Atlantic mackerel fishery.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids or assistance should be directed to M. Jan Saunders at the Mid-Atlantic Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: May 15, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–11631 Filed 5–19–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD296

Endangered Species; File No. 18604

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Guam Department of Agriculture Division of Aquatic and Wildlife Resources (DAWR), 163 Dairy Road, Mangilao, Guam 96913, has applied in due form for a permit to take green (*Chelonia mydas*) and hawksbill (*Eretmochelys imbricata*) sea turtles for purposes of scientific research.

DATES: Written, telefaxed, or email comments must be received on or before June 19, 2014.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 18604 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

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; and

Pacific Islands Region, NMFS, 1845 Wasp Blvd., Building 176, Honolulu, HI 96818; phone (808) 725–5000; fax (808) 973–2941.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division:

- By email to *NMFS.Pr1Comments@noaa.gov* (include the File No. in the subject line of the email),
- by facsimile to (301) 713–0376, or
- at the address listed above.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Courtney Smith, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested 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 parts 222–226).

The applicant requests a five-year research permit to gather information on green and hawksbill sea turtle movement, species distribution, and health status and to document threats to the species. Researchers would annually capture and release 15 green and 6 hawksbill sea turtles by hand or by net in Guam waters. Turtles would be measured, flipper tagged, photographed, passive integrated transponder tagged, tissue sampled, and released. A subset of each species also would have a satellite transmitter attached to the turtle's carapace. This information would be used to develop conservation management measures for these species.

Dated: May 15, 2013.

Tammy C. Adams,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–11603 Filed 5–19–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[File No. 16482–01]

RIN 0648–XA713

Endangered Species

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

ACTION: Issuance of a permit modification and termination of a permit.

SUMMARY: Notice is hereby given that Warnell School of Forest Resources, Fisheries Division, University of Georgia, Athens, Georgia 30602 [Douglas Peterson: Responsible Party], has been issued a permit modification (Permit No. 16482–01) to take to take Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) and shortnose sturgeon (*Acipenser brevirostrum*) for purposes of scientific research. Additionally, Permit No. 14394 issued to the same Permit Holder for study of shortnose sturgeon is hereby terminated.

ADDRESSES: The permit modification and related documents are available for review upon written request or by appointment in the following office:

Permits, Conservation and Education 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: Malcolm Mohead, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On November 7, 2013, notice was published in the **Federal Register** (78 FR 66901) that a scientific research permit modification to take shortnose and Atlantic sturgeon had been submitted by the above-named organization. The respective requested permits have been issued and terminated 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 parts 222–226).

Permit No. 16482 was issued April 6, 2012 (77 FR 21754) to the Permit Holder to capture all Atlantic sturgeon life stages in the Savannah (SC/GA), Ogeechee (GA), Altamaha (GA), Satilla (GA), and Saint Marys (GA/FL) Rivers using gill nets and trammel nets to measure, weigh, photograph, PIT and Floy tag, and tissue sample. Subsets of animals are anesthetized, fin ray sectioned, laparoscoped, and implanted with internal acoustic tags. The collection of early life stages in suspected spawning areas using egg mats is also permitted in each of these rivers. Incidental mortality of serious harm of up to five juvenile and sub-adults and one adult annually is also authorized.

The permit modification (Permit No. 16482–01) consolidates the takes of shortnose sturgeon originally issued in Permit No 14394 in the Altamaha River (GA). Permit 14394 was terminated upon issuance of the modification. This modification transfers blood sampling from subsets of captured Atlantic and shortnose sturgeon to that permit, adds sampling of early life stage shortnose sturgeon, and adds takes of other shortnose sturgeon life stages using the same research activities, from the Savannah, Ogeechee, Satilla River (GA), Saint Marys Rivers (GA/FL) and Saint Johns and Nassau Rivers (FL), as well as Atlantic sturgeon from the Nassau and Saint Johns Rivers (FL). Incidental mortality of two juvenile or adult shortnose sturgeon is authorized annually from all river systems. The modification is valid through the expiration date of the original permit, April 5, 2017.

Issuance of this permit 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 15, 2014.

Tammy C. Adams,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–11604 Filed 5–19–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Patent Petitions Related to Application and Reexamination Processing Fees

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the revision of a currently approved collection, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before July 21, 2014.

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

- *Email: InformationCollection@uspto.gov.* Include ''0651–0059 Patent Petitions Requiring a Fee under 37 CFR 1.17(f)—(h) comment'' in the subject line of the message.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal e-Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Raul Tamayo, Legal Advisor, Office of Patent Legal Administration, U.S. Patent and Trademark Office (USPTO), P.O. Box 1450, Alexandria, VA 22313–1450; by telephone 571–272–7728; or by email at *raul.tamayo@uspto.gov* with ''Paperwork'' in the subject line.

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) is required by 35 U.S.C. § 131 *et seq.* to examine an application for patent and, when appropriate, issue a patent. Many actions taken by the USPTO during its examination of an application for patent or for reissue of a patent, or during its reexamination of a patent, are subject to review by an appeal to the Board of Patent Appeals and Interferences. For other USPTO actions, review is in the form of administrative review obtained via submission of a petition to the USPTO. USPTO petitions practice also provides an opportunity for a patent applicant or owner to supply additional information that may be required in order for the USPTO to further process an application or patent.

This collection specifically relates to petitions that must be accompanied by the petition fees set forth in 37 CFR 1.17(f), (g), or (h). Except for the petitions to make special under the Accelerated Examination program, which must be submitted electronically through EFS-Web, the USPTO's Web-based electronic filing system, the petitions in this collection either can be submitted electronically through EFS-Web or on paper.

II. Method of Collection

As attachments through EFS-Web when the applicant files the various petitions. These papers can also be filed by mail, facsimile, or hand delivery, except that the petitions to make special under the Accelerated Examination program can only be filed through EFS-Web.

III. Data

OMB Number: 0651–0059.

Form Number(s): PTO/SB/17P, PTO/SB/23, PTO/SB/24a, PTO/SB/28 (EFS-Web only), and PTO/SB/140.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for profit; non-profit institutions.

Estimated Number of Respondents: 33,119 responses per year. Of this total, the USPTO expects that 30,569 responses will be submitted through EFS-Web and 2,550 responses submitted on paper.

Estimated Time per Response: The USPTO estimates that it will take approximately 5 minutes (0.08 hours) to 12 hours to complete the items in this collection, depending on the petition. This includes time to gather the necessary information, create the documents, and submit the completed request to the USPTO. The USPTO calculates that, on balance, it takes the same amount of time to gather the necessary information, prepare the petitions and the fee transmittal form, and submit them to the USPTO, whether the applicant submits the petition in paper form or electronically.

Estimated Total Annual Respondent Burden Hours: 35,596 hours.

Estimated Total Annual Respondent Cost Burden: $ 13,832,658. The USPTO expects that attorneys will complete all of the items in this collection, with the exception of the petitions for requests for documents in a form other than that provided by 37 CFR 1.19 and petitions for express abandonment to avoid publication under 37 CFR 1.138(c). The USPTO expects that these petitions will be completed by para-professionals. Using the professional hourly rate of $389 for attorneys in private firms, and an hourly rate of $125 for the para-professionals, the USPTO estimates $13,832,658 per year for total hourly costs associated with respondents.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Petitions (corresponding to the fee) under 37 CFR 1.17(f) include:			
Petition to Accord a Filing Date under 1.57(a)	4 hours	300	1200.00
Petition to Accord a Filing Date under 1.53(e)			
Petition for Decision on a Question Not Specifically Provided For			
Petition to Suspend the Rules			
EFS-Web Petitions (corresponding to the fee) under 37 CFR 1.17(f)	4 hours	2,800	11200.00
Petitions (corresponding to the fee) under 37 CFR 1.17(g):			
Petition to Access an Assignment Record	2 hours	300	600.00
Petition for Access to an Application			
Petition for Expungement and Return of Information			
Petition to Suspend Action in an Application			
EFS-Web Petitions (corresponding to the fee) under 37 CFR 1.17(g)	2 hours	3,000	6000.00
Petitions (corresponding to the fee) under 37 CFR 1.17(h):			
Petition for Accepting Color Drawings or Photographs	1 hour	900	900.00
Petition for Entry of a Model or Exhibit			
Petition to Withdraw an Application from Issue PTO/SB/140			
Petition to Defer Issuance of a Patent			
EFS-Web Petitions (corresponding to the fee) under 37 CFR 1.17(h)	1 hour	8,800	8800.00
Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19	1 hour	5	5.00
EFS-Web Petitions for Requests for Documents in a Form Other than that Provided by 37 CFR 1.19.	1 hour	40	40.00
Petitions to Make Special Under Accelerated Examination Program PTO/SB/28 (EFS-Web Only).	12 hours	450	5400.00
Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c) PTO/SB/24a.	12 minutes	40	8.00
EFS-Web Petitions for Express Abandonment to Avoid Publication Under 37 CFR 1.138(c)	12 minutes	425	85.00
Petition for Extension of Time Under 37 CFR 1.136(b) PTO/SB/23	30 minutes	5	2.50
EFS-Web Petition for Extension of Time Under 37 CFR 1.136(b)	30 minutes	54	27.00
Petition Fee under 37 CFR 1.17(f), (g), and (h) Transmittal PTO/SB/17P	5 minutes	1,000	83.00
EFS-Web Petition Fee under 37 CFR 1.17(f), (g), and (h) Transmittal	5 minutes	15,000	1245.00
Totals		33,119	35,596

Estimated Total Annual Non-Hour Respondent Cost Burden: $9,950. There are no capital start-up, operation, or maintenance costs associated with this information collection.

The forms included in this collection do have filing fees associated with them, but the filing fees are themselves accounted for in another collection (0651–0072, AIA Patent Fees Adjustment) and included as a part of this collection.

Postage constitutes the non-hourly cost burdens for this collection. Except for the petitions to make special under the Accelerated Examination program, which must be submitted electronically through EFS-Web, the public may submit the petitions in this collection to the USPTO by mail through the United States Postal Service. The USPTO estimates that the majority of mailed submissions will be sent in a large envelope via first class postage; rated at $3.90. The USPTO estimates that 2,550 petitions and fee transmittal forms will be mailed to the USPTO per year, for a total postage cost of $9,950.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: May 14, 2014.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2014–11550 Filed 5–19–14; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 14–03]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 14–03 with attached transmittal and policy justification.

Dated: May 15, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

MAY 13 2014

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 14-03, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Iraq for defense articles and services estimated to cost $101 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided Under Separate Cover)

Transmittal No. 14–03

Notice of proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) Of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Republic of Iraq

(ii) *Total Estimated Value:*

Major Defense Equipment: *	$100 million
Other:	$ 1 million
Total:	$101 million

* As defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity of Articles or Services under Consideration for Purchase:* 200 M1151A1 Up-armored High Mobility Multi-Purpose Wheeled Vehicles (HMMWVs) with M2 .50 cal. machine gun mounts, commercial radios, communication equipment, repair and spare parts, publications and technical documentation, tools and test equipment, personnel training and training equipment, U.S. Government and contractor logistics and technical support services, and other related elements of logistics support.

(iv) *Military Department;* Army (UGP)

(v) *Prior Related Cases, if Any:*

FMS Case AAH—$46 million—29May07

FMS Case AAI—$49 million—29May07

(vi) *Sales Commission, Fee, etc., Paid, Offered or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Attached Annex

(viii) *Date Report Delivered to Congress:* 13 May 2014

POLICY JUSTIFICATION

Iraq—M1151A1 Up-Armored High Mobility Multi-Purpose Wheeled Vehicles (HMMWVs)

The Government of Iraq has requested a possible sale of 200 M1151A1 Up-Armored High Mobility Multi-Purpose Wheeled Vehicles (HMMWVs) with M2 .50 cal. machine gun mounts, commercial radios, communication equipment, repair and spare parts, publications and technical documentation, tools and test equipment, personnel training and training equipment, U.S. Government and contractor logistics and technical support services, and other related elements of logistics support. The estimated cost is $101 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a strategic partner. This proposed sale directly supports the Government of Iraq and serves the interests of the people of Iraq and the United States.

The proposed sale of the M1151 HMMWVs would facilitate progress towards increasing Iraq's ability to defend its oil infrastructure against terrorist attacks. Iraq will use the HMMWVs to increase the safety, effectiveness, and self-reliance of the Iraqi Army's Oil Pipeline Security Division. Iraq will have no difficulty absorbing these additional HMMWVs into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be AM General in South Bend, Indiana. There are no known offset agreements proposed in connections with this potential sale.

Implementation of this proposed sale will not require U.S. Government or contractor representatives to travel to Iraq.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2014–11602 Filed 5–19–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 13–56]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 13–56 with attached transmittal, policy justification, and Sensitivity of Technology and the Section 620C(d).

Dated: May 15, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

MAY 12 2014

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 13-56, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Turkey for major defense equipment estimated to cost $170 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with the principles set forth in subsection 620C(b) of that Act as codified in section 2373 of title 22, United States Code.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Section 620C(d)

Transmittal No. 13–56

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective purchaser:* Republic of Turkey

(ii) *Total Estimated Value*

Major Defense Equipment *	$126 million
Other	$ 44 million
Total	$170 million

* As defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Up to 48 MK 48 Mod 6 Advanced Technology All-Up-Round (AUR) Warshot Torpedoes, containers, fleet exercise sections, exercise fuel tanks, surface recovery cage and tools, exercise hardware, maintenance facility upgrades, support and test equipment, spare and repair parts, personnel training and training equipment, publications and technical documentation, U.S. Government and contractor engineering, technical, and logistics support services, and other related elements of logistics support.

(iv) *Military Department:* Navy (LLJ)

(v) *Prior Related Cases:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:* See Annex attached

(viii) *Date Report Delivered to Congress:* 12 May 2014

POLICY JUSTIFICATION

Republic of Turkey—MK 48 TORPEDOES

The Government of Turkey has requested a possible sale of up to 48 MK 48 Mod 6 Advanced Technology All-Up-Round (AUR) Warshot Torpedoes, containers, fleet exercise sections, exercise fuel tanks, surface recovery cage and tools, exercise hardware, maintenance facility upgrades, support and test equipment, spare and repair parts, personnel training and training equipment, publications and technical documentation, U.S. Government and contractor engineering, technical, and logistics support services, and other related elements of logistics support. The total estimated cost is $170 million.

The Republic of Turkey is a partner of the United States in ensuring peace and stability in the region. It is vital to the U.S. national interest to assist our North Atlantic Treaty Organization (NATO) ally in developing and maintaining a strong and ready self-defense capability that will contribute to an acceptable military balance in the area. This proposed sale is consistent with those objectives.

The proposed sale will improve Turkey's capability for self defense, modernization, regional security, and interoperability with U.S. and other NATO members. Turkey will use the enhanced capability of the MK 48 Mod 6 Advanced Technology torpedoes on the new CERBE Class submarines (214 Type 1200). Turkey has significant experience in maintaining and supporting advanced torpedoes, particularly MK 46 Mod 5A(S)W and MK 54 Lightweight Torpedoes (LWT), and has capable infrastructure that will require minimal updates. Turkey is capable of integrating, employing, and maintaining the MK 48 Mod 6AT Torpedo.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Raytheon Company Integrated Defense Systems in Keyport, Washington; and Lockheed Martin Sippican in Marion, Massachusetts. There are no known offset agreements associated in connection with this proposed sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contract representatives to Turkey; however, contractor engineering and technical services may be required on an interim basis for installations.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 13–56

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

Annex—Item No. vii

(vii) Sensitivity of Technology:

1. The MK48 torpedo variants are submarine-launched, heavyweight torpedoes designed for both Anti-Submarine Warfare (ASW) and Anti-Surface Warfare (ASUW) roles. The MK48 Mod 6 Cardbox (with software installed), Torpedo Operational software and Warhead Electronics Subsystem Software are classified Secret. The Sonar Array, Transmitter, and Warhead Electronics Subsystem are classified Confidential. A fully assembled torpedo is classified as Confidential for shipping purposes but contains Secret software stored internally. State of the art technology is used in the 6AT as it includes all upgrades from earlier variants of the MK 48 and inclusion of the Mod 4M quieting modifications and the capability to swim out of larger diameter torpedo tubes. Anti-tampering security measures have been incorporated into the MK 48 Mod 6AT torpedo to prevent exploitation of the advanced software and quieting technologies.

2. If a technologically advanced adversary were to obtain data on the torpedo, along with characteristics and performance data, systems and procedures could be developed for countermeasures that might reduce the torpedo's effectiveness. In addition, the information could be used to develop torpedo systems with similar performance capabilities. All such releases are closely monitored and tailored to eliminate or minimize this risk.

CERTIFICATION PURSUANT TO § 620C(d)
OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

Pursuant to Section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), Executive Order 12163 and State Department Delegation of Authority No. 293-2, I hereby certify that the furnishing to Turkey of 48 MK 48 Mod 6 Advanced Technology All-Up-Round (AUR) Warshot Torpedoes is consistent with the principles contained in Section 620C(b) of the Act.

This certification will be made part of the notification to Congress under Section 36(b) of the Arms Export Control Act, as amended, regarding the proposed sale of the above-named articles and services and is based on the justification accompanying such notification, of which such justification constitutes a full explanation.

Rose Gottemoeller
Acting Under Secretary of State
for Arms Control and International
Security

[FR Doc. 2014–11625 Filed 5–19–14; 8:45 am]
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DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 14–04]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 14–04 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: May 15, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

MAY 13 2014

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 14-04, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance to Iraq for defense articles and services estimated to cost $90 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided Under Separate Cover)

Transmittal No. 14–04

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) Of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Iraq

(ii) *Total Estimated Value:*

Major Defense Equipment *	$60 million
Other	$30 million
Total	$90 million

* As defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* 7 Aerostats (17 meter) and 14 Rapid Aerostat Initial Deployment (RAID) Tower Systems, installation, spare and repair parts, support equipment, publications and technical data, site surveys, U.S. government and contractor technical assistance, personnel training and training equipment, and other related elements of program and logistics support.

(iv) *Military Department:* U.S. Army (UBN)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or*

Defense Services Proposed to be Sold: See Attached Annex

(viii) *Date Report Delivered to Congress:* 13 May 2014

POLICY JUSTIFICATION

Government of Iraq (GOI)—Aerostat and Rapid Aerostat Initial Deployment System Towers

The Government of Iraq has requested a possible sale of 7 Aerostats (17 meter) and 14 Rapid Aerostat Initial Deployment (RAID) Tower Systems, installation, spare and repair parts, support equipment, publications and technical data, site surveys, U.S. government and contractor technical assistance, personnel training and training equipment, and other related elements of program and logistics support. The estimated cost is $90 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a strategic partner. This proposed sale directly supports the Government of Iraq and serves the interests of the people of Iraq and the United States.

This proposed sale would facilitate progress towards increasing the Iraq's ability to provide protection of national level command and control sites, military installations, and other critical infrastructure against terrorist attacks. Iraq will have no difficulty absorbing this equipment into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Raytheon Company of Arlington, Virginia. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require up to 12 U.S. Government and contractor representatives to travel to Iraq over a two year period to provide technical support, program reviews and training.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 14–04

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex—Item No. vii

(vii) Sensitivity of Technology:

1. The Aerostat and Rapid Aerostat Initial Deployment (RAID) System Towers are Unclassified. The Aerostat is a large fabric balloon filled with helium and has the capability to carry up to a 200 pound payload and reach a maximum altitude of 1000 meters. Aerostat operator/support personnel consist of an 8–12 person team. The RAID tower will be the 107 foot variant supported by 3–5 person teams. The common sensor for both platforms is the Forward Looking Infrared Radar (FLIR) manufactured Star Safire III (max range 18K). These systems provide downward looking surveillance but do not provide a targeting capability. The enhanced Battlespace Reconnaissance Intelligence Surveillance software and mapping data are commercial variants.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that the recipient country can provide the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

4. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Iraq.

[FR Doc. 2014–11608 Filed 5–19–14; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 14–12]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 14–12 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: May 15, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

MAY 13 2014

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 14-12, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Australia for defense articles and services estimated to cost $534 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology

Transmittal No. 14–12

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Australia

(ii) *Total Estimated Value:*

Major Defense Equipment *	$476 million
Other	$ 58 million
Total	$534 million

* As defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* Up to 350 AIM–9X–2 Sidewinder Tactical Missiles, 35 AIM–9X Special Air Training Missiles (NATM), 95 AIM–9X–2 Captive Air Training Missiles (CATM), 22 AIM–9X–2 Tactical Guidance Units, 19 CATM–9X–2 Guidance Units, 3 DATM–9X, containers, test sets and support equipment, spare and repair parts, publications and technical documents, personnel training and training equipment, U.S. Government and contractor technical assistance, and other related elements of logistics and program support.

(iv) *Military Department:* Navy (AZT)

(v) *Prior Related Cases, if any:* FMS Case AYD-$46.7M–30Oct07

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or*

Defense Services Proposed to be Sold: See Attached Annex

(viii) *Date Report Delivered to Congress:* 13 May 2014

POLICY JUSTIFICATION

Australia—AIM 9X–2 Sidewinder Missiles

The Government of Australia has requested a possible sale of up to 350 AIM–9X–2 Sidewinder Tactical Missiles, 35 AIM–9X Special Air Training Missiles (NATMs), 95 AIM–9X–2 Captive Air Training Missiles (CATMs), 22 AIM–9X–2 Tactical Guidance Units, 19 CATM–9X–2 Guidance Units, 3 DATM–9X, containers, test sets and support equipment, spare and repair parts, publications and technical documents, personnel training and training equipment, U.S. Government and contractor technical assistance, and other related elements of logistics and program support. The estimated cost is $534 million.

Australia is an important ally in the Western Pacific that contributes significantly to ensuring peace and stability in the region. Australia's efforts in peacekeeping and humanitarian operations have made a significant impact on regional, political and economic stability and have served U.S. national security interests.

This proposed sale will improve the Royal Australian Air Force's (RAAF) air to air capability and ability to defend its nation and cooperate with allied air forces. These missiles will be used on the RAAF's F/A–18 aircraft (and eventually F–35 aircraft) and will maintain the RAAF's air-to-air capability to defend its extensive coastlines against future threats. The proposed sale will enhance RAAF's ability to operate with coalition forces in bilateral and multilateral exercises and potential air defense operations. Australia will have no difficulty absorbing these missiles into its armed forces.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractor will be Raytheon Missile Systems Company in Tucson, Arizona. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this sale may require the assignment of additional U.S. Government or contractor representatives in Australia to provide technical and logistics support for two years. U.S. Government and contractor representatives will also participate in program management and technical reviews for one-week intervals twice annually.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 14–12

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex—Item No. vii

(vii) Sensitivity of Technology:

1. The AIM–9X–2 (Block II) Sidewinder Missile represents a substantial increase in missile acquisition and kinematics performance over the AIM–9M and replaces the AIM–9X (Block I) Missile configuration. The missile includes a high off-boresight seeker, enhanced countermeasure rejection capability, low drag/high angle of attack airframe, and the ability to integrate the Helmet Mounted Cueing System. The software algorithms are the most sensitive portion of the AIM–9X–2 missile. A Software Improvement Program (SIP) provides for Software updates. No software source code or algorithms will be released. The missile is classified as Confidential.

2. The AIM–9X–2 will result in the transfer of sensitive technology and information. The equipment, hardware, and documentation are classified Confidential. The software and operational performance are classified Secret. The seeker/guidance control section and the target detector are Confidential and contain sensitive state-of-the-art technology. Manuals and technical documentation that are necessary or support operational use and organizational management are classified up to Secret. Performance and operating logic of the counter-countermeasures circuits are classified Secret. The hardware, software, and data identified are classified to protect vulnerabilities, design and performance parameters, and similar critical information.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar advanced capabilities.

4. A determination has been made that the recipient country can provide the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the US foreign policy and national security objectives outlined in the Policy Justification.

5. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Australia.

[FR Doc. 2014–11600 Filed 5–19–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 13–79]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated July 21, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. B. English, DSCA/DBO/CFM, (703) 601–3740.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittals 13–79 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: May 15, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

The Honorable John A. Boehner
Speaker of the House
U.S. House of Representatives
Washington, DC 20515

MAY 13 2014

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, we are forwarding herewith Transmittal No. 13-79, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Iraq for defense articles and services estimated to cost $790 million. After this letter is delivered to your office, we plan to issue a press statement to notify the public of this proposed sale.

Sincerely,

J. W. Rixey
Vice Admiral, USN
Director

Enclosures:
1. Transmittal
2. Policy Justification
3. Sensitivity of Technology
4. Regional Balance (Classified Document Provided Under Separate Cover)

Transmittal No. 13–79

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act, as amended

(i) *Prospective Purchaser:* Iraq

(ii) *Total Estimated Value:*

Major Defense Equipment *	$290 million
Other	$500 million
Total	$790 million

* As defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* 24 AT–6C Texan II Aircraft, 2 spare PT–6A–68 Turboprop engines, 2 spare ALE–47 Counter-Measure Dispensing Systems and/or 2 spare AAR–47 Missile Launch Detection Systems, non-SAASM global positioning systems with CMA–4124, spare and repair parts, maintenance, support equipment, publications and technical documentation, tanker support, ferry services, personnel training and training equipment, U.S. Government and contractor engineering and logistics support services, and other related elements of logistics support.

(iv) *Military Department:* Air Force (SAC)

(v) *Prior Related Cases, if any:* None

(vi) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:* None

(vii) *Sensitivity of Technology Contained in the Defense Article or*

Defense Services Proposed to be Sold: See Annex attached.

(viii) *Date Report Delivered to Congress:* 13 May 2014

POLICY JUSTIFICATION

Iraq—AT–6C Texan II Aircraft

The Government of Iraq has requested a possible sale of 24 AT–6C Texan II Aircraft, 2 spare PT–6A–68 Turboprop engines, 2 spare ALE–47 Counter-Measure Dispensing Systems and/or 2 spare AAR–47 Missile Launch Detection Systems, non-SAASM global positioning systems with CMA–4124, spare and repair parts, maintenance, support equipment, publications and technical documentation, tanker support, ferry services, personnel training and training equipment, U.S. Government and contractor engineering and logistics support services, and other related elements of logistics support. The estimated cost is $790 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a strategic partner. This proposed sale directly supports the Government of Iraq and serves the interests of the people of Iraq and the United States.

The proposed sale of these aircraft, equipment, and support will enhance the ability of the Iraqi forces to sustain themselves in their efforts to bring stability to Iraq and to prevent overflow of unrest into neighboring countries.

The proposed sale of this equipment and support will not alter the basic military balance in the region.

The principal contractors will be:

Beechcraft Defense Company, Wichita, Kansas
Lockheed Martin Mission Systems and Training, Oswego, New York
CAE USA, Little Rock, Arkansas and Tampa, Florida
Pratt & Whitney Corporation, Quebec, Canada and Bridgeport, West Virginia
Martin Baker in Middlesex, United Kingdom
Hartzell Propeller, Piqua, Ohio
Canadian Marconi, Montreal, Canada
L–3COM Wescam, Burlington, Canada
L–3COM Systems West, Salt Lake City, Utah

There are no known offset agreements proposed in connection with this potential sale.

The proposed sale will involve multiple trips to Iraq involving many U.S. government and contractor representatives over a period of 15 years for program management, program and technical reviews, training, maintenance support, and site surveys.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 13–79

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex—Item No. vii

(vii) Sensitivity of Technology:

1. The AT–6C is a light attack variant of the T–6B military training aircraft designed to employ in a low threat scenario against unconventional threats. It is equipped with an integrated Electro-Optical/Infrared (EO/IR) Laser sensor suite, which gives it a day/night Intelligence Surveillance Reconnaissance (ISR) capability with a laser illuminator/range finder/designator to allow employment of the AGM–114M3 missile. The aircraft has six external hardpoints for weapons and fuel carriage. The Iraqi variant will be equipped for AGM–114 missiles, external fuel tanks, and HMP–400 .50 cal gun pods. The ISR package allows for datalink capabilities which are compatible with the current Iraqi ISR assets. Critical cockpit, fuel system, and engine components will have aircraft armor able to withstand small arms fire. The hardware and software are Unclassified. Technical data and documentation to be provided are Unclassified.

2. The AN/ALE–47 Counter-Measures Dispensing System (CMDS) is an integrated, threat-adaptive, software-programmable dispensing system capable of dispensing chaff, flares, and active radio frequency expendables. The threats countered by the CMDS include radar-directed anti-aircraft artillery (AAA), radar command-guided missiles, radar homing-guided missiles, and infrared (IR) guided missiles. The system is internally mounted and may be operated as a stand-alone system or may be integrated with other on-board EW and avionics systems. The AN/ALE–47 uses threat data received over the aircraft interfaces to assess the threat situation and to determine a response. Expendable routines tailored to the immediate aircraft and threat environment may be dispensed using one of four operational modes. Hardware is Confidential. Software is classified up to Secret. Technical data and documentation to be provided are Unclassified.

3. The AN/AAR–47 Missile Approach Warning System (MWS): The AN/AAR–47 is an aircraft passive MWS designed for detection of incoming surface-to-air and air-to-air missiles on transport and helicopter aircraft. The system detects, identifies, and displays potential threats. The AN/AAR–47 warns of missile approach by detecting radiation associated with the rocket motor and automatically initiates flare ejection. Hardware is Unclassified. Software is classified up to Secret. Technical data and documentation to be provided is Unclassified.

4. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures that might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

5. A determination has been made that the recipient country can provide the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

6. All defense articles and services listed in this transmittal have been authorized for release and export to the Government of Iraq.

[FR Doc. 2014–11621 Filed 5–19–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the U.S. Army Science Board (''the Board'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: This committee's charter is being renewed under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b) (''the Sunshine Act''), and 41 CFR 102–3.50(d).

The Board is a discretionary Federal advisory committee that shall provide independent advice and recommendations to the Secretary of Defense; the Secretary of the Army; the Under Secretary of the Army and Department of the Army Chief

Management Officer; the Assistant Secretary of the Army for Acquisition, Logistics, and Technology; and other Army organizations as determined by the Secretary of the Army and according to DoD policy, on matters relating to the Army's scientific, technical, manufacturing, acquisition, logistics, and business management functions, and other matters as determined by the Secretary of the Army.

The Board is not established to advise on individual DoD or Department of the Army acquisitions, but instead shall be concerned with the pressing and complex technology and business management issues facing the Department of the Army.

The DoD, through the Department of the Army, shall provide support as deemed necessary for the Board's performance, and shall ensure compliance with the requirements of the FACA, the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) (''the Sunshine Act''), governing Federal statutes and regulations, and governing DoD policies and procedures.

The Board shall be comprised of no more than 20 voting members who are eminent authorities in one or more of the following disciplines: Science, technology, manufacturing, acquisition, logistics, and business management functions, and other matters of special interest to the Department of the Army. The Secretary of the Army, as authorized by the Secretary of Defense, shall designate the Board's Chairperson and Vice Chairperson from the Board's total membership. All Board member appointments must be renewed by the Secretary or Deputy Secretary of Defense on an annual basis.

Board members appointed by the Secretary of Defense or the Deputy Secretary of Defense, who are not full-time or permanent part-time federal employees, shall be appointed as experts and consultants under the authority of 5 U.S.C. 3109 to serve as special government employee (SGE) members. Board members appointed by the Secretary of Defense, who are full-time or permanent part-time Federal employees, shall serve as regular government employee (RGE) members. Board members shall serve a term of service of three years on the Board. No member may serve more than two consecutive terms of service without the Secretary or Deputy Secretary of Defense approval. This same term of service limitation also applies to any DoD authorized subcommittees.

With the exception of reimbursement for official Board-related travel and per diem, Board members shall serve without compensation.

DoD, when necessary and consistent with the Board's mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Board. Establishment of subcommittees will be based upon a written determination, to include terms of reference, by the Secretary of Defense, the Deputy Secretary of Defense, or the Secretary of the Army, as the DoD Sponsor.

Such subcommittees shall not work independently of the Board and shall report all of their recommendations and advice solely to the Board for full and open deliberation and discussion. Subcommittees, task forces, or working groups have no authority to make decisions and recommendations, verbally or in writing, on behalf of the Board. No subcommittee or any of its members can update or report, verbally or in writing, on behalf of the Board, directly to the DoD or any Federal officer or employee.

The Secretary of Defense or the Deputy Secretary of Defense will appoint subcommittee members to a term of service of three years, even if the member in question is already a member of the Board. Subcommittee members shall not serve more than two consecutive terms of service unless authorized by the Secretary of Defense or the Deputy Secretary of Defense.

Subcommittee members, if not full-time or permanent part-time Federal employees, will be appointed as experts and consultants, under the authority of 5 U.S.C. 3109, to serve as SGE members, whose appointments must be renewed on an annual basis. Subcommittee members appointed by the Secretary of Defense, who are full-time or permanent part-time Federal employees, shall serve as RGE members. With the exception of reimbursement of official travel and per diem related to the Board or its subcommittees, subcommittee members shall serve without compensation.

All subcommittees operate under the provisions of FACA, the Sunshine Act, governing Federal statutes and regulations, and established DoD policies and procedures.

The Board shall include up to four permanent subcommittees consistent with its mission and established Federal and DoD policies and procedures. The four Board subcommittees (Basic Sciences and Disruptive Technologies subcommittee; Weapon Systems subcommittee; C4ISR subcommittee; and Systems Engineering, Integration, and Sustainment subcommittee) reflect the Army core competency areas recommended by the 2013 Army Science & Technology Core Competency Study briefed to the Secretary of the Army and the Chief of Staff of the U.S. Army.

The estimated number of Board meetings is four per year.

The Board's Designated Federal Officer (DFO) shall be a full-time or permanent part-time DoD employee and shall be appointed in accordance with established DoD policies and procedures.

The Board's DFO, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures.

The Board's DFO is required to be in attendance at all meetings of the Board and any subcommittees for the entire duration of each and every meeting; however, in the absence of the DFO, a properly approved Alternate DFO shall attend the entire duration of all of the meetings of the Board and its subcommittees.

The DFO, or the Alternate DFO, shall call all meetings of the Board and its subcommittees; prepare and approve all meeting agendas; and adjourn any meeting when the DFO, or the Alternate DFO, determines adjournment to be in the public interest or required by governing regulations or DoD policies and procedures.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to U.S. Army Science Board membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of U.S. Army Science Board.

All written statements shall be submitted to the DFO for the U.S. Army Science Board, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the U.S. Army Science Board DFO can be obtained from the GSA's FACA Database—*http://www.facadatabase.gov/*.

The DFO, pursuant to 41 CFR 102–3.150, will announce planned meetings of the U.S. Army Science Board. The DFO, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: May 15, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–11633 Filed 5–19–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Announcement of Federal Funding Opportunity (FFO)

AGENCY: Office of Economic Adjustment (OEA), Department of Defense (DoD).

ACTION: Federal Funding Opportunity Announcement.

SUMMARY: This notice announces a federal funding opportunity (FFO) to obtain funding from the Office of Economic Adjustment (OEA) for community planning assistance and economic diversification in response to reductions or cancellations in Department of Defense (DoD) acquisition spending. Assistance may be granted if the reduction has a direct and significant adverse effect on a community or its residents. This notice includes proposal submission requirements and instructions, and eligibility and selection criteria that will be used to evaluate proposals from eligible respondents. OEA grants to a state or local government may result from proposals submitted under this notice, subject to available appropriations.

DATES: Proposals will be considered on a continuing basis, subject to available appropriations, commencing on the date of publication of this notice. OEA will evaluate all proposals and provide a response to a respondent within 30 business days of OEA's receipt of a final, complete proposal.

ADDRESSES: *Email: oea.ncr.OEA.mbx.ffo-submit@mail.mil.* Include ''Proposal for Defense Industry Community Adjustment Assistance'' on the subject line of the message and request delivery/read confirmation to ensure receipt.

OEA will review all proposals for which receipt has been confirmed.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Gilroy, DIA Program Co-Lead, OEA, at (703) 697–2081 or *michael.p.gilroy3.civ@mail.mil.*

SUPPLEMENTARY INFORMATION:

Federal Funding Opportunity Title: Community Economic Adjustment Assistance for Reductions in Defense Industry Employment.

Announcement Type: Federal Funding Opportunity.

Catalog of Federal Domestic Assistance (CFDA) Number: 12.611.

I. Funding Opportunity Description

OEA is a DoD Field Activity authorized under 10 U.S.C. § 2391 to provide assistance to entities of state or local governments, including regional governmental organizations, to plan and carry out community adjustment and economic diversification activities in response to the cancellation or termination of a Department of Defense contract; the failure to proceed with an approved major weapon system program; a publicly announced planned major reduction in DoD spending; or the closure or significantly reduced operations of a defense facility as the result of the merger, acquisition, or consolidation of the defense contractor operating a defense facility.

II. Award Information

OEA is accepting proposals for grant assistance to support communities or regions in organizing and planning local economic adjustment programs. Proposals will be evaluated by OEA staff in coordination with representatives from the U.S. Departments of Commerce and Labor, as well as other Federal agencies as invited by OEA, against the eligibility criteria provided in Section III of this notice and the selection criteria provided in Section V of this notice. OEA will invite eligible respondents that submit successful proposals to submit full e-grant applications for review. To receive a grant award, an eligible respondent must submit both a successful proposal and an acceptable grant application. The final amount of each award will be determined by OEA based upon a review of the proposal and grant application, as well as comments from other Federal agencies, and will be subject to availability of funds. Grants may pay for up to 90% of a project's total cost, with the respondent required to pay not less than 10% of the project's total cost through non-Federal funding as local match. OEA reserves the right to cancel an award for non-performance.

States may request assistance to enhance their capacity to assist adversely affected communities, businesses, and workers; support local adjustment and diversification initiatives; and stimulate cooperation between statewide and local adjustment and diversification efforts.

III. Eligibility Information

States, counties, municipalities, other political subdivisions of a State; special purpose units of a State or local government; and tribal nations are eligible for funding under this notice. If multiple sub-State jurisdictions respond to the same event, only one proposal will be considered. A proposal must respond to: A publicly announced planned major reduction in DoD spending; the closure or significantly reduced operations of a defense facility as the result of the merger, acquisition, or consolidation of the defense contractor operating the defense facility; the cancellation or termination of a DoD contract; or the failure to proceed with an approved major weapon system program.

This DoD activity must result in the loss of: 2,500 or more employee positions, in the case of a Metropolitan Statistical Area; 1,000 or more employee positions, in the case of a labor market area outside of a Metropolitan Statistical Area; or one percent of the total number of civilian jobs in the local labor market for the impacted area. For the purposes of demonstrating eligibility, only direct (i.e., prime and supply chain) job loss may be counted, and respondents may document a cumulative job loss over the span of not more than three consecutive years (e.g., two years prior to proposal and one year forward). Induced job loss will *not* be considered as a factor in demonstrating eligibility. The respondent must also explain how this job loss will cause direct and significant adverse effects to the community or residents in the area.

Funding will be awarded to only one governmental entity on behalf of a region, so regional respondents should demonstrate a significant level of cooperation in their proposal.

A proposal from a State respondent must demonstrate how the proposed grant would support adversely affected communities, businesses and workers; support local adjustment and diversification initiatives or planning for such initiatives; and stimulate cooperation between statewide and local adjustment and diversification efforts. The proposal should also explain efforts to provide business planning and market exploration services to defense contractors and subcontractors seeking modernization or diversification assistance as well as any training, counseling, and placement services to dislocated armed forces and defense workers. Eligible proposals from respondents other than states must be designed to allow an affected region to: (1) Organize itself to represent and respond on behalf of affected communities, workers, and businesses; (2) plan local community and economic adjustment activities to assist affected communities, workers, and businesses; and (3) carry-out plans to effectively respond to the defense impacts and stabilize the local economy. Respondents must specifically demonstrate how the proposed project will replace lost jobs, improve the resiliency of affected defense manufacturers, and assist displaced workers in order to stabilize the local economy.

Eligible activities may include (but are not limited to): Staffing, operating, and administrative costs for an organization; outreach to businesses, workers, and other community interests; regional supply-chain mapping of defense-specific industry clusters; asset mapping to support a response; economic data collection and analysis to identify regional comparative advantages; preparation of diversification plans to lessen economic dependency on defense expenditures; facilitation of workforce adjustment and retraining efforts; provision of business planning and market exploration services for defense contractors and sub-contractors that seek modernization or diversification assistance; and, preliminary strategies and plans for the potential reuse or redevelopment of existing defense facilities.

Funds available under this program should not duplicate nor replicate activities otherwise eligible for/funded through other Federal programs. Respondents are encouraged to submit proposals that demonstrate appropriate leverage of all public and private resources and programs, such as:

- U.S. Department of Commerce's Manufacturing Extension Partnership (MEP) Program for provision of relevant assistance to the region's manufacturers that operate as part of affected Defense supply chains;
- State, regional, and local economic development organizations which often work with the U.S. Department of Commerce's Economic Development Administration (EDA);
- Small Business Development Centers as well as local Small Business Administration District offices; and
- U.S. Department of Labor's (DOL) Employment and Training Administration (ETA) grantees, including local Workforce Investment Boards and/or American Job Centers.

Funds provided under this program may not be used to directly identify or assist a business, including a business expansion, in the relocation of a plant, facility, or operation from one Labor Market Area (LMA) to another if the relocation is likely to result in the loss of jobs in the LMA from which the relocation occurs.

IV. Application and Submission Information

Proposals will be accepted as received on a continuing basis commencing on the date of this publication and processed when deemed to be a final, complete proposal. Each proposal shall consist of no more than ten (10) single-sided pages exclusive of cover sheet and/or transmittal letter, and must include the following information:

A. *Point of Contact:* Name, phone number, email address, and organization address of the respondent's primary point of contact;

B. *Defense Action/Impact:* A description of the publicly announced planned major reduction in Department of Defense (DoD) spending; the closure or significantly reduced operations of a defense facility as the result of the merger, acquisition, or consolidation of the defense contractor operating the defense facility; the cancellation or termination of a DoD contract; or the failure to proceed with an approved major weapon system program. Also include documentation of the known or anticipated job loss; the average unemployment rate over the past year; the current unemployment rate; and other factors indicating community impact and need;

C. *Project Description:* A description of the proposed project, including how the project addresses the impacts of Defense actions on communities, workers, and businesses, how the project will capitalize on existing strengths (e.g. infrastructure, institutions, capital, etc.) within the affected area, and how the project would be integrated with existing/ongoing economic development efforts;

D. *Project Parties:* A description of the local partner organizations/jurisdictions, and their roles and responsibilities, that will carry out the proposed project, including letters of support as attachments which will *not* count against the ten-page limit;

E. *Grant Funds and Other Sources of Funds:* A summary of local needs, including need for Federal funding; an overview of all State and local funding sources, including the funds requested under this notice; financial commitments for other Federal and non-Federal funds needed to undertake the project to include acknowledgment to provide not less than 10% of the funding from non-Federal sources; a description of any other Federal funding for which the respondent has applied, or intends to apply to support this effort; and, a statement detailing how the proposal is not duplicative of other available Federal funding;

F. *Project Schedule:* A sufficiently detailed project schedule, including milestones;

G. *Performance Metrics:* A description of metrics to be tracked and evaluated over the course of the project to gauge performance of the project;

H. *Grants Management:* Evidence of the intended recipient's ability and authority to manage grant funds;

I. *Submitting Official:* Documentation that the Submitting Official is authorized by the respondent to submit a proposal and subsequently apply for assistance.

OEA reserves the right to ask any respondent to supplement the information in its proposal, but expects proposals to be complete upon submission. To the extent practicable, OEA encourages respondents to provide data and evidence of all project merits in a form that is publicly available and verifiable.

Proposals must be submitted electronically to: Director, OEA, using the electronic address described in **ADDRESSES**.

V. Application Review Information

Selection Criteria—Upon validating respondent eligibility, to include job loss numbers and whether there is a direct and significant adverse impact as a result of the job loss on the area, OEA will consider each of the following equally-balanced factors as a basis to invite formal grant applications:

- An appropriate and clear project design to address the need, problem, or issue identified;
- Evidence of an holistic approach to the problem which leverages education, the workforce system, businesses, higher education, economic development, and other relevant assets at local, state, regional, and Federal levels;
- The innovative quality of the proposed approach to economic adjustment, or economic diversification; and,
- A reasonable proposed budget with local match commitment and schedule for completion of the work program specified.

Review and Selection Process—All proposals will be reviewed on their individual merit by a panel of OEA staff, all of whom are Federal employees. OEA will also seek the input of other Federal agencies with relevant expertise (e.g., Labor, Commerce, and the Small Business Administration) in the evaluation of proposals. OEA will notify the respondent within thirty (30) days of receipt of a proposal whether their proposal was successful and will then invite the respondent to submit a more detailed electronic grant (eGrant) application, and assign a Project Manager to advise and assist successful respondents in the preparation of the application. Grant applications will be reviewed for their completeness and accuracy and a grant award notification

will be issued, to the extent possible, within seven (7) business days from its receipt.

Unsuccessful respondents will be notified that their proposal was not selected for further action and funding, and may request a debriefing on their submitted proposal. Requests for debriefing must be submitted within 3 calendar days of notification of an unsuccessful proposal.

OEA is committed to conducting a transparent financial assistance award process and publicizing information about decisions. Respondents are advised that their respective applications and information related to their review and evaluation may be shared publicly. In the event of a grant award, information about project progress and related results may also be made publicly available.

VI. Award Administration Information

In the event a grant is awarded, the successful respondent (Grantee) will receive a notice of award in the form of a Grant Agreement, signed by the Director, OEA (Grantor), on behalf of the Department of Defense. The Grant Agreement will be transmitted electronically or, if necessary, by U.S. Mail.

Administrative and National Policy Requirements—Any grant awarded under this program will be governed by the provisions of the OMB circulars applicable to financial assistance and DoD's implementing regulations in place at the time of the award. A Grantee receiving funds under this opportunity and any consultant/contractor operating under the terms of a grant shall comply with all Federal, State, and local laws applicable to its activities. Current requirements that may apply include the following:

—Administrative requirements in:
  —32 Code of Federal Regulations (CFR) part 33, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments''; or 32 CFR part 32, ''Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations'';
—Provisions governing allowable costs in:
  —OMB Circular A–87, ''Cost Principles for State, Local, and Indian Tribal Governments'';
  —OMB Circular A–21, ''Cost Principles for Educational Institutions''; or
  —OMB Circular A–122, ''Cost Principles for Non-Profit Organizations'';
—31 U.S.C. 7502(h), ''The Single Audit Act,'' as implemented in OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations'';
—2 CFR part 180, ''OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),'' as implemented by DoD in 2 CFR part 1125, ''Department of Defense Nonprocurement Debarment and Suspension'';
—32 CFR part 26, ''Government-wide Requirements for Drug-Free Workplace (Financial Assistance),'' including subpart B, ''Requirements for Recipients Other Than Individuals'';
—32 CFR part 28, ''New Restrictions on Lobbying'';
—2 CFR part 25, ''Universal Identifier and Central Contractor Registration'' (now found in the System for Award Management (SAM) at *www.sam.gov*).

Awards (including supplemental awards) made after December 26, 2014 may reflect revisions in accordance with DoD implementation of new OMB guidance in 2 CFR part 200, ''Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards''.

Grant Award Determination—Selection of an organization under this FFO does not constitute approval of a grant for the proposed project as submitted. Before any funds are awarded, OEA may enter into negotiations about such items as program components, staffing and funding levels, and administrative systems in place to support implementation of the award. The amount of available funding may require the final award amount to be less than that originally requested by the respondent. If the negotiations do not result in a mutually acceptable submission, OEA reserves the right to terminate the negotiations and decline to fund an application. OEA further reserves the right not to fund any application received under this FFO.

In the event the respondent is awarded a grant that is less than the amount requested, the respondent will be required to modify its grant application to conform to the reduced amount before execution of the grant agreement. OEA reserves the right to reduce or withdraw the award if acceptable modifications are not submitted by the awardee within 15 working days from the date the request for modification is made. Any modifications must be within the scope of the original application.

Reporting—OEA requires quarterly performance reports, an interim financial report for each 12 months a grant is active, and one final performance report for any grant. The performance reports will contain information on the following:

- A comparison of actual accomplishments to the objectives established for the period;
- Reasons for slippage if established objectives were not met;
- Additional pertinent information when appropriate;
- A comparison of actual and projected quarterly expenditures in the grant; and,
- Amount of Federal cash on hand at the beginning and end of the reporting period.

The final performance report must contain a summary of activities for the entire grant period. All required deliverables should be submitted with the final performance report. The final SF 425, ''Federal Financial Report,'' must be submitted to OEA within 90 days after the end of the grant. Any grant funds actually advanced and not needed for grant purposes shall be returned immediately to OEA. Upon award, OEA will provide a schedule for reporting periods and report due dates in the Grant Agreement.

VII. Agency Contacts

For further information, to answer questions, or for help with problems, contact: Mr. Michael Gilroy, OEA DIA Program Co-Lead, at (703) 697–2081, *michael.p.gilroy3.civ@mail.mil,* or regular mail at 2231 Crystal Drive, Suite 520, Arlington, VA 22202–3711. The OEA homepage address is: *http://www.oea.gov.*

VIII. Other Information

No Obligation for Future Funding—Amendment or renewal of an award to increase funding or to extend the period of performance is at the discretion of OEA. If a respondent is awarded funding under this FFO, neither the DOC, EDA, National Institute of Standards and Technology, DOL, ETA, nor Small Business Administration are under any obligation to provide any additional future funding in connection with that award or to make any future award(s).

Intellectual Property Rights—In the event of a grant award, the Grantee may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. The Federal awarding agencies reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the

work for Federal purposes, and to authorize others to do so. Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise. The grantee may not use Federal funds to pay any royalty or license fee for use of a copyrighted work, or the cost of acquiring by purchase a copyright in a work, where the Department has a license or rights of free use in such work. If revenues are generated through selling products developed with grant funds, including intellectual property, these revenues are program income and shall be added to the grant and must be expended for allowable grant activities.

Dated: May 15, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–11596 Filed 5–19–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Proposed Waiver and Extension of the Project Period for the Striving Readers Comprehensive Literacy Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Proposed waiver and extension of the project period.

SUMMARY: For the Striving Readers Comprehensive Literacy program, the Secretary proposes to: (1) Waive the restriction against project period extensions involving the obligation of additional Federal funds; and (2) extend the project period for a grantee that only requested three out of a possible five years of funding. The Secretary proposes this action because additional funds are available from the fiscal year (FY) 2014 appropriation to support this extension and we believe that it would be in the public interest to support continued funding of the affected project. This proposed extension would support the affected grantee in its efforts to fully implement its State Literacy Plan, as well as to continue its sustainability efforts and program activities.

DATES: We must receive your comments on or before June 19, 2014.

ADDRESSES: Address all comments about this proposed waiver and extension of the project period to Rosemary Fennell, U.S. Department of Education, 400 Maryland Avenue SW., Room 3E228, Washington, DC 20202–6200.

If you prefer to send your comments by email, use the following address: *rosemary.fennell@ed.gov*. You must include the phrase ''Proposed waiver and extension of the project period'' in the subject line of your message.

FOR FURTHER INFORMATION CONTACT: Rosemary Fennell by telephone at (202) 401–2425 or by email at: *rosemary.fennell@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 proposed waiver and extension of the project period.

During and after the comment period, you may inspect all public comments about this proposed waiver and extension in Room 3E228, 400 Maryland Avenue SW., Washington, DC, 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 proposed waiver and extension. 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**.

Background

In FY 2010, Congress appropriated $200 million to support establishment of a comprehensive literacy development and education program through the Consolidated Appropriations Act (Pub. L. 111–117, ''the Act'') under section 1502 of the Elementary and Secondary Education Act of 1965, as amended (ESEA). The purpose of the Striving Readers Comprehensive Literacy grant program (SRCL) is to advance literacy skills—including pre-literacy skills, reading, and writing—for students from birth through grade 12, including limited-English-proficient students and students with disabilities. Section 1502 of the ESEA provides the authority for demonstration programs, like SRCL, that show promise of enabling children to meet challenging academic content and achievement standards. SRCL funds are awarded through multiple funding streams—formula grants, discretionary grants and set-aside—for the common purpose of advancing literacy skills. The FY 2010 formula grant program awarded $10 million to 46 States, the District of Columbia and the Commonwealth of Puerto Rico to assist States in creating or maintaining a State Literacy Team of at least nine members with expertise in literacy development and education for children from birth through grade 12 to assist the State in developing a comprehensive literacy plan.

FY 2010 funds also were distributed through a discretionary grant competition conducted in FY 2011 to six State educational agencies (SEAs), and through set aside grants to the Bureau of Indian Education (BIE) and four Outlying Areas—American Samoa, Guam, Commonwealth of the Northern Mariana Islands and the Virgin Islands. The U.S. Department of Education (the Department) announced this discretionary grant competition in a notice inviting applications that was published in the **Federal Register** on March 10, 2011 (76 FR 13143) (March 2011 NIA). The purpose of the discretionary grants to SEAs and the set asides to BIE and the Outlying Areas is to encourage these entities to take a comprehensive approach to literacy that includes pre-literacy, reading, and writing skills for all students—including disadvantaged students, limited-English proficient students, and students with disabilities—from birth to grade 12.

The grants awarded under the FY 2011 competition were for a project period of up to five years. The Department indicated in the March 2011 NIA that it planned to make continuation awards in accordance with section 75.253 of the Education Department's General Administrative Regulations (EDGAR) (34 CFR 75.253), depending on the availability of funds.

Five of the six SEA grantees funded under the FY 2011 grant competition submitted a budget for all five years of the grant period. One grantee, the Montana Department of Education, submitted a budget request for only three years, believing that it could request funding for years 4 and 5 after receiving a grant award. On March 25, 2014, the Montana Department of Education, Office of Public Instruction requested to extend its project period for an additional two years.

The Secretary proposes to waive the requirement of 34 CFR 75.261(a) and (c)(2) of EDGAR that generally prohibits project period extensions involving the obligation of additional Federal funds. The Secretary also proposes to extend the current Montana SRCL project period for an additional 24 months. This

would allow the grantee to seek a continuation award for FY 2014 and FY 2015.

The FY 2014 appropriation contained sufficient funding to continue Montana's grant. The appropriation for the SRCL program included $158 million, an increase of approximately $6 million over the FY 2013 funding level. Based on this modest increase, the Department does not plan to conduct a new competition in FY 2014, as there are insufficient funds to provide continuation awards and to fund new grantees.

We believe it best serves the interests of the Department and the public to ensure the full cohort of grantees, including Montana, the opportunity to complete a five-year program, as originally intended in the March 2011 NIA, to get the best data on promising literacy practices that can be implemented nationwide. Providing Montana an opportunity for an additional two years of funding, and in turn an additional two years of data on implementation, is consistent with the underlying purpose of the SRCL program funded under the Section 1502 demonstration authority: To provide data on the results of promising literacy practices implemented under the SRCL program.

Additionally, the Montana Department of Education's SRCL project is at a critical point; the State is working with participating local education agencies (LEA) to fully implement the State Literacy Plan, and to implement sustainability efforts and activities. The Montana SRCL Implementation Team continues it work to assess and evaluate the effectiveness of the implementation of the State Literacy Plan, and continues to identify and provide the support and resources necessary to ensure processes and systems created through the SRCL program are sustainable. The Montana Department of Education has used data-driven decisions, through its evaluation and assessment activities, to make improvements to the SRCL program across 10 LEAs and 32 schools. Without an extension of the project period to allow for the work that will lead to sustainability and full implementation of the State Literacy Plan, the SRCL program may cease in some LEAs and be greatly curtailed in others.

Therefore, to ensure continuity and stability of the SRCL program in Montana, we propose to waive the requirement of 34 CFR 75.261(a) and (c)(2) of EDGAR to extend the Montana Department of Education's SRCL project for two additional years. This two-year extension of the project period would ensure seamless program delivery to the sub-grantees awarded under the Montana Department of Education SRCL grant award, as well as data on project implementation.

If the waiver of the requirement of 34 CFR 75.261(a) and (c)(2) of EDGAR that we propose in this proposed waiver and extension is announced by the Department in a final proposed waiver and extension, the requirements applicable to continuation awards for current SRCL grantees and the requirements in section 75.253 of EDGAR would apply to any continuation awards made to current SRCL grantees, including the Montana Department of Education.

If we announce this proposed waiver and extension of the project period as final, we would use the process stated in the March 2011 NIA and the regulations in 34 CFR 75.253 to make continuation awards based on information that each grantee provides, indicating that each grantee is making substantial progress performing its SRCL grant activities and is showing improvement against baseline data on specific indicators listed in the March 2011 NIA.

Any activities to be carried out during the remaining continuation years of the SRCL award must be consistent with, or be a logical extension of, the scope, goals, and objectives of each grantee's application as approved in the FY 2011 SRCL competition. Under this proposed waiver and extension, the project period for the Montana SRCL grantees would be extended through September 30, 2016—the same project period for all SRCL grantees.

We will announce the final waiver and extension of the proposed project period in the **Federal Register**. We will determine the final waiver and extension of the proposed project period after considering responses to this proposed waiver and extension, and other information available to the Department.

Note: This proposed waiver and extension does *not* solicit applications.

Regulatory Flexibility Act Certification

The Secretary certifies that this proposed waiver and extension of the activities required to support additional years of funding would not have a significant economic impact on a substantial number of small entities. The entities that would be affected by this proposed waiver and extension are the current SRCL grantees receiving Federal funds and any other potential applicants.

The Secretary certifies that the proposed waiver and extension would not have a significant economic impact on these entities because the proposed waiver and extension impose minimal compliance costs to extend a single project already in existence, and the activities required to support the additional years of funding would not impose additional regulatory burdens or require unnecessary Federal supervision.

Paperwork Reduction Act of 1995

This proposed waiver and extension of the period does not contain any information collection requirements.

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 15, 2014.

Deborah Delisle,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2014–11669 Filed 5–19–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Committee on Foreign Medical Education and Accreditation

AGENCY: Office of Postsecondary Education, National Committee on Foreign Medical Education and Accreditation, Department of Education.

ACTION: Request for Nominations to Serve on the National Committee on Foreign Medical Education and Accreditation (NCFMEA).

SUMMARY: At this time, the Secretary of Education invites interested parties to submit nomination(s) for individuals to serve on the National Committee on Foreign Medical Education and Accreditation (NCFMEA).

SUPPLEMENTARY INFORMATION: The NCFMEA was established by the Secretary of Education under Section 102 of the Higher Education Act of 1965, as amended. The Committee shall consist of eleven (11) members appointed to a three year term (initial terms will be staggered one year, two year, or three year term, as determined by the Secretary of Education), one of whom shall be a student at the time of appointment, enrolled in an accredited medical school. As of September 30, 2014, the terms of the current eleven (11) NCFMEA members will expire.

Upon request from a foreign country, the NCFMEA evaluates the standards of accreditation applied to applicant foreign medical schools in that country and determines the comparability of these standards to standards for accreditation applied to medical schools in the United States. Medical schools located in foreign countries that lack an NCFMEA finding of comparability of their accrediting standards are not eligible to have their U.S. students receive Federal student aid funds under Title IV of the HEA.

Nomination Process: Any interested person or organization may nominate one or more qualified individuals for membership. If you would like to nominate an individual or yourself for appointment to the NCFMEA (including incumbents who wish to seek reappointment), please submit the following information to the U.S. Department of Education's White House Liaison Office.

- A cover letter addressed to the Secretary of Education that provides your reason(s) for nominating the individual; and
- A copy of the nominee's current resume or curriculum vitae.
- Contact information for the nominee (name, title, business address, business phone, fax number, and business email address).

In addition, the cover letter must include a statement affirming that the nominee (if you are nominating someone other than yourself) has agreed to be nominated and is willing to serve on the Committee if selected. Nominees should be broadly knowledgeable about foreign medical education and accreditation, respected in the educational community, and representative of the relevant constituencies.

DATES: Nominations via mail for the NCFMEA must be postmarked by June 16, 2014. Electronic or hand delivered nominations must be received by no later than 12:00 noon Eastern Daylight Savings Time June 16, 2014.

ADDRESSES: You may submit nominations, including attachments by any of the following methods:

- *Electronically:* Send to *whitehouseliasion@ed.gov* (specify in the email subject line ''NCFMEA Nomination'').
- *Mail, express delivery, hand delivery, messenger, or courier service:* Submit one copy of the documents listed above to the following address: The Honorable Arne Duncan, Secretary of Education, U. S. Department of Education, 400 Maryland Avenue SW., Washington, D. C. 20202.

Please submit nomination information via only one (1) of the methods mentioned above.

For questions related to NCFMEA, contact Carol Griffiths, NCFMEA Executive Director at (202) 219–7035; or via email at *Carol.Griffiths@ed.gov*. For questions about the nominations process contact the U. S. Department of Education, White House Liaison Office at 202 401–3677.

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.federal register.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Brenda Dann-Messier,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 2014–11679 Filed 5–19–14; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9911–18–Region–4; EPA–R04–OAR–2013–0647 and EPA–R04–OAR–2014–0023]

Notice of Issuance of Final Air Permits for EFS Shady Hills, LLC—Shady Hills Generating Station, and New Hope Power Company—Okeelanta Cogeneration Station.

AGENCY: Environmental Protection Agency.

ACTION: Notice of final action.

SUMMARY: The Environmental Protection Agency (EPA) is announcing that on January 14, 2014, and March 17, 2014, the agency issued final Prevention of Significant Deterioration (PSD) air quality permits numbered PSD–EPA–R4013 and PSD–EPA–R4016 for the EFS Shady Hills, LLC (Shady Hills)—Shady Hills Generating Station (SHGS) and New Hope Power Company (NHPC)—Okeelanta Cogeneration Station (Okeelanta), respectively.

ADDRESSES: The final permits, the EPA's response to public comments for these permits, and supporting information are available at *http://www.epa.gov/region4/air/permits/index.htm*. Copies of the final permits and the EPA's response to comments are also available for review at the EPA Regional Office and upon request in writing. The EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Please contact Ms. Heather Ceron, Air Permits Section Chief, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9185. Ms. Ceron can also be reached via electronic mail at *ceron.heather@epa.gov*.

SUPPLEMENTARY INFORMATION: On September 24, 2013, EPA Region 4 requested public comments on a preliminary determination to issue a

PSD air quality permit for the Shady Hills SHGS project. A total of 60 comments from 2 commenters were received (via email and the regulations.com site) during the public comment period, which closed on October 24, 2013.

On January 23, 2014, EPA Region 4 requested public comments on a preliminary determination to issue a PSD air quality permit for the NHPC Okeelanta project. A total of 9 comments from one commenter were received (via email) during the public comment period, which closed on February 24, 2014.

The EPA reviewed each comment received and prepared a Response to Comments document for each of the two projects. After consideration of the expressed view of all interested persons, the pertinent Federal statutes and regulations, the applications and supplemental information submitted by the applicants, and additional material relevant to the applications and contained in the Administrative Records, the EPA made final determinations in accordance with title 40 CFR part 52 to issue final air permits.

Under 40 CFR 124.19(f)(2), notice of any final Agency action regarding a PSD permit must be published in the **Federal Register**. Section 307(b)(1) of the Clean Air Act (CAA) provides for review of final Agency action that is locally or regionally applicable in the United States Court of Appeals for the appropriate circuit. Such a petition for review of final Agency action must be filed within 60 days from the date of notice of such action in the **Federal Register**. For purposes of judicial review under the CAA, final Agency action occurs when a final PSD permit is issued or denied by the EPA and Agency review procedures are exhausted, per 40 CFR 124.19(f)(1).

Any person who filed comments on the draft permits was provided the opportunity to petition the Environmental Appeals Board by the end of February 14, 2014, for the Shady Hills permit, or by the end of April 17, 2014, for the NHPC permit. No petitions were submitted for either of these permits. Therefore, the Shady Hills permit became effective on February 15, 2014. The NHPC permit became effective on April 18, 2014.

Dated: May 2, 2014.

Beverly H. Banister,

Director, Air, Pesticides and Toxics, Management Division, Region 4.

[FR Doc. 2014–11698 Filed 5–19–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2009–1017; FRL–9909–40]

Notice of Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw their requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been cancelled only if such sale, distribution, or use is consistent with the terms as described in the final order. For those end-use products listed in Table 2 of Unit II, the cancellations will be effective December 31, 2016, as described in Unit II.

DATES: Comments must be received on or before June 19, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2009–1017, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

Submit written withdrawal request by mail to: Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: John W. Pates, Jr., Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8195; email address: *pates.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What action is the agency taking?

This notice announces receipt by the Agency of requests from registrants to cancel 63 pesticide products registered under FIFRA section 3 or 24(c). These registrations are listed in sequence by registration number (or company number and 24(c) number) in Table 1 and Table 2 of this unit.

Unless the Agency determines that there are substantive comments that warrant further review of the requests or the registrants withdraw their requests, EPA intends to issue an order in the **Federal Register** canceling all of the affected registrations.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product name	Chemical name
000264–00805	Thiacloprid Technical Insecticide	Thiacloprid.
000264–00806	Calypso 4 Flowable Insecticide	Thiacloprid.
000352–00593	Accent Gold Herbicide	Clopyralid, Nicosulfuron, Rimsulfuron and Flumetsulam.
000352–00612	DuPont Accent Gold WDG Herbicide	Clopyralid, Nicosulfuron, Rimsulfuron and Flumetsulam.
000352–00792	DuPont DPX–KJM44 80XP Turf Herbicide	Aminocyclopyrachlor methyl ester.
000352–00794	DuPont DPX–MAT28 50SG Turf Herbicide	Aminocyclopyrachlor.
000352–00797	DuPont DPX–KJM44 0.064G Turf Herbicide + Fertilizer.	Aminocyclopyrachlor methyl ester.
000352–00800	DuPont DPX–KJM44 0.073G Lawn Herbicide + Fertilizer.	Aminocyclopyrachlor methyl ester.
000352–00803	DuPont DPX–KJM44 0.053G Lawn Herbicide + Fertilizer.	Aminocyclopyrachlor methyl ester.
000352–00804	DuPont DPX–KJM44 0.049G Lawn Herbicide + Fertilizer.	Aminocyclopyrachlor methyl ester.
000352–00807	DuPont DPX–KJM44 0.033G Lawn Herbicide + Fertilizer.	Aminocyclopyrachlor methyl ester.
000352–00811	DuPont DPX–KJM44 0.02G Lawn Herbicide + Fertilizer.	Aminocyclopyrachlor methyl ester.
000352–00813	DuPont DPX–MAT28 0.05G Turf Herbicide + Fertilizer.	Aminocyclopyrachlor.
000352–00814	DuPont DPX–MAT28 0.03G Turf Herbicide + Fertilizer.	Aminocyclopyrachlor.
000352–00815	DuPont DPX–MAT28 0.068G Lawn Herbicide + Fertilizer.	Aminocyclopyrachlor.
000432–01362	Premise 0.5 SC	Imidacloprid.
000464–00662	S.S.T. Sump Saver Tablets	2-(Hydroxymethyl)-2-nitro-1,3-propanediol.
001270–00255	Zep Flush 'N Kill DM	S-Bioallethrin and Deltamethrin.
001448–00379	Busan 2020F	Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl dichloride).
001448–00380	Busan 2020	Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl dichloride).
001448–00396	WSKT	Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl dichloride) and 5-Chloro-2-methyl-3(2H)-isothiazolone and 2-Methyl-3(2H)-isothiazolone.
001448–00397	Busan 1174	Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl dichloride) and 5-Chloro-2-methyl-3(2H)-isothiazolone and 2-Methyl-3(2H)-isothiazolone.
001448–00400	PCA 10	Poly(oxy-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl(dimethylimino)-1,2-ethanediyl dichloride).
008033–00012	Equinox Herbicide	Tepraloxydim.
008033–00013	BAS 620 H MUP	Tepraloxydim.
010163–00279	Milbemectin Technical Miticide/Insecticide	Milbemectin (A mixture of >=70% Milbemycin A4, & <=30% Milbemycin A3).
010163–00280	Ultiflora Miticide/Insecticide	Milbemectin (A mixture of >=70% Milbemycin A4, & <=30% Milbemycin A3).
028293–00167	Unicorn Residual House and Carpet Spray	Bioallethrin, MGK 264 and Permethrin.
028293–00192	Unicorn House and Carpet Spray #5	Bioallethrin, MGK 264, Piperonyl butoxide and Esfenvalerate.
028293–00196	Unicorn House and Carpet Spray #6	Bioallethrin, MGK 264, Piperonyl butoxide and Esfenvalerate.
028293–00332	Unicorn Flying & Crawling Insect Killer IV	S-Bioallethrin and Deltamethrin.
028293–00334	Unicorn Flying & Crawling Insect Killer V	S-Bioallethrin and Deltamethrin.
028293–00336	Unicorn Flying & Crawling Insect Killer III	S-Bioallethrin and Deltamethrin.
054382–00003	Taktic Emulsifiable Concentrate Miticide/Insecticide.	Amitraz.
066330–00295	Iprodione Technical 97.5%	Iprodione.
066330–00329	Iprodione Technical 98%	Iprodione.
067071–00053	Acticide MKW 1	Octhilinone and Carbamic acid, butyl-, 3-iodo-2-propynyl ester and Diuron.
070627–00071	Raid Institutional Flying Insect Killer	d-Allethrin, Phenothrin and Tetramethrin.
071368–00062	Assert Herbicide	Imazamethabenz.
071368–00063	Assert Herbicide Technical	Imazamethabenz.
075630–00001	Zinc Borate	Zinc borate (3ZnO, 2B03, 3.5H2O; mw 434.66).

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product name	Chemical name
083558–00020	Mepiquat Chloride Technical	Mepiquat chloride.
085678–00027	Iprodione Technical	Iprodione.
087290–00014	Willowood Imidacloprid 4SC	Imidacloprid.
087290–00021	Willowood Imidacloprid 2SC	Imidacloprid.
ME030004	Accord Concentrate	Glyphosate-isopropylammonium.
ME980001	Confirm 2F Insecticide	Tebufenozide.

The allethrin series of pyrethroid insecticides include the following: Bioallethrin, esbiol, esbiothrin, and pynamin forte. The technical registrants for the allethrins, Sumitomo Chemical Company Limited and Valent BioSciences Corporation, cancelled all of the allethrins technical products effective September 30, 2015 and cancelled their allethrins end-use product registrations effective December 31, 2016. Furthermore, Valent and Sumitomo requested that use of their technical products to formulate end-use products not be permitted after December 31, 2015. A final Cancellation Order was published in the **Federal Register** issue of April 24, 2013 (78 FR 74195). Because the allethrins technical products have been cancelled, several other registrants for allethrins end-use products have requested cancellation with dates consistent with those specified for the Valent and Sumitomo allethrins end-use products. The cancellation of the end-use products listed in Table 2 are requested to be effective December 31, 2016.

TABLE 2—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION EFFECTIVE DECEMBER 31, 2016

Registration No.	Product name	Chemical name
000004–00461	Bonide Crawling Insect Killer	Deltamethrin and S-Bioallethrin.
000498–00167	SprayPak Ant & Roach Killer Formula 2 With Esfenvalerate.	Bioallethrin, MGK 264, Piperonyl butoxide and Esfenvalerate.
000498–00192	Champion Sprayon Flying & Crawling Insect Killer Formula II.	S-Bioallethrin and Deltamethrin.
000499–00362	Whitmire PT 515 Wasp-Freeze Wasp and Hornet Killer.	Bioallethrin and Phenothrin.
003095–00026	PIC Mosquito Repellent Coils	d-Allethrin.
004822–00283	Raid House and Garden Bug Killer Formula 7	d-Allethrin and Phenothrin.
004822–00284	Raid Formula 5 Flying Insect Killer	d-Allethrin, Piperonyl butoxide and Phenothrin.
004822–00469	Repellent LMO	d-Allethrin.
004822–00501	Snake II	Bioallethrin.
004822–00578	H7A–US	Tetramethrin, Phenothrin and d-Allethrin.
004822–00580	H7A–US HG	Tetramethrin, Phenothrin and d-Allethrin.
006218–00043	Summit Mistocide-B	S-Bioallethrin, MGK 264 and Piperonyl butoxide.
009688–00256	Chemsico Aerosol Insecticide DS	S-Bioallethrin and Deltamethrin.
009688–00306	TAT Roach & Ant With Residual Action 2491	Bioallethrin, MGK 264, Piperonyl butoxide and Esfenvalerate.
010807–00437	Konk Insecticide Foam	Bioallethrin, MGK 264 and Permethrin.
070385–00004	Microban X–590 Institutional Spray	Bioallethrin, MGK 264, o-Phenylphenol (NO INERT USE), Piperonyl butoxide and Benzenemethanaminium, N,N-dimethyl-N-(2-(2-(4-(1,1,3,3-tetramethylbutyl) phenoxy)ethoxy)ethyl)-, chloride.

Table 3 of this unit includes the names and addresses of record for all registrants of the products in Table 1 and Table 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in this unit.

TABLE 3—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company name and address
4	Bonide Products, Inc., Agent: Registrations By Design, Inc., P.O. Box 1019, Salem, VA 24153–3805.
264	Bayer CropScience LP, 2 T.W. Alexander Dr., P.O. Box 12014, Research Triangle Park, NC 27709.
352	E.I. DuPont De Nemours and Company (S300/419), 1007 Market St., Wilmington, DE 19898–0001.
432	Bayer Environmental Science, A Division of Bayer CropScience LP, 2 T.W. Alexander Dr., P.O. Box 12014, Research Triangle Park, NC 27709.
464	The Dow Chemical Co., Agent: The Dow Chemical Company, 100 Larkin Center, 1650 Joseph Dr., Midland, MI 48674.
498	Chase Products Co., Putting The Best At Your Fingertips, P.O. Box 70, Maywood, IL 60153.
499	Whitmire Micro-Gen Research Laboratories, Inc., Agent: BASF Corporation, 3568 Tree Court Industrial Blvd., St. Louis, MO 63122–6682.
1270	Zep Inc., 1310 Seaboard Industrial Blvd., Atlanta, GA 30318.
1448	Buckman Laboratories, Inc., 1256 North McLean Blvd., Memphis, TN 38108.
3095	PIC Corporation, Agent: Product & Regulatory Associates, LLC, P.O. Box 1683, Voorhees, NJ 08043–9998.
4822	S.C. Johnson & Son, Inc., 1525 Howe St., Racine, WI 53403.

TABLE 3—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company name and address
6218	Summit Chemical Co., Summit Responsible Solutions, 235 S. Kresson St., Baltimore, MD 21224.
8033	Nippon Soda Co., LTD., Agent: Nisso America, Inc., 88 Pine St., 14th Floor, New York, NY 10005.
9688	Chemsico, A Division of United Industries Corp., P.O. Box 142642, St. Louis, MO 63114–0642.
10163	Gowan Company, P.O. Box 5569, Yuma, AZ 85366–5569.
10807	Amrep, Inc., 990 Industrial Park Dr., Marietta, GA 30062.
28293	Phaeton Corporation, D/B/A Unicorn Laboratories, Agent: Registrations By Design, Inc., P.O. Box 1019, Salem, VA 24153.
54382	Intervet, Inc., D/B/A Merck Animal Health, 556 Morris Ave., S5–2145A, Summit, NJ 07901.
66330	Arysta LifeScience North America, LLC, 15401 Weston Parkway, Suite 150, Cary, NC 27513.
67071	Thor GmbH, Agent: Thor Specialties, Inc., 50 Waterview Dr., Shelton, CT 06484.
70385	ProRestore Products, Agent: Lewis & Harrison, LLC, 122 C Street NW., Suite 505, Washington, DC 20001.
70627	Diversey, Inc., 8310 16th Street, MS 707, Sturtevant, WI 53177.
71368	Nufarm, Inc., Agent: Nufarm Americas, Inc., 4020 Aerial Center Parkway, Suite 1013, Morrisville, NC 27560.
75630	Royce Associates, LP, 35 Carlton Ave., East Rutherford, NJ 07073.
83558	Celsius Property B.V., Amsterdam (NL), Neuhausen A. RHF Branch, Agent: Makhteshim Agan of North America, INC., 3120 Highwoods Blvd., Suite 100, Raleigh, NC 27604.
85678	RedEagle International, LLC, Agent: Wagner Regulatory Associates, Inc., P.O. Box 640, Hockessin, DE 19707–0640.
87290	Willowood, LLC, Agent: Wagner Regulatory Associates, Inc., P.O. Box 640, Hockessin, DE 19707–0640.
ME030004, ME980001	Dow AgroSciences, LLC, 9330 Zionsville Rd., 308/2E, Indianapolis, IN 46268–1054.

III. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be cancelled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants in Table 1 and Table 2 of Unit II. have requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 30-day comment period on the proposed requests.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation should submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action.

A. All Products in Table 1 (Except 000264–00806, 008033–00012, 008033–00013, 054382–00003, 067071–00053, 071368–00062, 087290–00014, 087290–00021)

Because the Agency has identified no significant potential risk concerns associated with these pesticide products, upon cancellation of the products identified in Table 1 of Unit II., EPA anticipates allowing registrants to sell and distribute existing stocks of these products for 1 year after publication of the Cancellation Order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the cancelled products.

B. Product 000264–00806

Because the Agency has identified no significant potential risk concerns associated with this pesticide product, upon cancellation of the product identified in Table 1 of Unit II., EPA anticipates allowing registrants to sell and distribute existing stocks of this product for 1 year and 6 months after publication of the Cancellation Order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the pesticide identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the cancelled product.

C. Product 071368–00062

Because the Agency has identified no significant potential risk concerns associated with this pesticide product, EPA anticipates allowing registrants to sell and distribute existing stocks of this product until December 31, 2015. Thereafter, registrants, and persons other than registrants, are prohibited from selling or distributing existing stocks of product containing imazamethabenz identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Existing stocks of product containing imazamethabenz already in the hands of users can be used legally

until such stocks are exhausted, provided that the use is consistent with the terms of the previously approved labeling on, or that accompanied, the cancelled product.

D. Products (008033–00012, 008033–00013, 054382–00003, 067071–00053, 087290–00014 and 087290–00021)

Registrants have indicated to the Agency via letter and/or written response that due to the last manufacturing date, distribution date or the absence of marketing in the United States no further existing stocks provisions are necessary for them to sell and distribute their product(s). Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the cancelled products.

E. End-Use Products Listed in Table 2

Because the Agency has identified no significant potential risk concerns associated with the pesticide products listed in Table 2 of Unit II., EPA anticipates allowing registrants to sell and distribute these products until December 31, 2016. Thereafter, as of January 1, 2017, registrants will be prohibited from selling or distributing the pesticides identified in Table 2 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than registrants will be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution or use is consistent with the terms of the previously approved labeling on or that accompanied, the cancelled products.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: May 12, 2014.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2014–11685 Filed 5–19–14; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice 2014–0017]

Application for Final Commitment for a Long-Term Loan or Financial Guarantee in Excess of $100 Million: AP088567XX

AGENCY: Export-Import Bank of the United States.

ACTION: Notice.

SUMMARY: This Notice is to inform the public, in accordance with Section 3(c)(10) of the Charter of the Export-Import Bank of the United States (''Ex-Im Bank''), that Ex-Im Bank has received an application for final commitment for a long-term loan or financial guarantee in excess of $100 million (as calculated in accordance with Section 3(c)(10) of the Charter). Comments received within the comment period specified below will be presented to the Ex-Im Bank Board of Directors prior to final action on this Transaction. Comments received will be made available to the public.

DATES: Comments must be received on or before June 16, 2014 to be assured of consideration before final consideration of the transaction by the Board of Directors of Ex-Im Bank.

ADDRESSES: Comments may be submitted through Regulations.gov at *WWW.REGULATIONS.GOV.* To submit a comment, enter EIB–2014–0017 under the heading ''Enter Keyword or ID'' and select Search. Follow the instructions provided at the Submit a Comment screen. Please include your name, company name (if any) and EIB–2014–0017 on any attached document.

Reference: AP088567XX.

Purpose and Use:

Brief description of the purpose of the transaction:

A direct loan to a United Kingdom-based company to support the procurement of one U.S. manufactured satellite.

Brief non-proprietary description of the anticipated use of the items being exported:

The loan will enable the United Kingdom-based company to finance the construction of one U.S. manufactured satellite. The satellite is expected to provide additional capacity to the British satellite telecommunications company to deliver seamless mobile satellite services to end-users worldwide.

To the extent that Ex-Im Bank is reasonably aware, the item(s) being exported are not expected to produce exports or provide services in competition with the exportation of goods or provision of services by a United States industry.

Parties:

Principal Supplier: Boeing Space and Intelligence Systems International Inc.

Obligor(s): Inmarsat Investment Limited; Inmarsat Global Limited, Inmarsat Leasing (Two) Limited; Inmarsat Ventures Limited; Inmarsat Group Limited; Inmarsat Launch Company Limited; Inmarsat Solutions (Canada) Inc.; Inmarsat Solutions B.V. (Netherlands); and Inmarsat S.A. (Switzerland).

Guarantor(s): Inmarsat Global Limited, Inmarsat Leasing (Two) Limited; Inmarsat Ventures Limited; Inmarsat Group Limited; Inmarsat Launch Company Limited; Inmarsat Solutions (Canada) Inc.; Inmarsat Solutions B.V. (Netherlands); and Inmarsat S.A. (Switzerland).

Description of Items Being Exported:

To finance the construction of one U.S. manufactured satellite.

Information on Decision: Information on the final decision for this transaction will be available in the ''Summary Minutes of Meetings of Board of Directors'' on *http://exim.gov/newsandevents/boardmeetings/board/.*

Confidential Information: Please note that this notice does not include confidential or proprietary business information; information which, if disclosed, would violate the Trade Secrets Act; or information which would jeopardize jobs in the United States by supplying information that competitors could use to compete with companies in the United States.

Cristopolis Dieguez,

Business Compliance Analyst, Office of the General Counsel.

[FR Doc. 2014–11557 Filed 5–19–14; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension

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

ACTION: Notice.

SUMMARY: The information collection requirements in the FTC's Fuel Rating Rule will be submitted to the Office of Management and Budget (''OMB'') for review, as required by the Paperwork Reduction Act (''PRA''). The FTC intends to ask OMB to extend for an additional three years the current PRA clearance for these information collection requirements. That clearance otherwise expires on May 31, 2014.

DATES: Comments must be filed by June 19, 2014.

ADDRESSES: Interested parties may submit written comments electronically or in paper form by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Fuel Rating Rule PRA Comment, FTC File No. P144200'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/fuelratingpra2/* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113, 600 Pennsylvania Avenue NW., Washington, DC 20580, in the manner detailed in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to Miriam Lederer, Attorney, Division of Enforcement, Federal Trade Commission, 600 Pennsylvania Avenue NW., M–8102B, Washington, DC 20580, (202) 326–2975.

SUPPLEMENTARY INFORMATION: On March 12, 2014, the FTC sought public comment on the information collection requirements associated with the Fuel Rating Rule, 16 CFR Part 306 (OMB Control Number: 3084–0068). 79 FR 14040 (''March 12, 2014 Notice''). One comment was received.[1] Pursuant to the OMB regulations, 5 CFR Part 1320, that implement the PRA, 44 U.S.C. 3501 et seq., the FTC is providing this second opportunity for public comment while seeking OMB approval to renew the pre-existing clearance for the Rule. All comments should be filed as prescribed herein, and must be received on or before June 19, 2014.

Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503. Comments sent to OMB by U.S. postal mail, however, are subject to delays due to heightened security precautions. Thus, comments instead should be sent by facsimile to (202) 395–5167.

Burden statement: As explained in the March 12, 2014 Notice, FTC staff estimates that Rule compliance entails a total of 33,700 total burden hours (consisting of 13,750 recordkeeping hours and 19,950 disclosure hours), associated labor costs of $364,207, and non-labor/capital costs of $39,899.

Request for Comment: You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 19, 2014. Write ''Fuel Rating Rule PRA Comment, FTC File No. P144200'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm*. As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential,'' as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[2] Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/fuelratingpra2/*, by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home*, you also may file a comment through that Web site.

If you file your comment on paper, write ''Fuel Rating Rule PRA Comment, FTC File No. P144200'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex J), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 19, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

David C. Shonka,

Principal Deputy General Counsel.

[FR Doc. 2014–11626 Filed 5–19–14; 8:45 am]

BILLING CODE 6750–01–S

[1] The comment noted favorably that fuel-related rules are ''imperative'' and that they ''need to be reviewed every two years to make sure entities, etc.[,] are in full compliance.'' Although the Rule's review is not necessarily subject to such frequency, the Commission reviews this Rule and all current FTC rules (and guides) periodically. These reviews seek information about the costs and benefits of the Commission's rules and guides as well as their regulatory and economic impact. The information obtained assists the Commission in identifying rules (and guides) that warrant modification. Moreover, the Commission may propose amendments to its rules outside of its periodic review of them. Thus, for example, recently the Commission published for public comment proposed ethanol-related amendments to the Fuel Ratings Rule. *See* 79 FR 18850 (April 4, 2014).

[2] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2014–0008]

Vessel Sanitation Program: Annual Program Status Meeting; Request for comment

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS)

ACTION: Notice of public meeting and request for comment

SUMMARY: The Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services (HHS) announces the 2014 annual Vessel Sanitation Program (VSP) public meeting. The annual meeting serves as a forum for HHS/CDC to update interested persons on work completed in 2013 and plans for future activities. HHS/CDC is also opening a public docket so that additional comment and materials may be submitted. The official record of this meeting will remain open for 30 days (through July 10, 2014) so that additional materials or comments may be submitted and made part of the record.

DATES: Written comments must be received on or before July 10, 2014.

The meeting will be held on June 10, 2014, from 9:00 a.m. to 4:30 p.m. in the auditorium of the Port Everglades Administration Building, 1850 Eller Drive, Fort Lauderdale, FL 33316. Information regarding logistics is available on the VSP Web site (*http://www.cdc.gov/nceh/vsp/2014annualmeeting.htm*).

Deadline for Requests for Special Accommodations: Persons wishing to participate in the public meeting who need special accommodations should contact CAPT Jaret Ames (*vsp@cdc.gov* or 954–356–6650 or 770–488–3141) by Monday, June 2, 2014.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2014–0008 by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Vessel Sanitation Program, Centers for Disease Control and Prevention, 4770 Buford Highway NE., MS F–58, Atlanta, Georgia 30341.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *http://regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: CAPT Jaret Ames, Vessel Sanitation Program, Centers for Disease Control and Prevention, 4770 Buford Highway NE., MS F–58, Atlanta, Georgia 30341, email: *vsp@cdc.gov,* phone: 954–356–6650 or 770–488–3141.

SUPPLEMENTARY INFORMATION:

The purpose of the meeting is to inform the public of VSP's activities in assisting the cruise industry to prevent the introduction and spread of gastrointestinal (GI) illness to U.S. ports from ships under VSP's jurisdiction (ships with 13 or more passengers and an itinerary that includes foreign and U.S. ports).

The meeting will include a review of HHS/CDC's public health support activities from 2013, provide perspective on VSP's approach to vessel sanitation, and offer industry the opportunity to provide input regarding industry efforts to exceed VSP requirements. Presentations will clarify the roles and responsibilities of VSP, cruise line public health management, and shipyards constructing cruise ships. Presentations will also include initiatives for improved epidemiologic study of disease outbreaks and strategic approaches to public health risk reduction for 2015 and the future.

Matters to be discussed:

- VSP year in review—operational and construction inspections, budget, and vessel sanitation training
- CDC Calicivirus Laboratory—norovirus projects
- GI illness data and epidemiology projects—VSP review and progress report
- Cruise line public health initiatives
- CDC Quarantine—Border Health Services Branch Update, including surveillance
- Shipyard construction—strengthening public health through engineering controls
- Cruise Lines International Association—industry public health challenges and response

Meeting Accessibility: The meeting is open to the public, but space is limited to availability. Visitors must present government-issued identification to pass through the vehicle port security checkpoint and enter the administration building.

Advanced registration is encouraged; the meeting room can accommodate approximately 100 persons. Information regarding logistics is available on the VSP Web site (*http://www.cdc.gov/nceh/vsp/2014annualmeeting.htm*). Attendees at the annual meeting normally include cruise ship industry officials, private sanitation consultants, and other interested parties.

Dated: May 15, 2014.

Ron A. Otten,

Acting Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2014–11597 Filed 5–19–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–0092]

Electronic Study Data Submission; Data Standards; Availability of Validation Rules for Standard for Exchange of Nonclinical Data Formatted Studies

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's (FDA) Center for Drug Evaluation and Research (CDER), is announcing the availability of the Validation Rules for Standard for Exchange of Nonclinical Data (SEND) Formatted Studies document. CDER is making this document available to improve the standardization and quality of nonclinical data that are submitted to CDER as well as to improve the predictability of data quality and usefulness.

FOR FURTHER INFORMATION CONTACT: Office of Strategic Programs, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1183, Silver Spring, MD 20993, email: *edata@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On February 6, 2014, FDA issued a **Federal Register** notice (79 FR 7201) announcing the availability of a revised draft guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—Standardized Study Data''. The revised draft guidance incorporates by reference a technical specifications document entitled ''Study Data Technical Conformance Guide.'' On February 6, 2014, FDA issued a **Federal Register** notice (79 FR 7204) announcing the availability of the Guide and an update to the Data Standards Catalog. The Guide is available at *http://www.fda.gov/downloads/ForIndustry/DataStandards/StudyDataStandards/UCM384744.pdf.*

Section 8.2.3 of the Guide, ''Support on Data Validation Rules,'' states that ''[t]he Standards Web page provides links to the validation rules needed to ensure data compliance with CDISC standards, such as SDTM, SEND, ADaM, and define.xml.'' In this notice, we are announcing the availability of the SEND validation rules.

The Validation Rules for SEND Formatted Studies is an Excel file that provides human readable description of a rule set for validation (*Nonclinical Validator Specifications (XLS)*). Submitters of nonclinical study data can use this information to identify how FDA validates the data. It is available from the FDA Study Data Standards Resources Web page: *http://www.fda.gov/ForIndustry/DataStandards/StudyDataStandards/default.htm.* The file contains a combination of conformance rules (i.e., how well the data conform to the standard) and business rules (i.e., quality checks; how well the data may support meaningful analysis). The file may be updated periodically as new or updated validation rules are developed. The Change History tab will provide a descriptive change history of the document.

The validation rules in the Nonclinical Validator Specifications document were created following the suggested human readable validation rule syntax published by a Computational Science Symposium workgroup. This document is available at: *http://www.phusewiki.org/wiki/index.php?title=Guidelines_for_Validation_Rule_Developers.*

Dated: May 14, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–11522 Filed 5–19–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Circulatory System Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Circulatory System Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues. *Date and Time:* The meeting will be held on June 12, 2014, from 8 a.m. to 6 p.m. *Location:* Holiday Inn Express/Highlands, 20260 Goldenrod Lane, Germantown, MD 20876. The hotel telephone number is 301–428–1300.

Contact Person: Jamie Waterhouse, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993 *Jamie.Waterhouse@fda.hhs.gov,* 301–796–3063, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On June 12, 2014, the committee will discuss, make recommendations, and vote on information related to the premarket approval application for the LUTONIX 035 Drug Coated Balloon PTA Catheter sponsored by Lutonix, Inc. The LUTONIX 035 Drug Coated Balloon PTA Catheter (LUTONIX DCB) is an over-the-wire percutaneous transluminal angioplasty (PTA) catheter with a paclitaxel-based drug coating on the surface of the balloon. The LUTONIX DCB is compatible with a 0.035'' guidewire and has balloon sizes ranging from 4 millimeters (mm) to 6 mm in diameter and 40 mm to 100 mm in length. The LUTONIX DCB catheter is available in 75 centimeters (cm), 100 cm and 130 cm working lengths.

The proposed indications for use are for improving luminal diameter for the treatment of obstructive de novo or non-stented restenotic lesions (≤15cm in length) in native femoropopliteal arteries having reference vessel diameters of 4 mm to 6 mm.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before June 4, 2014. On June 12, 2014, oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before May 28, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by May 30, 2014.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams, Conference Management Staff, at *Annmarie.Williams@fda.hhs.gov* or 301–796–5966 at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 14, 2014.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2014–11553 Filed 5–19–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–E–1226]

Determination of Regulatory Review Period for Purposes of Patent Extension; PICATO

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for PICATO and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written petitions (two copies are required) and written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Submit petitions electronically to *http://www.regulations.gov* at Docket No. FDA–2013–S–0610.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Management, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6257, Silver Spring, MD 20993–0002, 301–796–7900.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product PICATO (ingenol mebutate). PICATO is indicated for the topical treatment of actinic keratosis. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for PICATO (U.S. Patent No. 7,410,656) from Leo Laboratories Ltd., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated February 22, 2013, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of PICATO represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for PICATO is 2,737 days. Of this time, 2,432 days occurred during the testing phase of the regulatory review period, while 305 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:* July 28, 2004. The applicant claims July 9, 2004, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was July 28, 2004, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* March 25, 2011. FDA has verified the applicant's claim that the new drug application (NDA) for Picato (NDA 202833) was submitted on March 25, 2011.

3. *The date the application was approved:* January 23, 2012. FDA has verified the applicant's claim that NDA 202833 was approved on January 23, 2012.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 783 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments and ask for a redetermination by July 21, 2014. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 17, 2014. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments and written or electronic petitions. 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. If you submit a written petition, two copies are required. A petition submitted electronically must be submitted to *http://www.regulations.gov,* Docket No. FDA–2013–S–0610. Comments and petitions that have not been made publicly available on *http://www.regulations.gov* may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 14, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–11521 Filed 5–19–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–E–0161]

Determination of Regulatory Review Period for Purposes of Patent Extension; INCIVEK

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for INCIVEK and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov*. Submit written petitions (two copies are required) and written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Submit petitions electronically to *http://www.regulations.gov* at Docket No. FDA–2013–S–0610.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Management, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6257, Silver Spring, MD 20993–0002, 301–796–7900.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product INCIVEK (telaprevir). INCIVEK is a hepatitis C virus NS3/4A protease inhibitor indicated, in combination with peginterferon alfa and ribavirin, for the treatment of genotype 1 chronic hepatitis C in adult patients with compensated liver disease, including cirrhosis, who are treatment-naïve or who have been previously treated with interferon-based treatment, including prior null responders, partial responders, and relapsers. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for INCIVEK (U.S. Patent No. 7,820,671) from Vertex Pharmaceuticals Incorporated, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated February 1, 2013, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of INCIVEK represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for INCIVEK is 2,003 days. Of this time, 1,821 days occurred during the testing phase of the regulatory review period, while 182 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:* November 29, 2005. The applicant claims December 2, 2005, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was November 29, 2005, when the IND sponsor was notified that the proposed clinical studies may proceed.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* November 23, 2010. FDA has verified the applicant's claim that the new drug application (NDA) for INCIVEK (NDA 201–917) was submitted on November 23, 2010.

3. *The date the application was approved:* May 23, 2011. FDA has verified the applicant's claim that NDA 201–917 was approved on May 23, 2011.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 87 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments and ask for a redetermination by July 21, 2014. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 17, 2014. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments and written or electronic petitions. 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. If you submit a written petition, two copies are required. A petition submitted electronically must be submitted to *http://www.regulations.gov,* Docket No. FDA–2013–S–0610. Comments and petitions that have not been made publicly available on *http://www.regulations.gov* may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 14, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–11525 Filed 5–19–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–E–0030]

Determination of Regulatory Review Period for Purposes of Patent Extension; OMONTYS

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for OMONTYS and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written petitions (two copies are required) and written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. Submit petitions electronically to *http://www.regulations.gov* at Docket No. FDA–2013–S–0610.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Management, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6257, Silver Spring, MD 20993–0002, 301–796–7900.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product OMONTYS (Peginesatide acetate). OMONTYS is indicated for treatment of anemia due to chronic kidney disease in adult patients on dialysis. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for OMONTYS (U.S. Patent No. 7,414,105) from Affymax, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated February 22, 2013, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of OMONTYS represented the first permitted commercial marketing or use of the product. Thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for OMONTYS is 2,528 days. Of this time, 2,222 days occurred during the testing phase of the regulatory review period, while 306 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:* April 27, 2005. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on April 27, 2005.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* May 27, 2011. FDA has verified the applicant's claim that the new drug application (NDA) for OMONTYS (NDA 202799) was submitted on May 27, 2011.

3. *The date the application was approved:* March 27, 2012. FDA has verified the applicant's claim that NDA 202799 was approved on March 27, 2012.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 684 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Division of Dockets Management (see **ADDRESSES**) either electronic or written comments and ask for a redetermination by July 21, 2014. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by November 17, 2014. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) electronic or written comments and written or electronic petitions. 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. If you submit a written petition, two copies are required. A petition submitted electronically must be submitted to *http://www.regulations.gov,* Docket No. FDA–2013–S–0610. Comments and petitions that have not been made publicly available on *http://www.regulations.gov* may be viewed in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 14, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–11523 Filed 5–19–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Administration for Children and Families

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Administration for Children and Families, Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received no later than June 19, 2014.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Maternal, Infant, and Early Childhood Home Visiting Program Information System. OMB No. 0915–0357—Revision.

Abstract: On March 23, 2010, the President signed into law the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148), historic and transformative legislation designed to make quality, affordable health care available to all Americans, reduce costs, improve health care quality, enhance disease prevention, and strengthen the health care workforce. Through a provision authorizing the creation of the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program, the Act responds to the diverse needs of children and families in communities at risk and provides an unprecedented opportunity for collaboration and partnership at the federal, state, and community levels to improve health and development outcomes for at-risk children through voluntary evidence-based home visiting programs. The MIECHV Program is designed: (1) To strengthen and improve the programs and activities carried out under Title V of the Social Security Act; (2) to improve coordination of services for at-risk communities; and (3) to identify and provide comprehensive services to improve outcomes for families who reside in at-risk communities.

HRSA and the Administration for Children and Families (ACF) collaborate to implement the MIECHV programs. HRSA administers grants to states, jurisdictions, and eligible non-profits (State MIECHV program) and ACF administers grants to Indian tribes (including consortia of tribes), tribal organizations, and urban Indian organizations (Tribal MIECHV program).

The Social Security Act, Title V, Section 511 (42 U.S.C. 711), as added by the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148), requires that state and tribal MIECHV grantees collect data to measure improvements for eligible families in six specified areas (referred to as ''benchmark areas'') that encompass the major goals for the program: (1) Improved maternal and newborn health; (2) prevention of child injuries, child abuse, neglect, or maltreatment, and reduction of emergency room visits; (3) improvement in school readiness and achievement;(4) reduction in crime or domestic violence; (5) improvements in family economic self-sufficiency; and (6) improvements in the coordination and referrals for other community resources and supports.

The Supplemental Information Request for the Submission of the Updated State Plan for a State Home Visiting Program (SIR), published on February 8, 2011, further listed a variety of constructs under each benchmark area for which state MIECHV grantees were to select and submit relevant performance measures. Per Section 511(d)(1)(B)(i) of the legislation, no later than 30 days after the end of the third year of the program, grantees are required to demonstrate improvement in at least four of the six benchmark areas. Funding opportunity announcements, notices of award, and program guidance documents for competitive, formula, and non-profit grants also require annual reporting on the constructs under each benchmark area, as well as on demographic, service utilization, budgetary, and other administrative data related to program implementation.

Tribal MIECHV grantees must also report annually on demographic, service utilization, budgetary, and other administrative data related to program implementation. In addition, tribal MIECHV grantees must propose a plan for meeting the benchmark requirements specified in the legislation and must report on improvement on constructs under each benchmark area at the end of Year 4 and Year 5 of their 5-year grants.

Need and Proposed Use of the Information: The data collected from the proposed Home Visiting (HV) forms will be used to track state and tribal MIECHV grantees' progress in demonstrating improvement under each benchmark area and provide an overall picture of the population being served. The proposed data collection forms are as follows:

HV Form 1—Demographic and Service Utilization Data for Enrollees and Children—This form requests data to determine the unduplicated number of participants and of participant groups by primary insurance coverage. This form also requests data on the demographic characteristics of program participants such as race, ethnicity, and income. The form is used by both state and tribal MIECHV grantees. As this form has current approval from OMB and is in use, no changes are proposed.

HV Form 2—State Grantee Performance Measures: Grantees have already selected relevant performance measures for the legislatively identified benchmark areas. This form provides a template for grantees to report aggregate data on their selected performance measures. This form is used by state MIECHV grantees only. As this form has current approval from OMB and is in use, no changes are proposed.

HV Form 3—Tribal Grantee Performance Measures: To show quantifiable, measurable improvement in benchmark areas, each tribal MIECHV grantee must submit data demonstrating improvement on constructs in each of the six benchmark areas. The purpose of the proposed collection on HV Form 3 will be to track tribal MIECHV grantees' progress in demonstrating improvement under each benchmark area. This form will be used by tribal MIECHV grantees only. As this form was not included in the previous submission to OMB, this form is new to the information system.

Likely Respondents: HV Form 1 is used by all MIECHV Program grantees. HV Form 2 is used by the states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa, and non-profit organizations providing services within states through the State

MIECHV Program. HV Form 3 will be used by tribal MIECHV grantees.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
HV Form 1: Demographic and Service Utilization Data for Enrollees and Children.	81 [1] (All MIECHV grantees, *including* tribal grantees).	1	81 (All MIECHV grantees, *including* tribal grantees).	731	59, 211
HV Form 2: Grantee Performance Measures.	56 [2] (state MIECHV grantees).	1	56 (state MIECHV grantees)	313	17, 528
HV Form 3: Tribal-Grantee Performance Measures.	25 [3] (tribal MIECHV grantees).	1	25 (tribal MIECHV grantees)	475	11,875
Total	81		81		88, 614

[1] In addition to 56 jurisdictions and non-profit organizations, it is estimated that 25 tribal MIECHV program grantees will utilize Form 1 to report on demographic and service utilization data for all participant families.
[2] This number does not include tribal MIECHV program grantees.
[3] This number reflects the number of tribal MIECHV grantees.

Dated: May 12, 2014.

Bahar Niakan,

Director, Division of Policy and Information Coordination, Health Resources and Services Administration.

Linda K. Smith,

Deputy Assistant Secretary and Inter-Departmental Liaison for Early Childhood Development, Administration for Children and Families.

[FR Doc. 2014–11686 Filed 5–19–14; 8:45 am]

BILLING CODE 4165–15–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 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 of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Peer Review Meeting.

Date: June 27, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: Mayflower Renaissance Hotel, The New York Room, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Lynn Rust, Ph.D., Scientific Review Officer Scientific Review Program Division of Extramural Activities NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616 Bethesda, MD 20892, 301–402–3938, *lr228v@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 14, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–11591 Filed 5–19–14; 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: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases Research Committee.

Date: June 11–12, 2014.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications

Place: National Institutes of Health, Room 3144, 6700B Rockledge Drive Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Frank S. De Silva, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–594–1009, *fdesilva@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 14, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–11592 Filed 5–19–14; 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—A

Date: June 25, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: John J. Laffan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.18J, Bethesda, MD 20892–4874, 301–594–2773, *laffanjo@mail.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Initial Review Group; Training and Workforce Development Subcommittee—D.

Date: June 26–27, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: DoubleTree by Hilton Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

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.18C, Bethesda, MD 20892–4874, 301–594–2771, *johnsonrh@nigms.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 15, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–11593 Filed 5–19–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council on Minority Health and Health Disparities.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or 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 grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Minority Health and Health Disparities.

Date: June 10, 2014.

Open: 8:30 a.m. to 12:30 p.m.

Agenda: The agenda will include opening remarks, administrative matters, Director's Report, NIH Health Disparities update, and other business of the Council.

Place: National Institutes of Health, National Institute on Minority Health and Health Disparities, 6707 Democracy Blvd., Rm. 849, Bethesda, MD 20892.

Closed: 01:30 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Minority Health and Health Disparities, 6707 Democracy Blvd., Rm. 849, Bethesda, MD 20892.

Contact Person: Donna Brooks, Executive Officer, National Institutes of Health, National Institute on Minority Health and Heath Disparities, 6707 Democracy Blvd., Suite 800, Bethesda, MD 20892, (301) 435–2135, *brooksd@mail.nih.gov.*

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Dated: May 14, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–11594 Filed 5–19–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Clinical Trials SEP.
Date: June 19–20, 2014.
Time: 8:00 a.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Palomar, 2121 P Street NW., Washington, DC 20037.
Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892, 301–435–6033, *rajarams@mail.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Diversity Develop R25.
Date: June 20, 2014.
Time: 11:00 a.m. to 2:30 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: JoAnn McConnell, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–5324, *mcconnej@ninds.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group; Neurological Sciences and Disorders C.
Date: June 23–24, 2014.
Time: 8:30 a.m. to 11:00 a.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites DC Convention Center, 900 10th Street NW., Washington, DC 20001.
Contact Person: William C Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–0660, *Benzingw@mail.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Member Conflict Review.
Date: June 24, 2014.
Time: 12:00 p.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites DC Convention Center, 900 10th Street NW., Washington, DC 20001.
Contact Person: William C Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–0660, *Benzingw@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: May 14, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–11595 Filed 5–19–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections, 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Virology—B Study Section.
Date: June 12–13, 2014.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Courtyard Long Beach Downtown, 500 East First St., Long Beach, CA 90802.
Contact Person: John C Pugh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1206, MSC 7808, Bethesda, MD 20892, (301) 435–2398, *pughjohn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: pulmonary fibrosis, lung injury, and lung development.
Date: June 18–19, 2014.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC7814, Bethesda, MD 20892, 301–451–8754, *nussb@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Social Sciences and Population Studies B Study Section.
Date: June 18, 2014.
Time: 9:00 a.m. to 6:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Valerie Durrant, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, (301) 827–6390, *durrantv@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Basic and Integrative Bioengineering.
Date: June 18, 2014.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Paul Sammak, Ph.D., Scientific Review Officer, Center For Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6185, MSC 7892, Bethesda, MD 20892, 301–435–0601, *sammakpj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Clinical and Translational Imaging Applications.
Date: June 18, 2014.
Time: 10:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Eileen W Bradley, DSC, Chief, SBIB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5100, MSC 7854, Bethesda, MD 20892, (301) 435–1179, *bradleye@csr.nih.gov.*

Name of Committee: Oncology 1-Basic Translational Integrated Review Group; Tumor Progression and Metastasis Study Section
Date: June 19–20, 2014.
Time: 8:00 a.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.
Contact Person: Rolf Jakobi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7806, Bethesda, MD 20892, 301–495–1718, *jakobir@mail.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Drug Discovery for the Nervous System Study Section.
Date: June 19–20, 2014.
Time: 8:00 a.m. to 10:00 a.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites DC Convention Center, 900 10th NW., Washington, DC 20001.
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: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Synapses, Cytoskeleton and Trafficking Study Section.
Date: June 19, 2014.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Beacon Hotel and Corporate Quarters, 1615 Rhode Island Avenue NW., Washington, DC 20036.
Contact Person: Christine A Piggee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Name of Committee: Immunology Integrated Review Group; Innate Immunity and Inflammation Study Section.
Date: June 19–20, 2014.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Wyndham Grand Chicago Riverfront Hotel, 71 E Wacker Drive, Chicago, IL 60601.
Contact Person: Tina McIntyre, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4202, MSC 7812, Bethesda, MD 20892, 301–594–6375, *mcintyrt@csr.nih.gov*.

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Biobehavioral Mechanisms of Emotion, Stress and Health Study Section.
Date: June 19–20, 2014.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Washington Marriott, 1221 22nd Street NW., Washington, DC 20037.
Contact Person: Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, (301) 594–3163, *champoum@csr.nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Molecular and Cellular Endocrinology Study Section.
Date: June 19, 2014.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Avenue Crowne Plaza Chicago, 160 E. Huron Street, Chicago, IL 60611.
Contact Person: John Bleasdale, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6170 MSC 7892, Bethesda, MD 20892, 301–435–4514, *bleasdaleje@csr.nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Myocardial Ischemia and Metabolism Study Section.
Date: June 19, 2014.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.
Contact Person: Kimm Hamann, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118A, MSC 7814, Bethesda, MD 20892, 301–435–5575, *hamannkj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Sensory and Motor Neurosciences, Cognition and Perception.
Date: June 19–20, 2014.
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 Ave NW., Washington, DC 20036.
Contact Person: Sharon S Low, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, MSC 5104, Bethesda, MD 20892–5104, 301–237–1487, *lowss@csr.nih.gov*.

Name of Committee: Digestive, Kidney and Urological Systems Integrated Review Group; Gastrointestinal Mucosal Pathobiology Study Section.
Date: June 19–20, 2014.
Time: 8:00 a.m. to 1:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Avenue Hotel Chicago, 160 E. Huron Street, Chicago, IL 60611.
Contact Person: Jonathan K Ivins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040A, MSC 7806, Bethesda, MD 20892, (301) 594–1245, *ivinsj@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Developmental Therapeutics Study Section.
Date: June 19–20, 2014.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Long Beach and Executive Center, 701 West Ocean Boulevard, Long Beach, CA 90831.
Contact Person: Sharon K Gubanich, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 408–9512, *gubanics@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Sensory Technologies.
Date: June 19–20, 2014.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Washington Marriott Metro Center, 775 12th Street NW., Washington, DC 20005.
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: Cell Biology Integrated Review Group; Intercellular Interactions Study Section.
Date: June 19, 2014.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Warwick Seattle Hotel, 401 Lenora Street, Seattle, WA 98121.
Contact Person: Wallace Ip, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, 301–435–1191, *ipws@mail.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Biology of the Visual System Study Section.
Date: June 19–20, 2014.
Time: 8:00 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.
Contact Person: Michael H Chaitin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, *chaitinm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Medical Imaging.
Date: June 19–20, 2014.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Leonid V Tsap, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7854, Bethesda, MD 20892, (301) 435–2507, *tsapl@csr.nih.gov*.

Name of Committee: Immunology Integrated Review Group; Vaccines Against Microbial Diseases Study Section.
Date: June 19–20, 2014.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Renaissance, Washington, DC Hotel, 999 Ninth Street NW., Washington, DC 20001–4427.
Contact Person: Jian Wang, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7812, Bethesda, MD 20892, (301) 435–2778, *wangjia@csr.nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Neurological, Aging and Musculoskeletal Epidemiology Study Section.
Date: June 19, 2014.
Time: 8:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Ave. NW., Washington, DC 20037.
Contact Person: Heidi B Friedman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, 301–435–1721, *hfriedman@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 14, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–11589 Filed 5–19–14; 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 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; Africa DNA

Date: June 3, 2014.

Time: 7:00 p.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892.

Contact Person: Rebecca J. Ferrell, Ph.D., Scientific Review Officer, National Institute on Aging, Gateway Building Rm. 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7703, *ferrellrj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS).

Dated: May 15, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–11590 Filed 5–19–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are 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) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: SAMHSA SOAR Web-Based Data Form (OMB No. 0930–0329)—Revision

In 2009 the Substance Abuse and Mental Health Services Administration (SAMHSA) of the U.S. Department of Health and Human Services created a Technical Assistance Center to assist in the implementation of the SSI/SSDI Outreach Access and Recovery (SOAR) effort in all states. SOAR's primary objective is to improve the allowance rate for Social Security Administration (SSA) disability benefits for people who are homeless or at risk of homelessness, and who have serious mental illnesses.

During the SOAR training, the importance of keeping track of SSI/SSDI applications through the process is stressed. In response to requests from states implementing SOAR, the Technical Assistance Center under SAMHSA's direction developed a web-based data form that case managers can use to track the progress of submitted applications, including decisions received from SSA either on initial application or on appeal. This password-protected web-based data form is housed on the SOAR Web site (*https://soartrack.prainc.com*). Use of this form is completely voluntary.

In addition, data from the web-based form can be compiled into reports on decision results and the use of SOAR core components, such as the SSA–1696 Appointment of Representative, which allows SSA to communicate directly with the case manager assisting with the application. These reports will be reviewed by agency directors, SOAR state-level leads, and the national SOAR Technical Assistance Center and SOAR national evaluation team to quantify the success of the effort overall and to identify areas where additional technical assistance is needed.

The changes to this form are an added question about the reason for denial, if received and an added ten optional questions about Medicaid and Medicare reimbursement amounts, back payments and applicants' work involvement and earnings. These data provide important tools in local and state sustainability efforts of SOAR. If caseworkers do not have this information, they can simply leave the items blank.

The estimated response burden is as follows:

Information source	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hours
SOAR Data Form	700	3	2100	.25	525

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 *OR* email her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received by July 21, 2014.

Summer King,

Statistician.

[FR Doc. 2014–11585 Filed 5–19–14; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention (CSAP) Drug Testing Advisory Board (DTAB) will meet on June 10, 2014, from 10:00 a.m. to 4:30 p.m., and June 11, 2014, from 10:00 a.m. to 2:00 p.m. E.D.T. via Web conference. The DTAB will convene in both open and closed sessions on these two days.

On June 10, 2014, from 10:00 a.m. to 4:30 p.m., and June 11, 2014, from 10:00 a.m. to 12:00 p.m., the meeting will be open to the public. The June 10th meeting will include updates on the previously announced DTAB recommendations, the medical review officer resources, the custody and control form, the Federal Drug-Free Workplace Programs, the National Laboratory Certification Program, and the Division of Workplace Programs-sponsored research studies. The meeting also will include drug testing updates from the Department of Transportation, the Department of Defense, the Nuclear Regulatory Commission, the Federal Drug-Free Workplace Programs, and the Drug Testing Index®. The June 11th open session will include questions on the science of hair testing as it relates to hair contamination.

The public is invited to attend the open session via Web conference. Due to the limited call-in capacity, registration is requested. Public comments are welcome. To register, make arrangements to attend, obtain the web conference call-in numbers and access codes, submit written or brief oral comments, or request special accommodations for persons with disabilities, please register at the SAMHSA Advisory Committees Web site at *http://nac.samhsa.gov/Registration/meetingsRegistration.aspx* or contact the CSAP DTAB Designated Federal Official, Dr. Janine Denis Cook (see contact information below).

On June 11, 2014, from 12:00 p.m. to 2:00 p.m., the Board will meet in closed session to discuss proposed revisions to the Mandatory Guidelines for Federal Workplace Drug Testing Programs. Therefore, this meeting is closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c)(9)(B) and 5 U.S.C. App. 2, Section 10(d).

Meeting information and a roster of DTAB members may be obtained by accessing the SAMHSA Advisory Committees Web site, *http://www.nac.samhsa.gov/DTAB/meetings.aspx*, or by contacting Dr. Cook.

Committee Name: Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Prevention Drug Testing Advisory Board.

Dates/Time/Type:

June 10, 2014, from 10:00 a.m. to 4:30 p.m. E.D.T.: OPEN

June 11, 2014, from 10:00 a.m. to 12:00 p.m. E.D.T.: OPEN

June 11, 2014, from 12:00 p.m. to 2:00 p.m. E.D.T.: CLOSED

Place: SAMHSA Building, 1 Choke Cherry Road, Rockville, Maryland 20850.

Contact: Janine Denis Cook, Ph.D., Designated Federal Official, CSAP Drug Testing Advisory Board, 1 Choke Cherry Road, Room 7–1043, Rockville, Maryland 20857, *Telephone:* 240–276–2600, *Fax:* 240–276–2610, *Email: janine.cook@samhsa.hhs.gov*.

Janine Denis Cook,

Designated Federal Official, DTAB, Division of Workplace Programs, Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration.

[FR Doc. 2014–11629 Filed 5–19–14; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0136]

Agency Information Collection Activities: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 60-Day Notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before July 21, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 1651–0136.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours.

Type of Review: Extension (without change).

Affected Public: Individuals and businesses.

Estimated Number of Respondents: 60,000.

Annual Frequency of Response: 1.

Estimated Time per Response: 13 minutes.

Estimated Total Annual Burden Hours: 13,000 hours.

Dated: May 14, 2014.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2014–11572 Filed 5–19–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5741–N–01]

Federally Mandated Exclusions From Income—Updated Listing

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, and Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD's regulations provide for HUD to periodically publish in the **Federal Register** a notice that lists amounts specifically excluded by any Federal statute from consideration as income for purposes of determining eligibility or benefits in a HUD program. HUD last published a notice that listed Federally mandated exclusions from consideration of income on December 14, 2012. This notice replaces the previously published version adds a new exclusion, includes an inadvertent omission, and corrects two previously listed exclusions.

FOR FURTHER INFORMATION CONTACT: For the Rent Supplement, section 236, and Project-based section 8 programs administered under 24 CFR parts 880, 881, and 883 through 886: Yvette Viviani, Director, Housing Assistance Policy Division, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 7th Street SW., Room 6138, Washington, DC 20410, telephone number 202–708–3000. For other section 8 programs administered under 24 CFR part 882 (Moderate Rehabilitation) and under part 982 (Housing Choice Voucher), and the Public Housing Programs: Shauna Sorrells, Director, Office of Public Housing Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4206, Washington, DC 20410, telephone number 202–402–2769, or the Public and Indian Housing Information Resource Center at 1–800–955–2232. For Indian Housing Programs: Rodger Boyd, Deputy Assistant Secretary, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4126, Washington, DC 20410, telephone number 202–401–7914. With the exception of the telephone number for the PIH Information Resource Center, these are not toll-free numbers. Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Relay Service at 1–800–877–8339 or by visiting *http://federalrelay.us/* or *http://www.federalip.us/.*

Please note: Members of the public who are aware of other federal statutes that require any benefit not listed in this notice to be excluded from consideration as income in these programs should submit information about the statute and the benefit program to one of the persons listed in the ''**FOR FURTHER INFORMATION CONTACT**'' section above. Members of the public may also submit this information to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500.

SUPPLEMENTARY INFORMATION: Under several HUD programs (Rent Supplement under 24 CFR 200.1303 (although loans in existence immediately before May 1, 1996, continue to be governed by 24 CFR part 215 (1995 ed.)); Mortgage Insurance and Interest Reduction Payment for Rental Projects under 24 CFR part 236; section 8 Housing Assistance programs; Public Housing programs), the definition of income excludes amounts of other benefits specifically excluded by federal law.

Background

In certain HUD-subsidized housing programs, annual income is a factor in determining eligibility and the level of benefits. Annual income is broadly defined as the anticipated total income from all sources received by every family member. Federal statutes that require certain income sources be disregarded as income are universally applicable to all HUD programs where income is a factor in determining eligibility and benefits. Other Federal statutes specify that income exclusions are specific to certain HUD programs. As directed by various statutes, HUD excludes from consideration of income certain types of benefits from

applicants' and participants' annual income, as listed in 24 CFR 5.609, this notice, or otherwise specified by statute.

Changes to the Previously Published List

HUD last published in the **Federal Register** a notice of Federally mandated exclusions from income on December 14, 2012, at 77 FR 74496. Today's notice replaces the previously published version by adding a new exclusion, including an inadvertent omission, and correcting two previously listed exclusions:

(1) Adds exclusion of any amounts in an ''individual development account'' as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107–110, 42 U.S.C. 604(h)(4)), listed as exclusion (xxiv);

(2) Includes previously omitted exclusion of any allowance paid under the provisions of 38 U.S.C. 1833(c) to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802–05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811–16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821)), listed as exclusion (xvi);

(3) Clarifies the criteria for Section 8 participants for exclusion (viii); and

(4) Corrects the timeline of exclusion (xxiii) for settlements payments pursuant to the case entitled *Elouise Cobell et al.* v. *Ken Salazar et al.*

Updated List of Federally Mandated Exclusions From Income

The following updated list of federally mandated exclusions supersedes the notice published in the **Federal Register** on December 14, 2012. The following list of program benefits is the comprehensive list of benefits that currently qualify for the income exclusion in either any Federal program or in specific Federal programs (exclusions (viii), (xiii), (xxi), and (xxii) have provisions that apply only to specific HUD programs):

(i) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b));

(ii) Payments to volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5044(f)(1), 5058);

(iii) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

(iv) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

(v) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

(vi) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94–540, section 6);

(vii) The first $2000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first $2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407–1408). This exclusion does not include proceeds of gaming operations regulated by the Commission;

(viii) Amounts of scholarships funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For section 8 programs only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if the individual is over the age of 23 with dependent children (Pub. L. 109–115, section 327) (as amended);

(ix) Payments received from programs funded under title V of the Older Americans Act of 1965 (42 U.S.C. 3056g);

(x) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101–201) or any other fund established pursuant to the settlement in *In Re Agent Orange Liability Litigation,* M.D.L. No. 381 (E.D.N.Y.);

(xi) Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96–420, 25 U.S.C. 1728);

(xii) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

(xiii) Earned income tax credit (EITC) refund payments received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221(d)(3), 235, and 236 of the National Housing Act (26 U.S.C. 32(l));

(xiv) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95–433);

(xv) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

(xvi) Any allowance paid under the provisions of 38 U.S.C. 1833(c) to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802–05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811–16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821).

(xvii) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602(c));

(xviii) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931(a)(2));

(xix) Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);

(xx) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));

(xxi) Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. § 1437a(b)(4));

(xxii) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111–269; 25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 *et seq.*) and administered by the Office of Native American Programs;

(xxiii) A lump sum or a periodic payment received by an individual

Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al.* v. *Ken Salazar et al.,* 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111–291);

(xxiv) Any amounts in an ''individual development account'' as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107–110, 42 U.S.C. 604(h)(4));

(xxv) Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013–30 ''Exclusion from Income of Payments under Recent Tribal Trust Settlements'' (25 U.S.C. 117b(a)); and

(xxvi) Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93–288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)).

Dated: May 12, 2014.

Deborah A. Hernandez,

General Deputy Assistant Secretary for Public and Indian Housing.

Laura M. Marin,

Associate General Deputy Assistant Secretary for Housing—Associate Deputy Federal Housing Commissioner.

[FR Doc. 2014–11688 Filed 5–19–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–RF–2014–NXXX; FXRS12630900000–145–FF09R81000]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; National Wildlife Refuge Special Use Permit Applications and Reports

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on June 30, 2014. We 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. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before June 19, 2014.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail), or *hope_grey@fws.gov* (email). Please include ''1018–0102'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone). You may review the ICR online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

Information Collection Request

OMB Control Number: 1018–0102.

Title: National Wildlife Refuge Special Use Permit Applications and Reports, 50 CFR 25, 26, 27, 29, 30, 31, 32, and 36.

Type of Request: Extension of a previously approved collection.

Service Form Numbers: 3–1383–G, 3–1383–C, and 3–1383–R.

Description of Respondents: Individuals and households; businesses and other for-profit organizations; nonprofit organizations; farms; and State, local, or tribal governments.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Activity	Number of respondents	Number of responses	Completion time per response (in hours)	Total annual burden hours
Form 3–1383–G	13,630	13,630	½	6,816
Form 3–1383–C	1,212	1,212	4	4,848
Form 3–1383–R	303	303	5	1,515
Activity Reports	606	606	½	303
Totals	15,751	15,751	.....	13,482

Estimated Annual Nonhour Burden Cost: $121,200 for fees associated with applications for commercial use activities.

Abstract: The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, consolidated all refuge units into a single National Wildlife Refuge System (System). It also authorized us to offer visitor and public programs, including those facilitated by commercial visitor and management support services, on lands of the System when we find that the activities are appropriate and compatible with the purpose for which the refuge was established and the System's mission. The Refuge Recreation Act of 1962 (16 U.S.C. 460k–460k–4) (Recreation Act) allows the use of refuges for public recreation when it is not inconsistent or does not interfere with the primary purpose(s) of the refuge. The Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.) (ANILCA) provides specific authorization and guidance for the administration and management of national wildlife refuges within the State of Alaska. Its provisions provide for the issuance of permits under certain circumstances.

We issue special use permits for a specific period as determined by the type and location of the management activity or visitor service provided. These permits authorize activities such as:

- Agricultural activities (haying and grazing, 50 CFR 29.1 and 29.2).
- Beneficial management tools that we use to provide the best habitat possible on some refuges (50 CFR 30.11, 31.14, 31.16, and 36.41).

• Special events, group visits and other one–time events (50 CFR 25.41, 25.61, 26.36, and 36.41).

• Recreational visitor service operations (50 CFR 25.41, 25.61, and 36.41).

• Guiding for fishing, hunting, wildlife education, and interpretation (50 CFR 25.41 and 36.41).

• Commercial filming (43 CFR 5, 50 CFR 27.71) and other commercial activities (50 CFR 29.1 and 36.41).

• Building and using cabins to support subsistence or commercial activities (in Alaska) (50 CFR 26.35 and 36.41).

• Research, inventory and monitoring, and other noncommercial activities (50 CFR 26.36 and 36.41).

We use three forms to collect applicant information:

• FWS Form 3–1383–G (General Activities Special Use Application).
• FWS Form 3–1383–C (Commercial Activities Special Use Application).
• FWS Form 3–1383–R (Research and Monitoring Special Use Application).

The information we collect helps ensure that: (1) Applicants are aware of the types of information that may be needed for permit issuance; (2) requested activities are appropriate and compatible with the purpose(s) for which the refuge was established and the System's mission; and (3) the applicant is eligible or is the most qualified applicant to receive the special use permit.

We may collect the necessary information in a nonform format (through discussions in person or over the phone, over the Internet, by email, or by letter). In some instances, respondents will be able to provide information verbally. Often, a simple email or letter describing the activity will suffice. For activities (e.g., commercial visitor services, research, etc.) that might have a large impact on refuge resources, we may require applicants to provide more detail on operations, techniques, and locations. Because of the span of activities covered by special use permits and the different management needs and resources at each refuge, respondents may not be required to answer all questions. Depending on the requested activity, refuge managers have the discretion to ask for less information than appears on the forms. However, refuge managers cannot ask for more or different information.

We issue permits for a specific period as determined by the type and location of the use or service provided. We use these permits to ensure that the applicant is aware of the requirements of the permit and his/her legal rights. Refuge-specific special conditions may be required for the permit. We identify conditions as an addendum to the permit. Most of the special conditions pertain to how a permitted activity may be conducted and do not require the collection of information. However, some special conditions, such as activity reports, before and after site photographs, or data sharing, would qualify as an information collection, and we have included the associated burden in the table above.

Public Comments and Our Responses

Comments: On November 13, 2013, we published in the **Federal Register** (78 FR 68085) a notice of our intent to request that OMB renew approval for this information collection. In that notice, we solicited comments for 60 days, ending on January 13, 2014. We received two comments on this notice.

Comment 1: The respondent objected to the granting of permits for commercial activities on refuge lands and thought there should be an opportunity for public comment.

Response: The Administration Act authorizes us to permit public accommodations, including commercial visitor services, on lands of the System when we find that these activities are compatible and appropriate with the purpose for which the refuge was established. The respondent did not address the information collection, and we did not make any changes to our requirements.

Comment 2: The inclusion of 50 CFR 29.2 would appear improper. 50 CFR 29.2 is in regards to ''Cooperative Agreements''; this is not a permitting process, but rather a Grants and Financial Assistance process. The use of permits for Economic Use privileges would appear appropriate for 50 CFR 29.1 wherein it is clear this section is for economic (for profit) use in contrast to 50 CFR 29.2 where it is clear it is for a nonprofit ''cooperative agreement'' use.

Response: Permits are used to authorize a use on a refuge as described in 50 CFR parts 25 and 26, and Service policy. Cooperative agreements are also administered consistent with appropriate Federal laws, regulations, and policy. Most cooperative farming, as described in 50 CFR 29.2, is managed on a refuge through a cooperative agreement. There may be occasions where it is conducted through a special use permit (e.g., until a cooperative agreement is in place, or where crops are planted to control weeds in a project restoring native plant communities). The respondent did not address the information collection, and we did not make any changes to our requirements.

Request for Public Comments

We again invite comments concerning this information collection on:

• Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
• The accuracy of our estimate of the burden for this collection of information;
• Ways to enhance the quality, utility, and clarity of the information to be collected; and
• Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: May 14, 2014.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2014–11582 Filed 5–19–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–IA–2014–N097; FXIA16710900000–145–FF09A30000]

Endangered Species; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before June 19, 2014.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and

Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

III. Permit Applications

A. Endangered Species

Applicant: Morani River Ranch, Uvalde, TX; PRT–49112A

The applicant requests an amendment of his captive-bred wildlife registration under 50 CFR 17.21(g) to add the species listed below to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Species

Eld's deer (*Rucervus eldii*)

Barasingha (*Rucervus duvaucelii*)

Applicant: Indianhead Ranch, Del Rio, TX; PRT–32349B

The applicant requests a permit to export the sport-hunted trophy of one male Arabian leucoryx, (Arabian oryx) culled from a captive herd maintained in the state of Texas, for the purpose of enhancement of the survival of the species.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Antonia Hall, Sarasota, FL; PRT–34806B

Applicant: Michael Dubes, Scottsdale, AZ; PRT–35453B

Applicant: Phillip White, West Yellowstone, MT; PRT–35981B

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2014–11583 Filed 5–19–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVB00000 L71220000.EU0000.LVTFF1302680.241A; N–90179; 14–08807; MO#4500060182]

Notice of Realty Action: Proposed Direct Sale of Public Land for a Cemetery (N–90179) in Nye County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) is offering to sell a parcel of public land containing 7.5 acres as a non-competitive (direct) sale for a cemetery at not less than the appraised fair market value (FMV) of $6,500 to Nye County. The BLM is proposing to use the direct sale procedures consistent with the requirements of Section 203 of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, and the applicable regulations.

DATES: Interested persons may submit written comments to the BLM at the address below. The BLM must receive your comments on or before July 7, 2014.

ADDRESSES: Bureau of Land Management, Tonopah Field Office, 1553 S. Main Street, P.O. Box 911, Tonopah, NV 89049.

FOR FURTHER INFORMATION CONTACT: Wendy Seley, Realty Specialist, at the above address or by telephone at 775–482–7805. 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 will conduct a direct sale for the following described public land located

one-half mile west of the Town of Manhattan, Nye County, Nevada.

Mount Diablo Meridian

T. 8 N., R. 43 E.,
Sec. 24, S½SE¼SW¼SE¼NE¼,
SE¼SW¼SW¼SE¼NE¼,
NE¼NW¼NE¼SE¼,
E½NW¼NW¼NE¼SE¼,
N½SE¼NW¼NE¼SE¼,
NE¼SW¼NW¼NE¼SE¼.
The area described contains 7.5 acres.

Upon publication of this notice in the **Federal Register**, the described land will be segregated from all forms of appropriation under the public land laws, including the mining laws, except for the sale provisions of FLPMA. Upon publication of this Notice of Realty Action and until completion of the sale, the BLM will no longer accept land use applications affecting the identified public lands, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregated effect will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or on May 20, 2016 unless extended by the BLM Nevada State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date.

Under FLPMA, Section 203(a)(3) and 43 CFR 2710.0–3(a)(2), the disposal of such tract will serve important public objectives, including but not limited to, expansion of communities and economic development, which cannot be achieved prudently or feasibly on lands other than public lands and which outweigh other public objectives and values. Consistent with Section 203 of FLPMA, a tract of public land may be sold as a result of approved land use planning if the sale of the tract meets the disposal criteria of that section. The public land in question has been identified as suitable for disposal in the BLM Tonopah Resource Management Plan (RMP), Appendix 14, pages A–46 through A–49, dated October 2, 1997. The parcel is not required for any other Federal purpose. Regulations contained in 43 CFR 2711.3–3(a)(1) make allowances for direct sales when a competitive sale is not appropriate and the public interest would be best served by a direct sale. Here the parcel in question is being transferred to State or local government and given its location is important to the existing cemetery. Additionally, the proposed direct sale would also help address an inadvertent trespass on a portion of the proposed sale parcel. Thus, the proposed action is consistent with 43 CFR part 2710, the objectives, goals, and decisions of the RMP such as the Lands and Realty objective to make lands available for community expansion and private economic development and to increase the potential for economic diversity.

The BLM has prepared environmental assessment (EA) DOI–BLM–NV–B020–2011–0144–EA for the proposed sale, and has decided to make it available for comment. The comment period on the environmental assessment will end concurrently with the close of the comment period associated with this Notice of Realty Action. The EA, Environmental Site Assessment, Mineral Potential Report, map, and approved appraisal report are available for review at the Tonopah Field Office at the address in the **ADDRESSES** section and online at the Battle Mountain District Web site at: *http://www.blm.gov/nv/st/en/fo/battle_mountain_field.html.*

In order to determine the FMV through appraisal, certain extraordinary assumptions and hypothetical conditions are made concerning the attributes and limitations of the land and potential effects of local regulations and policies on potential future land uses. Through publication of this Notice, the BLM advises that these assumptions may not have been endorsed or approved by units of local government.

Nye County expressed an interest in purchasing, by direct sale, the surface estate of these lands as the permanent site for a cemetery. As proof of interest, Nye County approved Resolution No. 2011–97, ''A Resolution Authorizing the Submission of Notice to the United States Department of the Interior, Bureau of Land Management that Nye County Requests a Direct Sale for the Real Property Commonly Known as the Mount Moriah Cemetery Located in Manhattan, NV for use as a Cemetery and Authorizing the Chairman to Execute All Documents and to Take Such Other Actions as Required to Secure Issuance of the Subject Land'' on August 6, 2011. The proposed sale parcel includes the 2.3-acre cemetery historically used since the early 1900s. The BLM proposes a direct sale because it serves an important local public objective of facilitating Nye County's efforts to provide for the expansion of the existing cemetery.

The public land will not be offered for sale prior to 60 days from the date this notice is published in the **Federal Register**. The patent, if issued, would be subject to the following terms, conditions, and reservations:

1. A reservation for any right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. A reservation for all mineral deposits in the land so patented, and to it, or persons authorized by it, the right to prospect for, mine and remove such deposits from the same under applicable law and regulations to be established by the Secretary of the Interior.

The parcel is also subject to all valid existing rights including but not limited to:

1. Right-of-Way N–49546 (Easement N–92455) for a water pipeline serving the Manhattan Mill granted to Round Mountain Gold Corporation, its successors or assigns, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

2. Right-of-Way N–49749 (Easement N–92453) for aerial line purposes granted to Sierra Pacific Power Company, its successors or assigns, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

3. Right-of-Way N–54823 (Easement N–92454) for a water pipeline serving the Town of Manhattan granted to Nye County, its successors or assigns, pursuant to the Act of October 21, 1976 (43 U.S.C. 1761).

The purchaser, by accepting the patent, agrees to indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind arising from the past, present, or future acts or omissions of the patentee, its employees, agents, contractors, or lessees, or any third party arising out of, or in connection with, the patentee's use, occupancy or operations on the patented real property. This indemnification and hold-harmless agreement includes, but is not limited to, acts and omissions of the patentee, its employees, agents, contractors, or lessees, or third party arising out of or in connection with the use and/or occupancy of the patented real property resulting in: (1) Violations of Federal, State, and local laws and regulations that are now, or in the future become, applicable to the real property; (2) Judgments, claims, or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or State environmental laws, off, on, into, or under land, property, and other interests of the United States; (5) Other activities by which solid or hazardous substances

or wastes, as defined by Federal and State environmental laws are generated, released, stored, used, or otherwise disposed of on the patented real property, and any cleanup response, remedial action, or other actions related in any manner to said solid or hazardous substances or wastes; or (6) Natural resource damages as defined by Federal and State law. This covenant will run with the patented real property and may be enforced by the United States in a court of competent jurisdiction.

Pursuant to the requirements established by Section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9620(h) (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1988 (100 Stat. 1670), notice is hereby given that the above-described lands have been examined and no evidence was found to indicate that any hazardous substances have been stored for 1 year or more, nor had any hazardous substances been disposed of or released on the subject property. To the extent required by law, all parcels are subject to the requirements of Section 120(h) of CERCLA.

No representation, warranty, or covenant of any kind, express or implied, will be given or made by the United States, its officers or employees as to access to or from the above-described parcel of land, the title to the land, whether or to what extent the land may be developed, its physical condition or its past, present or potential uses, and the conveyance of any such parcel will not be on a contingency basis. It is the responsibility of the buyer to be aware of all applicable Federal, State, and local government policies and regulations that would affect the subject lands. It is also the buyer's responsibility to be aware of existing or prospective uses of nearby properties. Lands without access from a public road or highway will be conveyed as such, and future access acquisition will be the responsibility of the buyer.

The BLM prepared a mineral potential report, dated January 6, 2014, which concluded that all minerals rights should be reserved to the United States Government. Mining claim holders Round Mountain Gold Corporation and A.U. Mines, Inc., would be required to amend a portion of the only active mining claims on the land identified for the proposed sale area prior to conveyance.

The purchaser will have 30 days from the date of receiving the sale offer to accept the offer and to submit a deposit of 20 percent of the purchase price, appraisal, and payment of publication costs. The purchaser must remit the remainder of the purchase price within 180 days from the date of the sale offer. Payments must be by certified check, U.S. postal money order, bank draft, or cashier's check, and made payable to the U.S. Department of the Interior—BLM or conduct an electronic funds transfer. The balance is due 2 weeks prior to 180th day if the purchaser conducts an electronic funds transfer. Failure to meet conditions established for this sale will void the sale and forfeit any payment(s) received.

Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so. Any adverse comments regarding the proposed sale will be reviewed by the BLM Nevada State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action in whole or in part. In the absence of timely filed objections, this realty action will become the final determination of the

Authority: 43 CFR 2711.1–2(a) and (c).

Department of the Interior.

Timothy J. Coward,

Field Manager, Tonopah.

[FR Doc. 2014–11612 Filed 5–19–14; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–15728; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before May 2, 2014. Pursuant to § 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St. NW., 8th Floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by June 4, 2014. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: May 5, 2014.

Alexandra Lord,

Acting Chief, National Register of Historic Places/, National Historic Landmarks Program.

CALIFORNIA

Los Angeles County

Villa Carlotta, 234 E. Mendocino St., Altadena, 14000303

Monterey County

Connell, Arthur and Kathleen, House, 1170 Signal Hill Rd., Pebble Beach, 14000304

Fort Ord Station Veterinary Hospital, 2872 5th Ave., Marina, 14000305

Santa Clara County

Century 21 Theater, 3161 Olsen Dr., San Jose, 14000306

Sonoma County

Pond Farm Pottery Historic District, 17000 Armstrong Woods Rd., Guerneville, 14000307

LOUISIANA

Bienville Parish

Arcadia Colored High School Historic District, 6th St. between Crawford Ave. & Napoleon St., Arcadia, 14000308

Calcasieu Parish

Noble Building, 324 Pujo St., Lake Charles, 14000310

Natchitoches Parish

Northwestern State University Historic District, Roughly bounded by University Pkw., Harry Turpin Stadium, Fournet Quad., Cadwell & Sam Sibley Drs., Central Ave., Natchitoches, 14000313

Orleans Parish

Curtis, Nathaniel C., Jr. & Frances, House, 6161 Marquette Pl., New Orleans, 14000311

International Trade Mart, 2 Canal St., New Orleans, 14000312

Pythian Temple, 234 Loyola Ave., New Orleans, 14000309

Schwegmann Bros. Giant Supermarket No. 1, 222 St. Claude Ave., New Orleans, 14000314

St. Bernard Parish

Ducros, Dr. Louis A., House, 1345 Bayou Ave., St. Bernard, 14000315

NEW YORK

Ulster County

Brown—Ellis House, 382 Crescent Ave., Highland, 14000316

[FR Doc. 2014–11569 Filed 5–19–14; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–15705; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before April 26, 2014. Pursuant to § 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th Floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by June 4, 2014. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: April 30, 2014.

J. Paul Loether,

Chief, National Register of Historic Places/, National Historic Landmarks Program.

FLORIDA

Columbia County

O'Leno State Park, 410 SE. O'Leno Park Rd., High Springs, 14000282

Pinellas County

Dunedin Isles Golf Club Golf Course, 1050 Palm Blvd., Dunedin, 14000283

IOWA

Bremer County

Harmon and LeValley Northwest Historic District, Roughly Cedar R., 1st, 7th & 6th Aves., NW., Waverly, 14000284

Clayton County

Motor Mill Historic District (Boundary Increase), (Flour Milling in Iowa MPS) Address Restricted, Elkader, 14000285

Pottawattamie County

Hotel Chieftain, 38 Pearl St., Council Bluffs, 14000286

MASSACHUSETTS

Plymouth County

Duxbury Pier Light, (Light Stations of the United States MPS) Mouth of Duxbury Bay at Plymouth Bay, 5.1 mi. NNE. of Plymouth Rock, Plymouth, 14000287

NEBRASKA

Lancaster County

Lincoln Haymarket Historic District, Generally 7th to 9th & N to R Sts., Lincoln, 14000288

NEW YORK

New York County

Ansche Chesed Synagogue, 1883 Adam Clayton Powell Jr. Blvd., New York, 14000289

Washington County

Martin—Fitch House & Asa Fitch, Jr. Laboratory, 4183 NY 29, Salem, 14000290

NORTH CAROLINA

Alamance County

Oneida Cotton Mills and Scott—Mebane Manufacturing Company Complex, 219 & 220 W. Harden St., Graham, 14000291

OHIO

Hamilton County

Alameda Flats, The, (Apartment Buildings in Ohio Urban Centers, 1870–1970 MPS) 3580–3586 Reading Rd., Cincinnati, 14000293

Poinciana Flats, (Apartment Buildings in Ohio Urban Centers, 1870–1970 MPS) 3522 Reading Rd., Cincinnati, 14000294

Mahoning County

Gallagher Building, 23 N. Hazel & 131 Commerce Sts., Youngstown, 14000295

OKLAHOMA

Adair County

Breadtown, (Cherokee Trail of Tears MPS) Address Restricted, Westville, 14000296

Grady County

Griffin House, 1402 W. Kansas Ave., Chickasha, 14000297

Payne County

Cross, Hamilton, House, 1509 W. 9th, Stillwater, 14000298

Tulsa County

McGregor House, (Bruce Goff Designed Resources in Oklahoma MPS) 1401 S. Quaker Ave., Tulsa, 14000299

SOUTH CAROLINA

Greenville County

U.S. Post Office and Courthouse, 300 E. Washington St., Greenville, 14000300

VIRGINIA

Giles County

Narrows Commercial Historic District, 100–300 blk. Main, 100 blk. Mary, 100 blk. Monroe & 100 blk. Center Sts., 100 blk. MacArthur Ln., Narrows, 14000301

Richmond Independent city

Hermitage Road Warehouse Historic District, Bounded by Hermitage & Overbrook Rds., Sherwood Ave., I–95, Richmond (Independent City), 14000302

In the interest of preservation a three day comment period has been requested for the following resource:

OHIO

Butler County

High Street Commercial Block (Boundary Increase), 216–226 High St., Hamilton, 14000292

[FR Doc. 2014–11578 Filed 5–19–14; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0006; DS63610000 DR2PS0000.CH7000 145D0102R2]

Agency Information Collection Activities: Proposed Collection, Comment Request

AGENCY: Office of Natural Resources Revenue (ONRR), Interior.

ACTION: Notice of extension, OMB Control Number 1012–0009.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), ONRR is inviting comments on a collection of information requests that we will submit to the Office of Management and Budget (OMB) for review and approval. This Information Collection Request (ICR) covers the paperwork requirements in the regulations under title 30, *Code of Federal Regulations* (CFR), part 1220. Also, this ICR pertains to royalties or net profit share payments from oil and gas leases on submerged Federal lands on the Outer Continental Shelf (OCS).

DATES: Submit written comments on or before July 21, 2014.

ADDRESSES: You may submit comments on this ICR to ONRR by using one of the following three methods:

1. Electronically go to *http://www.regulations.gov.* In the entry titled ''Enter Keyword or ID,'' enter ONRR–2011–0006 and then click ''Search.'' Follow the instructions to submit public comments. ONRR will post all comments.

2. Mail comments to Mr. Luis Aguilar, Regulatory Specialist, ONRR, P.O. Box 25165, MS 61030A, Denver, Colorado 80225–0165. Please reference ''ICR 1012–0009'' in your comments.

3. Hand-carry or mail comments, using an overnight courier service, to ONRR. Our courier address is Building 85, Room A–614, Denver Federal Center, West 6th Ave. and Kipling St., Denver, Colorado 80225. Please reference ''ICR 1012–0009'' in your comments.

FOR FURTHER INFORMATION CONTACT: For questions on technical issues, contact Ms. Suzanne Wolter, Audit and Compliance Management (ACM), ONRR, telephone (303) 231–3405 or email at *Suzanne.Wolter@onrr.gov.* For other questions, contact Mr. Luis Aguilar, telephone (303) 231–3418, or email at *Luis.Aguilar@onrr.gov.* You may also contact Mr. Aguilar to obtain copies, at no cost, of (1) the ICR, (2) any associated form, and (3) the regulations that require us to collect the information.

SUPPLEMENTARY INFORMATION:

Title: OCS Net Profit Share Payment Reporting—30 CFR Part 1220.

OMB Control Number: 1012–0009.

Bureau Form Number: None.

Abstract: The Secretary of the United States Department of the Interior is responsible for collecting royalties from lessees who produce minerals from leased Federal and Indian lands and the OCS. The Secretary's responsibility, under various laws, is to manage mineral resource production from Federal and Indian lands and the OCS, collect the royalties and other mineral revenues due, and distribute the funds collected under those laws. ONRR performs the royalty management functions for the Secretary.

We have posted those laws pertaining to mineral leases on Federal and Indian lands and the OCS at *http://www.onrr.gov/Laws_R_D/PubLaws/default.htm.*

I. General Information

ONRR collects and uses this information to determine (1) all allowable direct and allocable joint costs and credits under § 1220.011 incurred during the lease term; (2) appropriate overhead allowance permitted on these costs under § 1220.012; and (3) allowances for capital recovery calculated under § 1220.020. ONRR also collects this information to ensure that royalties or net profit share payments are accurately valued and appropriately paid. This ICR affects only oil and gas leases on submerged Federal lands on the OCS.

II. Information Collections

Title 30 CFR part 1220 covers the net profit share lease (NPSL) program and establishes reporting requirements for determining the net profit share base under § 1220.021. It also covers the calculating of net profit share payments due to the Federal Government for the production of oil and gas from leases under § 1220.022.

A. NPSL Bidding System

To encourage exploration and development of oil and gas leases on submerged Federal lands on the OCS, the Bureau of Ocean Energy Management (BOEM) promulgated regulations at 30 CFR part 506—Outer Continental Shelf Oil and Gas Leasing. Also, BOEM promulgated specific implementing regulations for the NPSL bidding system at § 506.110(d). BOEM established the NPSL bidding system to balance a fair market return to the Federal Government for the lease of its public lands and providing a fair profit to companies risking their investment capital. The system provides an incentive for early expeditious exploration and development providing for sharing of the risks by the lessee and the Federal Government. The NPSL bidding system incorporates a fixed capital recovery system as a means through which the lessee recovers costs of exploration and development from production revenues, along with a reasonable return on investment.

B. NPSL Capital Account

The Federal Government does not receive a profit share payment from an NPSL until the lessee shows a credit balance in its capital account; that is, cumulative revenues and other credits exceed cumulative costs. Lessees multiply the credit balance by the net profit share rate (30 to 50 percent), resulting in the amount of net profit share payment due to the Federal Government.

ONRR requires lessees to maintain an NPSL capital account for each lease under § 1220.010, which transfers to a new owner when sold. Following the cessation of production, lessees are also required to provide either an annual or a monthly report to the Federal Government by using data from the capital account until the lease is terminated, expired, or relinquished.

C. NPSL Inventories

The NPSL lessees must notify BOEM of their intent to take inventory so that BOEM's Director may be represented at the taking of inventory under § 1220.032. Each lessee must file a report after each inventory is taken, reporting the controllable material under § 1220.031.

D. NPSL Audits

Non-operators of an NPSL must notify ONRR when they call for an audit. When ONRR calls for an audit, the lessee must notify all non-operators on the lease. These requirements are located at § 1220.033.

III. OMB Approval

ONRR will request OMB approval to continue to collect this information. If ONRR does not collect this information, this would limit the Secretary's ability to discharge fiduciary duties and may also result in the inability to confirm the accurate royalty value. ONRR protects the proprietary information that we receive, and we do not collect items of a sensitive nature.

ONRR requires lessees to respond to this ICR because the information collected is essential in order to determine when net profit share payments are due and to ensure that lessees properly value and pay royalties or net profit share payments.

Frequency: Annually, monthly, and on occasion.

Estimated Number and Description of Respondents: 6 lessees.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 1,926 hours.

All six lessees report monthly because all current NPSLs are in producing status. Because the requirements for establishment of capital accounts at § 1220.010(a) and capital account annual reporting at § 1220.031(a) are necessary only during the non-producing status of a lease, ONRR included only one annual response for these requirements in case a new NPSL is established. ONRR did not include in the estimates certain requirements performed in the normal course of business, which are considered usual and customary. The following table shows the estimated annual burden hours by CFR section and paragraph.

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS

Citation 30 CFR 1220	Reporting & recordkeeping requirement	Hour burden	Number of annual responses	Annual burden hours
Part 1220—Accounting Procedures for Determining Net Profit Share Payment for Outer Continental Shelf Oil and Gas Leases				
§ 1220.010 NPSL Capital Account				
1220.010(a)	(a) For each NPSL tract, an NPSL capital account shall be established and maintained by the lessee for NPSL operations . . .	1	1	1
§ 1220.030 Maintenance of records				
1220.030(a) and (b)	(a) Each lessee . . . shall establish and maintain such records as are necessary . . .	1	11	11
§ 1220.031 Reporting and payment requirements				
1220.031(a)	(a) Each lessee subject to this part shall file an annual report during the period from issuance of the NPSL until the first month in which production revenues are credited to the NPSL capital account . . .	1	11	11
1220.031(b)	(b) Beginning with the first month in which production revenues are credited to the NPSL capital account, each lessee . . . shall file a report for each NPSL, not later than 60 days following the end of each month . . .	13	[1] 132	1716
1220.031(c)	(c) Each lessee subject to this Part 220 shall submit, together with the report required . . . any net profit share payment due . . .	Burden hours covered under § 1220.031(b).		
1220.031(d)	(d) Each lessee . . . shall file a report not later than 90 days after each inventory is taken	8	11	88
1220.031(e)	(e) Each lessee . . . shall file a final report, not later than 60 days following the cessation of production . . .	4	11	44
§ 1220.032 Inventories				
1220.032(b)	(b) At reasonable intervals, but at least once every three years, inventories of controllable materiel shall be taken by the lessee. Written notice of intention to take inventory shall be given by the lessee at least 30 days before any inventory is to be taken so that the BOEM Director may be represented at the taking of inventory . . .	1	11	11
§ 1220.033 Audits				
1220.033(b)(1)	(b)(1) When nonoperators of an NPSL lease call an audit in accordance with the terms of their operating agreement, the ONRR Director shall be notified of the audit call . . .	2	11	22
1220.033(b)(2)	(b)(2) If DOI determines to call for an audit, DOI shall notify the lessee of its audit call and set a time and place for the audit . . . The lessee shall send copies of the notice to the nonoperators on the lease . . .	2	11	22
1220.033(e)	(e) Records required to be kept under § 1220.030(a) shall be made available for inspection by any authorized agent of DOI . . .	The Office of Regulatory Affairs determined that the audit process is exempt from the Paperwork Reduction Act of 1995 because ONRR staff asks non-standard questions to resolve exceptions.		
Total Burden		.....	210	1,926

[1] 11 NPSL reports × 12 months = 132 reports

Estimated Annual Reporting and Recordkeeping "Non-hour" Cost Burden: We have not identified a "non-hour" cost burden associated with the collection of information.

Public Disclosure Statement: The PRA (44 U.S.C. 3501 *et seq.*) provides that 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.

Comments: Section 3506(c)(2)(A) of the PRA requires each agency to ". . . provide 60-day notice in the **Federal Register** . . . and otherwise consult with members of the public and affected agencies concerning each proposed collection of information . . ." Agencies must specifically solicit comments to: (1) Evaluate whether the proposed

collection of information is necessary for the agency to perform its duties, including whether the information is useful; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, usefulness, and clarity of the information that ONRR collects; and (4) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The PRA also requires agencies to estimate the total annual reporting ''non-hour cost'' burden to respondents or recordkeepers resulting from the collection of information. If you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods that you use to estimate (1) major cost factors, including system and technology acquisition, (2) expected useful life of capital equipment, (3) discount rate(s), and (4) the period over which you incur costs. Capital and startup costs include, among other items, computers and software that you purchase to prepare for collecting information and monitoring, sampling, and testing equipment, and record-storage facilities. Generally, your estimates should not include equipment or services purchased (i) before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Federal Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our ICR submission for OMB approval, including appropriate adjustments to the estimated burden. We will provide a copy of the ICR to you, free of charge, upon request. We also will post the ICR at *http://www.onrr.gov/Laws_R_D/FRNotices/FRInfColl.htm.*

Public Comment Policy: ONRR will post all comments, including names and addresses of respondents at *http://www.regulations.gov.* Before including Personally Identifiable Information (PII), such as your address, phone number, email address, or other personal information in your comment(s), you should be aware that your entire comment (including PII) may be made available to the public at any time. While you may ask us, in your comment, to withhold PII from public view, we cannot guarantee that we will be able to do so.

ONRR Information Collection Clearance Officer: David Alspach (202) 219–8526.

Dated: May 6, 2014.

Gregory J. Gould,

Director, Office of Natural Resources Revenue.

[FR Doc. 2014–11559 Filed 5–19–14; 8:45 am]

BILLING CODE 4310–T2–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–352]

Andean Trade Preference Act: Impact on the U.S. Economy and on Andean Drug Crop Eradication

AGENCY: United States International Trade Commission.

ACTION: Notice of opportunity to submit comments in connection with the 16th report on the Andean Trade Preference Act (ATPA).

SUMMARY: Section 206 of the ATPA (19 U.S.C. 3204) requires the Commission to report biennially to the Congress by September 30 of each reporting year on the economic impact of the Act on U.S. industries and U.S. consumers, as well as on the effectiveness of the Act in promoting drug related crop eradication and crop substitution efforts by beneficiary countries. The Commission prepares these reports under investigation No. 332–352, *Andean Trade Preference Act: Impact on the U.S. Economy and on Andean Drug Crop Eradication.*

DATES: June 24, 2014: Deadline for filing written submissions.

September 30, 2014: Transmittal of Commission report to Congress.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://www.usitc.gov/secretary/edis.htm.*

FOR FURTHER INFORMATION CONTACT: Justino De La Cruz (202–205–3252, or *justino.delacruz@usitc.gov*), Country and Regional Analysis Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Peg O'Laughlin, Public Affairs Officer (202–205–1819 or *margaret.olaughlin@usitc.gov*). General information concerning the Commission may be obtained by accessing its internet server (*http://www.usitc.gov*).

Background: Section 206 of the Andean Trade Preference Act (ATPA) (19 U.S.C. 3204) requires that the Commission submit biennial reports to the Congress regarding the economic impact of the Act on U.S. industries and consumers and, in conjunction with other agencies, the effectiveness of the Act in promoting drug-related crop eradication and crop substitution efforts of the beneficiary countries. Section 206(b) of the Act requires that each report include:

(1) The actual effect of ATPA on the U.S. economy generally as well as on specific domestic industries which produce articles that are like, or directly competitive with, articles being imported under the Act from beneficiary countries;

(2) the probable future effect that ATPA will have on the U.S. economy generally and on such domestic industries; and

(3) the estimated effect that ATPA has had on drug-related crop eradication and crop substitution efforts of beneficiary countries.

Notice of institution of this investigation for preparing these reports was published in the **Federal Register** of March 10, 1994 (59 FR 11308). This 16th report, covering 2012–2013, the period since the previous report, is to be submitted by September 30, 2014. During the period covered by this 16th report, only Colombia and Ecuador were beneficiary countries eligible for preferential treatment, and only for part of the period covered by the report. Colombia's designation as a beneficiary country was terminated on May 15, 2012, when the United States–Colombia Trade Promotion Agreement entered into force; imports from Ecuador ceased to be eligible for preferential treatment after July 31, 2013, when the authority for such treatment expired.

Written Submissions: Interested parties are invited to file written submissions containing information and views relating to the subject matter of the investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., June 24, 2014. All written submissions must conform to the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 C.P.R. 201.8). Section

201.8 and the Commission's Handbook on Filing Procedures require that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 noon eastern time on the next business day. In the event that confidential treatment of a document is requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

Congressional committee staff has indicated that the receiving committees intend to make the Commission's report available to the public in its entirety, and has asked that the Commission not include any confidential business information or national security classified information in the report that the Commission sends to the Congress. Any confidential business information received by the Commission in this investigation and used in preparing this report will not be published in a manner that would reveal the operations of the firm supplying the information.

By order of the Commission.

Issued: May 14, 2014.

Lisa R. Barton,

Secretary of the Commission.

[FR Doc. 2014–11581 Filed 5–19–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–415 and 731–TA–933 and 934 (Second Review)]

Polyethylene Terephthalate Film, Sheet, and Strip From India and Taiwan; Revised Schedule for the Subject Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: *Effective Date:* May 14, 2014.

FOR FURTHER INFORMATION CONTACT: Cynthia Trainor (202–205–3354), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On January 16, 2014, the Commission established a schedule for the conduct of these reviews (79 FR 2883). Subsequently, counsel for the domestic interested party filed a request to appear at the hearing or, in the alternative, for consideration of cancellation of the hearing. Counsel indicated a willingness to submit responses to any Commission questions in lieu of an actual hearing. No other party filed a timely request to appear at the hearing. Consequently, the public hearing in connection with these reviews, scheduled to begin at 9:30 a.m. on May 20, 2014, at the U.S. International Trade Commission Building, is cancelled. Parties to these reviews should respond to any written questions posed by the Commission in their posthearing briefs, which are due to be filed on May 29, 2014.

For further information concerning these reviews see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: May 14, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–11580 Filed 5–19–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Bazaarvoice Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation and Competitive Impact Statement have been filed with the United States District Court for the Northern District of California in *United States of America* v. *Bazaarvoice, Inc.,* Civil Action No. 13–00133. On January 8, 2014, the Court held that Bazaarvoice, Inc.'s June 2012 acquisition of PowerReviews, Inc. violated Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment requires Bazaarvoice to divest the assets it acquired from PowerReviews and adhere to other requirements to fully restore competition in the provision of online product ratings and reviews platforms.

Copies of the Complaint, Stipulation, proposed Final Judgment and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street NW., Suite 1010, Washington, DC 20530 (telephone: 202–514–2481), on the Department of Justice's Web site at *http://www.usdoj.gov/atr,* and at the Office of the Clerk of the United States District Court for the Northern District of California. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site, filed with the Court and, under certain circumstances, published in the **Federal Register**. Comments should be directed to James J. Tierney, Chief, Networks and Technology Enforcement Section, Antitrust

Division, Department of Justice, Washington, DC 20530, (telephone: 202–307–6200).

Patricia A. Brink,

Director of Civil Enforcement.

Michael D. Bonanno, Attorney (DC Bar No. 998208)
Soyoung Choe, Attorney (MD Bar, No Numbers Assigned)
Aaron Comenetz, Attorney (DC Bar No. 479572)
Peter K. Huston, Attorney (CA Bar No. 150058)
Ihan Kim, Attorney (NY Bar, No Numbers Assigned)
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[Additional counsel listed on signature page]
Attorneys for Plaintiff United States of America

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, *Plaintiff,*
v.
BAZAARVOICE, INC. *Defendant.*
Case No. 13-cv-00133 WHO

COMPLAINT

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil action to obtain equitable relief remedying the June 2012 acquisition of PowerReviews, Inc. (''PowerReviews'') by Defendant Bazaarvoice, Inc. (''Bazaarvoice''). The United States alleges as follows:

INTRODUCTION

1. Many retailers and manufacturers purchase product ratings and reviews platforms (''PRR platforms'') to collect and display consumer-generated product ratings and reviews online. Bazaarvoice provides the market-leading PRR platform, and PowerReviews was its closest competitor. No other PRR platform competitor has a significant number of PRR platform customers in the United States. By acquiring PowerReviews, Bazaarvoice eliminated its most significant rival and effectively insulated itself from meaningful competition.

2. The acquisition of PowerReviews was a calculated move by Bazaarvoice that was intended to eliminate competition. Bazaarvoice's senior executives spent more than a year considering whether buying PowerReviews would reduce pricing pressure and diminish competition in the marketplace. As a result of their extensive deliberations, the company's business documents are saturated with evidence that Bazaarvoice believed the acquisition of PowerReviews would eliminate its most significant competitive threat and stem price competition.

3. In April 2011, Brant Barton, one of Bazaarvoice's co-founders, outlined the benefits of the acquisition in an email to senior Bazaarvoice executives. He noted that acquiring PowerReviews would ''[e]liminat[e] [Bazaarvoice's] primary competitor'' and provide ''relief from [] price erosion.'' He also discussed the absence of competitive alternatives for customers, concluding that Bazaarvoice would ''retain an extremely high percentage of [PowerReviews] customers,'' because available alternatives for disgruntled customers were ''scarce'' and ''low-quality.''

4. On May 4, 2011, Brett Hurt, Bazaarvoice's Chief Executive Officer, supported Barton's analysis and advocated the company's pursuit of PowerReviews in an email to the Bazaarvoice board of directors. According to Hurt, the acquisition of PowerReviews was an opportunity to ''tak[e] out [Bazaarvoice's] only competitor, who . . . suppress[ed] [Bazaarvoice] price points []by as much as 15% . . . .''

5. Two days later, Barton, Hurt, and Stephen Collins, Bazaarvoice's Chief Financial Officer, met with senior PowerReviews executives to discuss the potential acquisition. In his notes from the meeting, Barton wrote that the transaction would enable the combined company to ''avoid margin erosion'' caused by ''tactical 'knife-fighting' over competitive deals.'' He later prepared a presentation for Bazaarvoice's board of directors in which he claimed the transaction would ''[e]liminate [Bazaarvoice's] primary competitor'' and ''reduc[e] comparative pricing pressure.''

6. In October 2011, Collins emailed other senior Bazaarvoice executives to provide his perspective regarding the potential acquisition. He recommended that Bazaarvoice continue its pursuit of PowerReviews because he feared price competition with PowerReviews would impair the long-term value of Bazaarvoice's business. Collins believed that Bazaarvoice had ''literally, no other competitors,'' and he expected ''pricing accretion'' from the combination of the two firms. In November 2012, Stephen Collins replaced Brett Hurt as Bazaarvoice's Chief Executive Officer.

7. In November 2011, Hurt sought permission from Bazaarvoice board members to continue exploring a potential deal with PowerReviews, observing that Bazaarvoice would have ''[n]o meaningful direct competitor'' after acquiring PowerReviews, thereby reducing ''pricing dilution.''

8. In December 2011, Collins and Barton met with PowerReviews representatives again. Following the meeting, Collins prepared a memorandum for Bazaarvoice's board of directors to outline the expected benefits of the acquisition. He wrote that the acquisition of PowerReviews would (1) ''eliminat[e] feature driven one-upmanship and tactical competition;'' (2) ''[c]reate[] significant competitive barriers to entry;'' (3) ''eliminate the cost in time and money to take [PowerReviews'] accounts;'' and (4) ''reduce [Bazaarvoice's] risk of account losses as [PowerReviews] compete[d] for survival.''

9. In May 2012, Bazaarvoice executives completed their due diligence for the acquisition. To support their recommendation to proceed with the acquisition of PowerReviews, they prepared a 73-page memorandum for the company's board of directors. In this memorandum, the executives touted the transaction's dampening effect on competition, concluding the acquisition would ''block[] entry by competitors'' and ''ensure [Bazaarvoice's] retail business [was] protected from direct competition and premature price erosion.''

10. Bazaarvoice's acquisition of PowerReviews closed on June 12, 2012. The purchase price, including cash and non-cash consideration, was approximately $168.2 million.

THE DEFENDANT AND THE TRANSACTION

11. Bazaarvoice is a publicly traded Delaware corporation and is headquartered in Austin, Texas. During its 2012 fiscal year, Bazaarvoice earned approximately $106.1 million in revenue.

12. PowerReviews was a privately held Delaware corporation. Before the transaction, PowerReviews was headquartered in San Francisco, California. During the 2011 calendar year, the company earned approximately $11.5 million in revenue.

JURISDICTION

13. The United States brings this action under Section 15 of the Clayton Act, 15 U.S.C. § 25, to restrain Bazaarvoice's violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

14. This Court has subject matter jurisdiction over this action under Section 15 of the Clayton Act, 15 U.S.C. §§ 4 and 25, and 28 U.S.C. §§ 1345 and 1331. This Court also has subject matter jurisdiction under 28 U.S.C. § 1337, as Bazaarvoice is engaged in a regular, continuous, and substantial flow of interstate commerce and activities substantially affecting interstate commerce. Bazaarvoice sells PRR platforms throughout the United States.

15. This Court has personal jurisdiction over the Defendant. Bazaarvoice transacts business and is found within the Northern District of California.

VENUE

16. Venue is proper under Section 12 of the Clayton Act, 15 U.S.C. § 22, and 28 U.S.C. § 1391(b) and (c).

INTRADISTRICT ASSIGNMENT

17. Assignment to the San Francisco Division is proper because this action arose in San Francisco County. A substantial part of the events that gave rise to the claim occurred in San Francisco, and PowerReviews' headquarters and principal place of business was located in San Francisco before the transaction. Bazaarvoice continues to use PowerReviews' former headquarters as its San Francisco office.

PRR PLATFORMS

18. PRR platforms enable manufacturers and retailers to collect, organize, and display consumer-generated product ratings and reviews online. Consumer-generated product ratings and reviews (''ratings and reviews'') represent feedback from consumers regarding their experiences with a product. These submissions are displayed on a retailer's or manufacturer's Web site, allowing other consumers to read feedback from previous buyers before making a purchasing decision. PRR platforms can range from simple software solutions a company has developed with internal resources to sophisticated commercial platforms offering a combination of software, moderation services, and data analytics tools.

19. Ratings and reviews are a popular feature for retailers and manufacturers to display on their Web sites. Ratings and reviews can provide highly relevant, product-specific information on a retailer's or manufacturer's Web site near the time of purchase. The additional information provided by ratings and reviews can increase sales, decrease product returns, and attract more consumers to a retailer's or manufacturer's Web site. Ratings and reviews also can provide valuable data about consumer preferences and behavior, which retailers and manufacturers can use to make inventory purchasing or product design decisions.

20. Ratings and reviews may also benefit a retailer or manufacturer by boosting a product's ranking on a search engine results page. Internet search engine algorithms generally assign higher rankings to Web sites with fresh and unique content. Ratings and reviews are frequently updated, and this content is highly tailored to the retailer's or manufacturer's product catalog. Accordingly, when ratings and reviews are indexed by a search engine, the underlying product pages will likely receive a higher ranking on a search engine results page.

21. From a consumer's perspective, ratings and reviews are useful because they can provide authentic information regarding another consumer's experience with a particular product. Feedback from other consumers can help a prospective buyer make a more informed purchasing decision. Product ratings and reviews often provide information that is not easily ascertainable when shopping online (*e.g.,* quality of construction, fit, durability).

22. The software component of a PRR platform provides the user interface and review form for the collection and display of ratings and reviews. Most review forms prompt consumers to rate a product on a five-star scale and offer consumers an option to write an open-ended comment about their experience with the product. Other forms also allow consumers to rate products along several dimensions (*e.g.,* product appearance, ease of assembly, value).

23. In addition to the technology components of their respective platforms, some PRR platform providers also provide moderation services. After a consumer submits a review, the PRR platform provider applies software algorithms to scan the submission for inappropriate or fraudulent content. After the automated scan, a human moderator examines each submission to ensure it complies with a particular client's moderation standards. These moderation standards may vary between clients. For example, some clients may prefer not to display references to their competitors on their Web sites.

24. After moderation, the PRR platform publishes approved submissions in a display interface on a client's Web site. Many PRR platforms display a summary of a product's rating and review information and allow consumers to view individual reviews for more detailed information. The review summary may display the number of reviews, the product's average overall rating, a review distribution histogram, or information related to particular product attributes. The display interface may also allow consumers to filter reviews according to their interests.

25. Sophisticated PRR platforms allow manufacturers to share, or ''syndicate,'' ratings and reviews with their retail partners. Through the syndication network, retailers can display reviews that were originally collected by a product's manufacturer. Syndication helps retailers obtain more content than they could independently. Manufacturers and retailers both benefit from the ability to display more reviews at the point of sale. Syndication between a manufacturer and a retailer using different PRR platforms is possible, but requires expensive, customized integration work to connect the platforms.

26. Some PRR platforms also include analytics software that manufacturers and retailers use to analyze information collected from ratings and reviews. With these tools, manufacturers and retailers can track and analyze real-time consumer sentiment. Manufacturers and retailers can use this information to identify product design defects, make product design decisions, or identify consumers for targeted marketing efforts.

27. PRR platforms are sold by Bazaarvoice and other commercial suppliers in direct sales processes that require a significant amount of time and negotiation. Prices are individually negotiated, and each customer's price is independent of the prices that other customers receive. Arbitrage, or indirect purchasing from other customers, is not possible because customers cannot re-sell PRR platforms that they have purchased from a commercial supplier. Accordingly, customers commonly receive different prices, even when purchasing similar products and services.

28. PRR platform providers negotiate prices in light of each customer's demand characteristics, taking into account competitive alternatives. Bazaarvoice calls this method of setting prices ''value-based'' pricing, meaning ''the more value the [client] perceives, the higher [Bazaarvoice's] price point.''

During the sales process, it is typical for a salesperson to ask the prospective customer to divulge detailed information related to its business, which may include information related to (1) annual volume of online sales; (2) product return rates; (3) historic conversion rates; (4) e-commerce vendor relationships; or (5) project budgets. This process enables the PRR platform provider to assess the prospect's willingness to pay for a PRR platform. After acquiring as much information as possible about the prospect, the PRR platform provider offers a price that aligns closely with its perception of the prospect's willingness to pay for its product.

29. Throughout the course of the sales process, a salesperson will also ask whether a prospective customer is considering other competitive alternatives. In most cases, the presence of competition is relatively transparent. Prospects routinely reveal the identity of competitors during negotiations and may even reveal the terms of competitive offers to improve their bargaining position. Accordingly, suppliers adjust their pricing to account for other competitive offers, depending on the nature of the threat posed by the competition.

RELEVANT MARKET

30. PRR platforms used by retailers and manufacturers are a relevant product market and ''line of commerce'' within the meaning of Section 7 of the Clayton Act.

31. The United States is a relevant geographic market. PowerReviews was routinely the only significant competitive threat that Bazaarvoice faced in U.S.-based sales opportunities. As a result of the transaction, Bazaarvoice will be able to profitably impose targeted price increases on retailers and manufacturers based in the United States.

ELIMINATION OF HEAD-TO-HEAD COMPETITION BETWEEN BAZAARVOICE AND POWERREVIEWS WILL HARM RETAILERS AND MANUFACTURERS

A. Bazaarvoice's acquisition of PowerReviews eliminated the company's closest competitor and is likely to substantially lessen competition.

32. Before the acquisition, Bazaarvoice was the leading commercial supplier of PRR platforms, and PowerReviews was its closest competitor by a wide margin. Bazaarvoice's former CEO acknowledged that ''PowerReviews is [Bazaarvoice's] biggest competitor,'' and the company's decision to acquire PowerReviews was bolstered by its current CEO's belief that there are ''literally, no other competitors'' in the market. Through the removal of its most significant rival, Bazaarvoice acquired the ability to profitably raise the price of its platform above pre-merger levels. In fact, Bazaarvoice's current CEO pressed for the company to acquire PowerReviews because he anticipated ''pricing accretion'' due to the consolidation of the two firms.

33. Prospective customers routinely played Bazaarvoice and PowerReviews against each other during negotiations. Consequently, a Bazaarvoice ''playbook'' for competing with PowerReviews mandated that ''[p]ricing only [be] delivered when [the customer's] BATNA and ZOPA have been clearly identified.'' BATNA and ZOPA are acronyms which stand for ''best alternative to negotiated agreement'' and ''zone of possible agreement.'' For many manufacturers and retailers, PowerReviews was the best alternative to a negotiated agreement with Bazaarvoice. Accordingly, competitive pressure from PowerReviews frequently forced Bazaarvoice to offer substantial price discounts.

34. Other commercial suppliers of PRR platforms are not sufficiently close substitutes to Bazaarvoice's platform to prevent a significant post-merger price increase. PowerReviews was the most substantial restraint on Bazaarvoice's conduct in the United States before the merger, and no other competitor was a comparable rival. Bazaarvoice now faces virtually the same competitive landscape of ''scarce'' and ''low quality'' alternatives that Brant Barton identified in April 2011.

35. The absence of other meaningful competitors also has been recognized by both industry analysts and PowerReviews' former CEO, Pehr Luedtke, in calling the PRR platform market a ''duopoly.'' Erin Defossé, Bazaarvoice's Vice President of Strategy, has agreed that ''[t]here really isn't a market . . . to understand (as it relates [to ratings and reviews]), it is [Bazaarvoice] or PowerReviews.'' Additionally, PowerReviews' CEO, Ken Comée, and PowerReviews' Chief Financial Officer, Keith Adams, acknowledged that the combination of Bazaarvoice and PowerReviews would create a ''[m]onopoly in the market'' when evaluating the anticipated benefits of the acquisition.

36. The commanding position occupied by Bazaarvoice and PowerReviews is also readily apparent from their combined market share in the Internet Retailer 500 (''IR 500''), which is an annual ranking of the 500 largest internet retailers in North America according to online sales revenue. Bazaarvoice regularly tracks its IR 500 market position, and company executives considered the impact that the acquisition of PowerReviews would have on Bazaarvoice's IR 500 market share. For example, in the diligence memorandum prepared for the company's board of directors, Bazaarvoice executives wrote, ''[PowerReviews'] customer base includes 86 IR 500 retailers who have resisted becoming Bazaarvoice customers despite significant attempts to displace [PowerReviews] from these accounts'' and noted that the acquisition of PowerReviews would ''immediately increase the IR 500 penetration of Bazaarvoice by 49%.'' Within the IR 500, more than 350 retailers collect and display ratings and reviews. Approximately 70% of these firms use a PRR platform provided by Bazaarvoice or PowerReviews. Most of the remaining Web sites use in-house PRR solutions.

37. In addition to purchasing a PRR platform from a commercial supplier, a retailer or manufacturer seeking to include ratings and reviews on its Web site may elect to develop an in-house PRR solution. For many retailers and manufacturers, however, it is impractical and cost-prohibitive to build an internal solution that can satisfy their business requirements. Accordingly, the acquisition particularly harms retailers and manufacturers for which an in-house solution is not an economically viable alternative.

38. For many retailers and manufacturers, in-house PRR solutions are not sufficiently close substitutes to Bazaarvoice's platform to impede a post-merger price increase by Bazaarvoice. It would be prohibitively expensive for many customers to develop a PRR solution with functionality comparable to the features offered by Bazaarvoice, and it would be difficult to maintain the same pace of innovation. Moreover, it would be very complex and expensive for a customer to perform the same level of moderation. In-house solutions are only a viable option for customers that are not interested in the full feature set offered by Bazaarvoice (including moderation and syndication services), or customers that are willing to invest heavily in ongoing platform development to maintain the software and create new features.

39. Bazaarvoice is able to use information obtained during the sales process to determine whether an in-house PRR solution is an economically viable alternative for a particular

customer. Accordingly, in light of the merger, it will be a profit-maximizing strategy for Bazaarvoice to impose targeted price increases on customers that do not consider in-house solutions to be a viable alternative. Faced with an anticompetitive post-merger price increase, these customers would not develop an in-house solution or abandon ratings and reviews altogether.

40. Other social commerce products, including community platforms, forums, and question and answer (''Q&A'') platforms, are also not substitutes for PRR platforms. These other social commerce products do not collect the same type of structured, product-level data associated with ratings and reviews. Because PRR platforms and other social commerce products serve different purposes, retailers and manufacturers routinely use PRR platforms in combination with one or more other social commerce products.

41. As a result of Bazaarvoice's acquisition of PowerReviews, customers will lose critical negotiating leverage. The elimination of PowerReviews has significantly enhanced Bazaarvoice's ability and incentive to obtain more favorable contract terms. Accordingly, many retailers and manufacturers will now obtain less favorable prices and contract terms than Bazaarvoice and PowerReviews would have offered separately absent the merger.

B. PowerReviews' ''scorched earth approach to pricing'' applied significant pressure to Bazaarvoice in competitive deals.

42. Price competition with Bazaarvoice was a core component of PowerReviews' business strategy. PowerReviews positioned itself as a low-price alternative to Bazaarvoice and aggressively pursued Bazaarvoice's largest clients. The company set an internal goal to ''[b]e in every deal [Bazaarvoice] is in,'' and encouraged price competition by building a ''cost structure to support price compression.'' As a result of price competition between Bazaarvoice and PowerReviews, manufacturers and retailers obtained substantial discounts—sometimes in excess of 60%.

43. PowerReviews' aggressive approach to pricing frequently forced Bazaarvoice to defend its more expensive list prices. Responding to competitive pressure from PowerReviews in July 2011, Bazaarvoice's Vice President of Retail Sales warned, ''[PowerReviews] has been VERY active in almost all of our deals from small to large'' (emphasis in original). He claimed that PowerReviews had adopted a ''scorched earth approach to pricing,'' which ''force[d] all of [Bazaarvoice's] current prospects and customers to at least understand how and why there is such a [difference] in price.''

44. If a prospective customer was unwilling to pay a premium over the PowerReviews price, Bazaarvoice often responded with substantial price discounts. Bazaarvoice frequently matched the PowerReviews price or offered a more favorable price than PowerReviews. Tony Capasso, a Vice President of Sales for Bazaarvoice, described this trend in a 2011 email regarding an apparel manufacturer's consideration of PowerReviews: ''[L]ate adopters see us as the stronger brand but struggle to justify 2X–3X greater costs for a solution that looks somewhat the same. Even when we do show differences some [prospects] don't put enough stock in those differences to justify the price [difference]. We may need to battle on price in this case . . . .'' Bazaarvoice ultimately offered to match the price that PowerReviews had offered the apparel retailer, which represented a substantial discount from its initial proposal.

45. Even if PowerReviews was unable to win a customer's business, its low prices set the bar for negotiations and compressed Bazaarvoice's margins. Bazaarvoice employees viewed PowerReviews as ''an ankle-biter that cause[d] price pressure in deals,'' and acknowledged that many customers brought PowerReviews into negotiations as a ''lever to knock [Bazaarvoice] down on price.''

46. PowerReviews also pursued Bazaarvoice's installed customer base. In some cases, PowerReviews convinced Bazaarvoice customers to switch platforms. In other cases, an offer from PowerReviews provided additional leverage for the customer to negotiate more favorable terms from Bazaarvoice. In 2011, Alan Godfrey, Bazaarvoice's General Manager of North American Retail, described this competitive dynamic as a ''full frontal assault'' by PowerReviews that was ''successfully penetrating the [executive] ranks of [Bazaarvoice's] anchor clients and convincing them to evaluate alternatives, or at least, negotiate [Bazaarvoice] to lower price points.''

47. PowerReviews' efforts to target existing Bazaarvoice customers did not go unnoticed. In July 2011, PowerReviews convinced a large electronics retailer to reevaluate its relationship with Bazaarvoice. Afterwards, Mike Svatek, Bazaarvoice's Chief Strategy Officer, expressed concern that Bazaarvoice was ''seeing new competitive pressure'' from PowerReviews through an ''aggressive blitz campaign.'' Svatek believed Bazaarvoice needed to ''eradicate'' PowerReviews, and he proposed a counterattack on the PowerReviews base. He advocated an ''aggressive'' approach to ''unseat'' PowerReviews from three of its largest accounts.

48. It was common for Bazaarvoice to pursue PowerReviews customers in this fashion. For example, in response to a PowerReviews campaign targeting Bazaarvoice's manufacturing clients, Bazaarvoice put into motion a plan to ''steal one or more major [PowerReviews] clients . . . by offering them something they can't refuse.'' This strategy was intended to send a signal to PowerReviews that Bazaarvoice was willing ''to absorb some pain in return for handing [PowerReviews] major client losses.'' In at least two cases, Bazaarvoice offered to provide its PRR platform to large PowerReviews customers for free.

49. Before the acquisition, a number of manufacturers and retailers switched between the Bazaarvoice and PowerReviews platforms. Many times these switches were spurred by aggressive offers that were intended to displace the incumbent PRR platform provider. As a result of the acquisition, however, Bazaarvoice will no longer need to ''absorb some pain'' to attract PowerReviews clients to the Bazaarvoice platform or retain customers in the face of lower prices from PowerReviews. When recommending the transaction to the company's board of directors, Bazaarvoice executives noted that the transaction would enable Bazaarvoice to acquire large PowerReviews customers that had ''resisted becoming Bazaarvoice customers despite significant attempts to displace [PowerReviews].'' Absent the transaction, they believed it was ''unlikely that [Bazaarvoice could] attract these retailers to [its] platform in the foreseeable future nor [sic] without significant cost.''

C. Bazaaarvoice and PowerReviews engaged in ''feature driven one-upmanship,'' which drove both firms to innovate and develop new PRR platform features.

50. As PowerReviews and Bazaarvoice grappled to differentiate their product offerings, they developed new features and improved the functionality offered by their respective platforms. Pehr Luedtke, PowerReviews' former CEO, described the pattern of innovation competition between Bazaarvoice and PowerReviews in a 2010 email to a large consumer products retailer: ''[T]here are

a lot of similarities between Bazaar[v]oice and PowerReviews when it comes to features . . . we have constantly traded places in terms of who leads and who fast follows.'' Feature-driven competition between Bazaarvoice and PowerReviews hastened the pace of innovation and made ratings and reviews an increasingly attractive proposition for manufacturers and retailers.

51. For example, PowerReviews began offering an ''in-line SEO solution'' in January 2009. This was the first PRR platform feature to allow ratings and reviews to be indexed by search engines directly from the product Web page, rather than a separate Web site designed for search engine optimization. PowerReviews positioned its SEO feature as a best-in-class offering and targeted the shortcomings of Bazaarvoice's SEO offering during sales calls. Bazaarvoice quickly responded by developing comparable functionality.

52. Bazaarvoice, on the other hand, was the first company to create a review syndication network that connected manufacturers and retailers. PowerReviews responded by creating a similar review syndication feature for its clients. PowerReviews eventually pushed the envelope even further, aggressively marketing an ''open'' content syndication platform that facilitated syndication between manufacturers that were not PowerReviews clients and retailers using the PowerReviews platform. When PowerReviews announced its open syndication network, it invited all Bazaarvoice manufacturing clients to try its syndication service for free for twelve months.

53. Bazaarvoice's manufacturing clients began to ask Bazaarvoice to syndicate their reviews to retail partners on the PowerReviews platform. Bazaarvoice initially resisted, in an attempt to maintain its ''closed'' syndication platform. In communicating this approach to Bazaarvoice's sales leadership team, Michael Osborne, Bazaarvoice's Chief Revenue Officer wrote, ''[T]ell all of your teams . . . that we do not support syndication outside of our network—and if we get requests for it, escalate to the top immediately. There's a new competitive battle coming.'' Internally, Bazaarvoice acknowledged that it was ''making a strategic choice not to create a custom (and safe) version of [the content] feed for retailers outside of [the Bazaarvoice] network.''

54. Finally, Bazaarvoice relented to customer pressure and began developing a new offering to syndicate content to PowerReviews' retailers. In an internal announcement, Erin Defossé, Bazaarvoice's Head of Product Strategy, acknowledged that this move was in response to PowerReviews' open syndication network. Brett Hurt was optimistic about his company's new approach, stating, ''I cannot wait until we turn the tables on PowerReviews with their aggressive push. Our strategy is going to rock them and put them on their heels.'' He pushed for Bazaarvoice to execute on its plan to ''destroy'' PowerReviews, urging ''[PowerReviews] is not waiting for us. . . . I want to aim a big bazooka in their direction.''

D. The anticompetitive effects of the transaction will not be counteracted by entry, repositioning, or merger-specific efficiencies.

55. Entry or expansion by other firms is unlikely to alleviate the competitive harm caused by the transaction. Since its founding, Bazaarvoice has been the largest commercial provider of PRR platforms, and PowerReviews was its closest competitor. Other providers exist, but they have struggled to win customers and gain market share. Bazaarvoice's competitive position is protected by substantial barriers to entry.

56. Bazaarvoice's syndication network is a formidable barrier to entry in the market for PRR platforms. As more manufacturers purchase Bazaarvoice's PRR platform, the Bazaarvoice network becomes more valuable to retailers because it will allow them to gain access to a greater volume of ratings and reviews. Similarly, as more retailers purchase Bazaarvoice's PRR platform, the Bazaarvoice network becomes more valuable for manufacturers because it will allow them to syndicate content to a greater number of retail outlets. The feedback between manufacturers and retailers creates a network effect that is a significant and durable competitive advantage for Bazaarvoice.

57. Bazaarvoice has acknowledged the importance of its syndication network as a substantial barrier to entry that protects its dominant position. Before its initial public offering in February 2012, Bazaarvoice prepared a document for an investor roadshow in which it explained the ''powerful network economies'' created by linking retailers to manufacturers. Bazaarvoice claimed that it competes in a ''winner-take-all'' market, and identified its ''ability to leverage the data'' from its customer base as ''a key barrier [to] entry.'' During investor roadshows, the company boasted, ''[A]ny company entering the market would have to start from the beginning by securing all of the retail clients,'' which would be difficult because most of the largest retail clients are already using the Bazaarvoice platform. Since its IPO, Bazaarvoice's SEC filings have continued to identify ''powerful network effects'' from syndication as a ''competitive strength[] [that] differentiate[s] [Bazaarvoice] from [] competitors and serve[s] as [a] barrier to entry.''

58. The acquisition of PowerReviews will extend the reach of Bazaarvoice's network and deprive its remaining competitors of the scale that is necessary to truly compete. Even before the acquisition, the company boasted to potential investors, ''[T]he power of [Bazaarvoice's] network effect and significant advantage on a global scale is starting to crowd out competition.'' As Stephen Collins predicted in October 2011, Bazaarvoice's acquisition of PowerReviews threatens to ''tip the scales in [Bazaarvoice's] permanent favor on the network front.'' During its diligence process for the transaction, Bazaarvoice anticipated that the assimilation of major PowerReviews retailers into the Bazaarvoice network would ''further increase[] . . . switching costs'' and ''deepen[] [its] protective moat.''

59. Bazaarvoice cannot demonstrate merger-specific efficiencies sufficient to counteract the acquisition's anticompetitive effects.

CAUSE OF ACTION

(Violation of Section 7 of the Clayton Act by Bazaarvoice)

60. The United States realleges and incorporates paragraphs 1 through 59 as if set forth fully herein.

61. Bazaarvoice's acquisition of PowerReviews is likely to substantially lessen competition in interstate trade and commerce in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18.

62. Among other things, the transaction has had the following anticompetitive effects:

(a) Significant head-to-head competition between Bazaarvoice and PowerReviews has been extinguished;

(b) Bazaarvoice has significantly reduced incentives to discount prices, increase the quality of its services, or invest in innovation;

(c) Prices will likely increase to levels above those that would have prevailed absent the transaction, forcing retailers and manufacturers to pay higher prices for PRR platforms; and

(d) Quality and innovation for PRR platforms will likely be less than the levels that would have prevailed absent the transaction.

REQUEST FOR RELIEF

63. The United States requests that:

(a) Bazaarvoice's acquisition of PowerReviews be adjudged to violate Section 7 of the Clayton Act, 15 U.S.C. § 18;

(b) the Court order Bazaarvoice to divest assets, whether possessed originally by PowerReviews, Bazaarvoice, or both, sufficient to create a separate, distinct, and viable competing business that can replace PowerReviews' competitive significance in the marketplace;

(c) the United States be awarded the costs of this action; and

(d) the United States be awarded any other equitable relief the Court deems just and proper.

Dated: January 10, 2013

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UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, *Plaintiff,*
v.
BAZAARVOICE, INC., *Defendant.*
Case No. 13-cv-00133 WHO

COMPETITIVE IMPACT STATEMENT

Judge: Hon. William H. Orrick

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA'' or ''Tunney Act''), 15 U.S.C. § 16(b)-(h), Plaintiff United States of America files this Competitive Impact Statement relating to Plaintiff's Second Amended Proposed Final Judgment, ECF No. 257, (''Proposed Final Judgment'') submitted on April 24, 2014, for entry in this civil antitrust proceeding.

I.

NATURE AND PURPOSE OF THE PROCEEDING

On June 12, 2012, Defendant Bazaarvoice, Inc. purchased PowerReviews, Inc. for approximately $168.2 million. The United States filed a civil antitrust Complaint against Bazaarvoice on January 10, 2013, seeking to unwind the acquisition. The Complaint alleged that the likely effect of this acquisition would be to lessen competition substantially for ratings and reviews (''R&R'') platforms in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. This loss of competition would likely result in higher prices for R&R platforms and less innovation.

This matter was tried before Judge William H. Orrick of the United States District Court for the Northern District of California from September 23, 2013, through October 10, 2013. The parties called numerous fact and expert witnesses via live testimony and video depositions, and offered a combined total of 980 exhibits into evidence.

On January 8, 2014, the Court issued a Memorandum Opinion finding that Bazaarvoice violated Section 7 of the Clayton Act when it acquired PowerReviews, its ''closest and only serious competitor.'' Mem. Op. at 141. Pursuant to the Court's Order Regarding Remedy Phase, ECF No. 248, on February 12, 2014, the United States filed a Motion for Entry of Final Judgment setting forth the elements of a remedy for Bazaarvoice's unlawful acquisition of PowerReviews, along with a memorandum in support thereof. ECF No. 249–3. On March 4, 2014, Bazaarvoice filed its Opposition to Plaintiff's Motion for Entry of Final Judgment. ECF No. 250–3. The United States filed its Reply Memorandum in Support of its Motion for Entry of Final Judgment, ECF No. 251–3, along with an Amended Proposed Final Judgment, ECF No. 251–5.

On April 24, 2014, the United States filed a Stipulation and Proposed Order along with Plaintiff's Second Amended Proposed Final Judgment and an Explanation of Consent Decree Procedures. ECF No. 257. These documents are collectively designed to eliminate the anticompetitive effects of the acquisition. The Proposed Final Judgment, which is explained more fully below, will require Bazaarvoice to divest the assets it acquired from PowerReviews and adhere to other requirements to replace the competition that was lost in the United States R&R platform market when Bazaarvoice acquired PowerReviews.

Specifically, under the Proposed Final Judgment, Bazaarvoice is required to (1) divest all the tangible and intangible assets it acquired as part of the PowerReviews acquisition; (2) license the right to sell Bazaarvoice's syndication services to the acquirer's customers; (3) remove trade secret restrictions on current and former Bazaarvoice employees who are hired by the acquirer; (4) license its patents related to R&R platforms to the acquirer; and (5) give customers the freedom to switch from a Bazaarvoice R&R platform to one provided by the acquirer.

The United States and Defendant have stipulated that the Proposed Final Judgment may be entered after compliance with the APPA. Entry of the Proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the Proposed Final Judgment and to punish violations thereof.

II.

DESCRIPTION OF THE EVENTS GIVING RISE TO THE VIOLATION

A. *The Defendant and the Transaction*

Bazaarvoice provides the market-leading R&R platform to manufacturers and online retailers. Pre-merger, the vast majority of Bazaarvoice's customers purchased its R&R platform, and subscription fees from R&R platforms accounted for the majority of Bazaarvoice's revenue. Bazaarvoice is a publicly traded Delaware corporation headquartered in Austin, Texas.

PowerReviews was Bazaarvoice's closest, and only significant competitor in the provision of R&R platforms to manufacturers and online retailers. Pre-merger, the vast majority of PowerReviews' customers purchased its R&R platform, and subscription fees from R&R platforms accounted for the vast majority of PowerReviews' revenue. PowerReviews was a privately held Delaware corporation headquartered in San Francisco, California. During the 2011 calendar year, the company earned approximately $11.5 million in revenue. PowerReviews closed the best quarter in its history just prior to the acquisition.

Bazaarvoice acquired PowerReviews on June 12, 2012. The purchase price for the transaction, including cash and non-cash consideration, was approximately $168.2 million.

B. *The Competitive Effects of the Transaction on the Market for R&R Platforms in the United States*

1. *Relevant Markets*

The Court found that the relevant product market is R&R platforms. Mem. Op. at 41–42. Most online retailers would be unlikely to eliminate R&R entirely because R&R platforms have become a necessary feature for online retailers. *Id.* at 42. Thus, other social commerce products serve a different purpose than R&R platforms, and therefore are not substitutes for such platforms. *Id.* at 46. For that reason, other social commerce products do not substantially constrain prices of R&R platforms. The Court also found that a hypothetical monopolist of R&R platforms would find a non-transitory price increase of five or ten percent profitable because few customers would abandon R&R platforms in response to such a price increase. *Id.* at 125–26.

The United States is the relevant geographic market because a hypothetical monopolist selling all R&R platforms can identify and target price increases to customers operating in the United States, and those customers cannot engage in arbitrage—using platforms sold for use in other countries. *Id.* at 51–53. The Court concluded that it was appropriate to define the geographic market by customer location. *Id.* at 53. *Accord* U.S. Dep't of Justice & Fed. Trade Comm'n, *Horizontal Merger Guidelines* § 4.2.2 (2010).

2. *Competitive Effects*

The Court found that it is probable that Bazaarvoice's acquisition of PowerReviews substantially lessened competition and will result in higher prices for R&R platforms in the United States. *Id.* at 102–118. To reach this conclusion, the Court found that the United States established a prima facie case that Bazaarvoice's acquisition of PowerReviews violated Section 7. *Id.* at 62–73. Bazaarvoice's acquisition of PowerReveiws significantly increased concentration in the already highly concentrated R&R platform market. Several different measures of market shares within the relevant market confirmed that, prior to the merger, Bazaarvoice and PowerReviews were the two leading providers of commercial R&R platforms, with a combined market share in excess of that required for the government to establish its prima facie case.[1] *Id.* at 68–69. Specifically, the two market share measures principally relied upon by the Court gave Bazaarvoice a post-merger market share of 68 and 56 percent, respectively. *Id.* at 64–65.[2] To further support its market share findings in a case where no ''perfect measure'' of market share was available, the Court relied on additional market share measures calculated using various other methodologies and data sets. *Id.* at 65–68. These other market share measures were generally consistent with the measures principally relied upon by the Court and confirmed the robustness of the Court's market share findings. *Id.* at 68. The Court also noted that PowerReviews was Bazaarvoice's closest competitor. *Id.* at 74.

The Court found that the likelihood of anticompetitive effects was supported by the weight of the evidence produced at trial. *Id.* at 103. More specifically, the transaction is likely to lead to substantially higher prices for customers of Bazaarvoice's R&R platforms. *Id.* at 102–103. The evidence the Court relied upon included win-loss data found in Bazaarvoice's Salesforce database, data compiled from ''how the deal was done'' emails prepared by Bazaarvoice employees in the ordinary course of business, and other documentary evidence prepared in the ordinary course of business. *Id.* at 103–06.

3. *Entry and Expansion*

The Court found that Bazaarvoice was unable to rebut the United States' prima facie case by demonstrating that entry or expansion of existing providers would be sufficient to replace the competitive constraint previously provided by PowerReviews. *Id.* at 75–83. The R&R platform market has significant entry barriers. *Id.* at 93. The entry barriers identified by the Court include networks effects from syndication, switching costs, moderation, analytics, and reputation. *Id.* at 93–102. Syndication of R&R has becoming increasingly important to both manufacturers and retailers ''because it allows them to obtain more content than they could independently.'' *Id.* at 12. Bazaarvoice recognized that its syndication network differentiated it from its competitors and protected its dominant position. *Id.* at 95. The Court found that these barriers to entry would insulate Bazaarvoice from competition. *Id.* at 102.

None of the fringe competitors have achieved a meaningful level of commercial success; they are not likely, therefore, to provide the same competitive constraint as PowerReviews before it was acquired by Bazaarvoice. *Id.* at 75–76, 132–33. The Court also found that there was no evidence that any large software company was likely to enter the R&R platform market. *Id.* at 87–93.

The Court found that in-house supply of R&R platforms was not a viable alternative to commercial providers of R&R platforms for many customers. *Id.* at 83–86. Several factors, including cost and the need for features such as moderation and syndication, discourage customers from choosing to build in-house R&R platforms. *Id.* at 84–85. Indeed, for customers who desire syndication, in-house supply of R&R platforms is not a viable option. *Id.* at 85. In-house platforms, therefore, are

[1] The Court also concluded that the R&R platform market did not contain any rapid entrants who should be assigned market share. *Id.* at 130.

[2] Post-merger HHIs associated with these market shares were 4,590 and 3,915, with merger-related HHI increases of 2,226 and 1,240, respectively. *Id.* at 69.

not a significant constraint on Bazaarvoice's pricing.

4. *Efficiencies*

The Court found that the transaction did not, and was not likely to, result in cognizable, merger-specific efficiencies that will be passed through to customers and sufficient to offset the anticompetitive effects of the transaction. *Id.* at 121. Bazaarvoice did not claim that the merger reduced the marginal costs of providing its services. *Id.* at 118. In addition, the Court found there was no evidence that the merger caused increased innovation. *Id.* at 121.

III.

EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The Proposed Final Judgment contains a structural remedy that, along with other remedial measures, eliminates the likely anticompetitive effects of the acquisition in the R&R platform market in the United States. The divestitures and other requirements of the Proposed Final Judgment will create an independent and economically viable competitor to replace the competition that was eliminated when Bazaarvoice acquired PowerReviews. Specifically, the divestiture of the PowerReviews assets, the license to certain Bazaarvoice patents, the license to sell Bazaarvoice's syndication services, the removal of trade secret restrictions on current and former Bazaarvoice employees, and the freedom for customers to switch from a Bazaarvoice R&R platform to one provided by the acquirer, will provide the acquirer of the divestiture assets with the tools needed to compete effectively in the R&R platform market in the United States.

A. *The Divestiture*

The Proposed Final Judgment requires Bazaarvoice, within ten (10) days after entry of the Final Judgment by the Court, to divest (1) all of the assets Bazaarvoice acquired when it purchased PowerReviews on June 12, 2012; (2) all assets that were acquired, designed, developed, or produced for use with the PowerReviews assets; (3) a license to sell Bazaarvoice's syndication services to the acquirer's customers, along with the technology and know-how to provide such access; (4) a list of customers that have either renewed their contracts or become new customers of Bazaarvoice since June 12, 2012; and (5) a list of any improvements, upgrades or features developed for use with Bazaarvoice's R&R platforms since June 12, 2012.[3]

Bazaarvoice must divest these assets to an acquirer acceptable to the United States. The United States retains discretion to accept or reject a proposed sale agreement to ensure the acquirer can compete effectively in the business of R&R platforms in the United States. The assets must be divested and/or licensed in such a way as to satisfy the United States, in its sole discretion, that the assets can and will be operated by the purchaser as a viable, ongoing business that can compete effectively in the business of R&R platforms in the United States. Bazaarvoice must take all reasonable steps necessary to accomplish the divestiture quickly. In the event that Bazaarvoice does not accomplish the divestiture within ten (10) days after entry of the Final Judgment, the Final Judgment provides that a trustee will complete the divestiture.[4] The trustee will be selected by the United States and appointed by the Court.

B. *Syndication Services*

The Court found that ''Bazaarvoice's syndication network is a barrier to entry in the market for R&R platforms,'' Mem. Op. at 93, and that ''[b]esides PowerReviews, no crediblesyndication competitor existed.'' *Id.* at 98. To better enable the divestiture buyer to successfully replace the competition that PowerReviews would have provided absent the merger, the acquirer must have access to Bazaarvoice's syndication network while it works to build its own syndication network. Thus, the Proposed Final Judgment requires Bazaarvoice to license the right to sell its syndication services to the acquirer for four (4) years. Section V.A of the Proposed Final Judgment requires Bazaarvoice to provide the acquirer and the acquirer's customers with access to Bazaarvoice's syndication network on non-discriminatory terms.[5] To ensure that the acquirer can offer these services at a competitive price, the Proposed Final Judgment further requires that the fees for providing such services be based only on Bazaarvoice's actual costs.[6]

These provisions ensure that customers will maintain access to syndication connections between the two platforms after the sale of the divestiture assets. Moreover, these provisions provide clients that switch from Bazaarvoice to the acquirer a guarantee that they will not lose access to their syndication relationships on the Bazaarvoice network. The cross-network syndication provisions in the Proposed Final Judgment are of limited duration sufficient to provide the acquirer time to build its own customer base and establish an independent syndication network without establishing a long-term, on-going relationship between Bazaarvoice and the acquirer as such entanglements between competitors can be problematic.[7]

C. *Waiver of Trade Secret Restrictions in Employment Agreements; Employee Hiring Provisions*

Section IV.C of the Proposed Final Judgment requires Bazaarvoice to waive trade secret restrictions related to its R&R technology and intellectual property rights for any of its current or former employees who are hired by the acquirer. Through its illegal acquisition of PowerReviews, Bazaarvoice obtained access to PowerReviews' trade secrets, which it could then leverage in its own research and development efforts. Conversely, Bazaarvoice has performed minimal maintenance on the PowerReviews R&R platform since the acquisition. *Id.* at 119. Waiving trade secret restrictions for employees who are hired by the acquirer will ensure that the acquirer, like Bazaarvoice, will

[3] Unlike the original Proposed Final Judgment and the Amended Proposed Final Judgment previously submitted by the United States, the Second Amended Proposed Final Judgment does not require Bazaarvoice to license a copy of the latest Bazaarvoice R&R platform in the event less than 80 percent of legacy PowerReviews customers remain on the PowerReviews R&R platform. The potential license of the Bazaarvoice R&R platform would only have been triggered if the PowerReviews customer base had diminished substantially at the time of the divestiture sale. Bazaarvoice's agreement to enter into the Proposed Final Judgment requiring the sale of the divestiture assets within ten (10) days of entry of the Proposed Final Judgment will help ensure that a critical mass of customers will remain on the PowerReviews R&R platform at the time it is sold to an acquirer. In addition, Paragraphs Nine and Ten of the Joint Stipulation and Order prohibit Bazaarvoice from migrating legacy PowerReviews customers to a Bazaarvoice platform prior to the sale of the divestiture assets and require Bazaarvoice to incentivize customers to remain on the PowerReviews R&R platform pending the divestiture.

[4] The Proposed Final Judgment gives the United States the option to extend the time Bazaarvoice has to divest the assets up to sixty (60) days.

[5] Section V.B of the Proposed Final Judgment gives the trustee appointed under Section VI authority to investigate any complaints related to the provision of syndication services.

[6] The original Proposed Final Judgment and the Amended Proposed Final Judgment previously submitted by the United States contemplated an upfront payment by the acquirer for syndication services. The Second Amended Proposed Final Judgment provides for a cost-based fee for the provision of this service. This change in payment terms will not impair the acquirer's ability to provide a competitive syndication service.

[7] In order to establish a successful syndication network, a R&R provider needs a sufficient number of manufacturing and retail customers that would be interested in syndicating R&R to each other's Web sites.

benefit from the research and development efforts undertaken by the combined firm after the merger closed. Moreover, the acquirer will be able to hire former Bazaarvoice employees to develop new features without fear of being sued by Bazaarvoice for misappropriation of trade secrets. These provisions are necessary to provide the acquirer with access to the product improvements Bazaarvoice has developed since the transaction closed.

The Proposed Final Judgment also prevents Bazaarvoice from interfering with the acquirer's efforts to hire any current or former Bazaarvoice employees. This will allow the acquirer to negotiate employment agreements with the people who are most knowledgeable about the PowerReviews business and any advancements in R&R platform technology that have occurred since the merger.

D. *License to Bazaarvoice Patents*

Section V.D of the Proposed Final Judgment requires Bazaarvoice and the acquirer to enter into a patent licensing arrangement. The license shall be provided at no ongoing cost to the acquirer, and it will cover all of Bazaarvoice's patents and patent applications related to R&R platforms as of the date the divestiture assets are sold. This arrangement ensures that Bazaarvoice will not engage in strategic behavior to raise its rival's costs through litigation related to Bazaarvoice and PowerReviews intellectual property that were commingled through the transaction.

E. *Transition Services Agreement*

Section IV.G of the Proposed Final Judgment requires Bazaarvoice to provide transitional support services to the acquirer for up to one year following the divestiture. These provisions are necessary to facilitate the seamless transition of the PowerReviews assets from Bazaarvoice to the acquirer. The transition services will ensure that the acquirer is capable of operating the divested assets, and that legacy PowerReviews customers will not experience service disruptions as a result of the divestiture. The agreement is limited to one year to give Bazaarvoice and the acquirer sufficient time to facilitate the transition without creating any unnecessary entanglement between the competitors.

F. *Customers' Ability to Switch to the Acquirer*

As a result of the merger, new R&R platform customers, and existing Bazaarvoice customers whose contracts came up for renewal, were deprived of the only significant commercial alternative to Bazaarvoice. Since acquiring PowerReviews, Bazaarvoice has expanded its dominant position in the sale of R&R platforms. After acquiring the PowerReviews assets, the acquirer's market share will place it at a disadvantage relative to where PowerReviews would have been today absent the merger. To expand its market share, which is critical to its ability to build an independent syndication network, the acquirer needs an opportunity to effectively solicit Bazaarvoice's customers. As currently structured, Bazaarvoice's contracts could deter its clients switching to the acquirer mid-contract. Bazaarvoice's typical service contracts last for at least a one-year term. Trial Tr. 803:19–804:10. And while the company's former CEO testified at trial that customers typically have a right to terminate their agreements with thirty days notice, *id.* at 804:1–3, that is not always the case.[8] To provide the acquirer with that opportunity, Section IV.H in the Proposed Final Judgment requires Bazaarvoice to waive breach of contract claims against its customers if they switch to the acquirer during a limited period of time. In addition, Section IV.I in the Proposed Final Judgment will prevent conduct by Bazaarvoice that is intended to inhibit expansion by the divestiture buyer after it acquires the PowerReviews assets.

To supplement the acquirer's efforts to get Bazaarvoice customers to switch to the acquirer's R&R platform and aid in the transition period after the sale of the divestiture assets, Section V.C of the Proposed Final Judgment prohibits Bazaarvoice from soliciting any customers that move to the acquirer's R&R platform for a period of six months after the date of sale. This limited non-solicitation period during the first six months after the sale will allow the acquirer time to develop plans to retain its customers without interference from Bazaarvoice.

G. *Trustee*

Section VI of the Proposed Final Judgment permits the appointment of a trustee by the United States, in its sole discretion. The United States intends to recommend a trustee for court approval. The trustee will be responsible for monitoring Bazaarvoice's compliance with the Final Judgment, and, if necessary, selling the divestiture assets. The trustee's monitoring duties include investigating complaints regarding Bazaarvoice's provision of syndication services to the acquirer's customers and the provision of transition support services. In the event Bazaarvoice fails to sell the divestiture assets pursuant to Section IV of the Proposed Final Judgment, the trustee will also be responsible for selling the divestiture assets.

The Proposed Final Judgment also provides that Bazaarvoice will pay all costs and expenses of the trustee. The trustee will have access to all personnel, books, records, and information necessary to monitor Bazaarvoice's compliance with the Proposed Final Judgment and, if necessary, effectuate the sale of the divestiture assets. After the trustee's appointment becomes effective, the trustee will file monthly reports with the Court and the United States setting forth his or her efforts to accomplish the divestiture and monitor Bazaarvoice's compliance with the Final Judgment.

H. *Stipulation and Order Provisions*

The parties entered into a Stipulation and Order, filed with the Court on April 24, 2014 and entered on April 25, 2014. The Stipulation and Order requires Bazaarvoice to abide by the terms of the Proposed Final Judgment pending its entry by the Court. To ensure that the divestiture assets retain a sufficient customer base to compete effectively in the R&R platform market, Paragraph Nine of the Stipulation and Order prohibits Bazaarvoice from transferring any current users of the PowerReviews R&R platform to a Bazaarvoice R&R platform before the divestiture assets are sold. It also prohibits Bazaarvoice from reaching any agreements with current PowerReviews R&R platform users to transfer them to a Bazaarvoice R&R platform. To further that same goal, Paragraph Ten requires Bazaarvoice to implement a program designed to encourage current PowerReviews R&R platform customers to remain on the platform.

I. *Notification Provisions*

Section XI of the Proposed Final Judgment requires Bazaarvoice to notify the United States in advance of executing certain transactions that would not otherwise be reportable under the Hart-Scott-Rodino Antitrust Improvements Act of 1976. The transactions covered by these provisions include the acquisition of any assets of, or any interest in, a company providing R&R platforms in the United States if the purchase price exceeds $10,000,000. This provision ensures that the United States will have the ability to take action in advance of transactions that could potentially impact competition in the United States R&R platform market.

[8] In December 2013, press reports indicated that Bazaarvoice sued two of its international customers for breach of contract when they switched to a competitor.

IV.

REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the Proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the Proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendant.

V.

PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and Defendant have stipulated that the Proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the Proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the Proposed Final Judgment within which any person may submit to the United States written comments regarding the Proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the Proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to:

James Tierney
Chief, Networks and Technology Enforcement Section
Antitrust Division
United States Department of Justice
450 5th Street NW; Suite 7100
Washington, DC 20530

The Proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI.

ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The United States considered pursuing the remedies set forth in the Amended Proposed Final Judgment, filed with the Court on March 12, 2014, through continued litigation. Continued litigation would have presented both litigation risk and marketplace uncertainty. Moreover, protracted litigation would have magnified the risk of attrition among the PowerReviews customer base. The United States is satisfied that the requirements and prohibitions contained in the Second Amended Proposed Final Judgment provide a prompt, certain, and effective remedy for Bazaarvoice's unlawful acquisition of PowerReviews.

VII.

STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the court shall determine whether entry of the Proposed Final Judgment ''is in the public interest.'' 15 U.S.C. § 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States v. Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States v. SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States v. InBev N.V./S.A.,* 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, No. 08–1965 (JR), at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.'').[9]

As the United States Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States v. BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States v. Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States v. Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is

[9] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. § 16(e) (2004), *with* 15 U.S.C. § 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.''* More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[10] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States v. Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the United States' prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.''' *United States v. Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States v. Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom. Maryland v. United States,* 460 U.S. 1001 (1983); *United States v. National Broadcasting Co., Inc,* 449 F.Supp. 1127, 1143 (DCCal. 1978); *see also United States v. Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; see also *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As this court confirmed in *SBC Communications,* courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' *SBC Commc'ns,* 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. § 16(e)(2). The language wrote into the statute what Congress intended when it enacted the Tunney Act in 1974, as Senator Tunney explained: ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[11]

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the Proposed Final Judgment.

Dated: May 8, 2014

Respectfully submitted,

FOR PLAINTIFF
UNITED STATES OF AMERICA

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UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, *Plaintiff,*
v.
BAZAARVOICE, INC. *Defendant.*

Case No. 13-cv-00133 WHO

PLAINTIFF'S SECOND AMENDED [PROPOSED] FINAL JUDGMENT

Judge: Hon. William H. Orrick
Hearing Date: April 25, 2014
Time: 9 a.m.

[10] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States v. Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest''').

[11] *See United States v. Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States v. Mid-Am. Dairymen, Inc.,* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, 93d Cong., 1st Sess., at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

PLAINTIFF'S SECOND AMENDED [PROPOSED] FINAL JUDGMENT

Plaintiff United States of America filed its Complaint on January 10, 2013; Defendant Bazaarvoice, Inc., filed its Answer on February 22, 2013, denying the substantive allegations in the Complaint; this Court having conducted a full trial on all issues of liability and issued its findings of fact and conclusions of law on January 8, 2014, holding that the acquisition of PowerReviews by Bazaarovice violated Section 7 of the Clayton Act, 15 U.S.C. § 18; and

The United States and Defendant, by their respective attorneys, have consented to the entry of this Final Judgment; and

Defendant agrees to be bound by the provisions of this Final Judgment pending its approval by the Court; and

The essence of this Final Judgment is the prompt and certain divestiture of certain assets and rights by Defendant to fully restore the competition eliminated by Bazaarvoice's unlawful acquisition;

It is hereby ORDERED, ADJUDGED AND DECREED:

I. Jurisdiction

This Court has personal jurisdiction over Bazaarvoice and subject matter jurisdiction under Section 15 of the Clayton Act, 15 U.S.C. § 25.

II. Definitions

As used in this Final Judgment:

A. ''Acquirer'' means the entity to whom Defendant divests the Divestiture Assets.

B. ''Bazaarvoice'' or ''Defendant'' means Bazaarvoice, Inc., a Delaware corporation with its headquarters in Austin, Texas, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''Divestiture Assets'' means

1. All tangible and intangible assets that were acquired by Bazaarvoice when it purchased the PowerReviews business on June 12, 2012, including:

i. All tangible assets that comprise the PowerReviews business, including research and development activities; all personal property, inventory, materials, supplies, office furniture, computer systems, and other tangible property and all assets used in connection with the PowerReviews business; all licenses, permits and authorizations issued by any governmental organization relating to the PowerReviews business; all contracts, teaming arrangements, agreements, leases, commitments, certifications, and understandings, relating to the PowerReviews business, including supply agreements; all customer lists, contracts, accounts, and credit records; and all repair and performance records and all other records relating to the PowerReviews business; and

ii. All intangible assets used in the development, production, servicing and sale of the PowerReviews assets, including, but not limited to, all patents, licenses and sublicenses, intellectual property, copyrights, trademarks, trade names, service marks, service names, technical information, computer software and related documentation, know-how, trade secrets, drawings, blueprints, designs, design protocols, specifications for materials, specifications for parts and devices, safety procedures for the handling of materials and substances, all research data concerning historic and current research and development relating to the PowerReviews assets, quality assurance and control procedures, design tools and simulation capability, all manuals and technical information Defendant provides to its own employees, customers, suppliers, agents or licensees, and all research data concerning historic and current research and development efforts relating to the PowerReviews assets, including, but not limited to, designs of experiments, and the results of successful and unsuccessful designs and experiments.

2. All tangible and intangible assets, as described above, that were acquired, developed, designed, or produced for use with the PowerReviews assets described in II.C.1 since June 12, 2012.

3. A license, for four (4) years, to sell Bazaarvoice's Syndication Services product or service offering to customers of Acquirer as described in Section V.A.

4. All technology (whether software, hardware, or both), know-how (including trade secrets), and other intellectual property rights necessary for Acquirer to provide access to Bazaarvoice's Syndication Services to its customers.

5. A list of all of Defendant's customers that either (1) renewed a contract for the provision of a PRR Platform with Defendant since June 12, 2012, or (2) became a new customer of Defendant for a PRR Platform since June 12, 2012. Such list shall include the name of each such customer and the date on which the customer's contract expires and/or is up for renewal.

6. A list of each feature, improvement, upgrade or any other technology related to PRR Platforms that Defendant developed since June 12, 2012 for use with Bazaarvoice's PRR Platform(s).

D. ''PowerReviews'' means (1) PowerReviews, Inc., the company that was acquired by Bazaarvoice on June 12, 2012, and (2) all the assets formerly of PowerReviews, Inc.

E. ''PowerReviews Enterprise Platform'' means all PowerReviews PRR Platform products except for PowerReviews Express (also referred to as Bazaarvoice Express) products and the Buzzillions web product.

F. ''PRR Platform'' means the front-end and back-end technologies, including features such as moderation, syndication, and analytics, that enables the collection, organization, storage, use and display of user-generated product ratings and reviews and related content on a Web site.

G. ''Transition Services Agreement'' means an agreement between Defendant and Acquirer for Defendant to provide all necessary transition services and support to enable Acquirer to fully operate the Divestiture Assets and compete effectively in the market for providing PRR Platforms in the United States as of the date the Divestiture Assets are sold.

H. ''Syndication Services'' means the products and services currently provided by Bazaarvoice, and any successor thereto, that provide the ability to share product ratings and reviews and related content between two or more customers.

III. Applicability

A. This Final Judgment applies to Bazaarvoice as defined above, and all other persons in active concert or participation with it who receive actual notice of this Final Judgment by personal service or otherwise.

B. If, prior to complying with Section IV and VI of this Final Judgment, Defendant sells or otherwise disposes of all or substantially all of their assets or of lesser business units that include the Divestiture Assets, Defendant shall require the purchaser to be bound by the provisions of this Final Judgment. Defendant need not obtain such an agreement from the Acquirer of the assets divested pursuant to this Final Judgment.

IV. Divestiture

A. Defendant is ordered and directed to divest the Divestiture Assets within ten (10) days of the entry of the Final Judgment in this matter in a manner consistent with this Final Judgment to an Acquirer acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time

period not to exceed sixty (60) calendar days in total, and shall notify the Court in such circumstances. Defendant agrees to use its best efforts to divest the Divestiture Assets as expeditiously as possible.

B. Defendant shall inform any person making inquiry regarding a possible purchase of the Divestiture Assets that they are being divested pursuant to this Final Judgment and provide that person with a copy of this Final Judgment. Defendant shall offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets customarily provided in a due diligence process except such information or documents subject to the attorney-client privilege or work-product doctrine. Defendant shall make available such information to the United States and the Trustee at the same time that such information is made available to any other person.

C. Defendant shall provide Acquirer and the United States with information relating to the personnel involved in the production, operation, development and sale of the Divestiture Assets, and all Bazaarvoice PRR Platforms, to enable Acquirer to make offers of employment. Defendant will not interfere with any negotiations by Acquirer to employ any of Defendant's current or former employees. Interference with respect to this paragraph includes, but is not limited to, enforcement of non-compete clauses with regard to the Acquirer, and offers to increase salary or other benefits apart from those offered company-wide. In the event any current or former employee(s) of Defendant accepts an offer of employment with Acquirer within six (6) months of the date of the sale of the Divestiture Assets, Defendant will not seek to enforce any restrictions against or otherwise prohibit such employee(s) from using or disclosing to the Acquirer any of Defendant's trade secrets, know-how or proprietary information related to PowerReviews' or Defendant's PRR Platform technology in connection with the employee(s)'s employment with Acquirer, nor will Defendant seek to impede or prohibit Acquirer's use of such trade secrets, know-how or proprietary information. Nothing in this paragraph shall prevent Defendant from taking any appropriate legal action against any of Defendant's current or former employees who (1) accept an offer of employment with Acquirer and (2) remove tangible documents (whether in hard-copy or electronic form) or items from Bazaarvoice that contain trade secrets, know-how or proprietary information.

D. Defendant shall permit prospective Acquirers of the Divestiture Assets to have reasonable access to personnel and to make inspections of the physical facilities; and access to any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

E. Defendant shall warrant to Acquirer that each asset will be operational on the date of sale.

F. Defendant shall not take any action that will impede in any way the permitting, operation, or divestiture of the Divestiture Assets.

G. At the election of Acquirer, Defendant and Acquirer shall enter into a Transition Services Agreement for a period up to one (1) year from the date of the divestiture. The Transition Services Agreement shall enumerate all the duties and services that Acquirer requires of Defendant. Defendant shall perform all duties and provide any and all services required of Defendant under the Transition Services Agreement. Any amendments, modifications or extensions of the Transition Services Agreement may only be entered into with the approval of the Court.

H. After the sale of the Divestiture Assets until (1) the expiration of the current PRR Platform contract or (2) one year from the date of the letter described in Section IV.I, whichever is later, for any PRR Platform customer of Defendant that wishes to become a PRR Platform customer of Acquirer, Defendant shall waive any potential breach of contract claim related to the transfer of that customer from Defendant to Acquirer, notwithstanding any other agreement to the contrary.

I. Within three (3) calendar days of the date of the sale of the Divestiture Assets, Defendant shall send a letter to all persons who were customers of Defendant as of the date of the sale of the Divestiture Assets notifying the recipients of the divestiture and providing a copy of this Final Judgment. The letter shall also specifically inform customers of Defendant's obligations under Section IV.H of this Final Judgment. Acquirer shall have the option to include its own letter with Defendant's letter. Defendant shall provide the United States, and the Trustee, a copy of its letter at least three (3) calendar days before it is sent.

J. Unless the United States otherwise consents in writing, the divestiture pursuant to Section IV, or by Trustee appointed pursuant to Section VI, of this Final Judgment, shall include the entire Divestiture Assets, and shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by Acquirer as part of a viable, ongoing business of providing PRR Platforms in the United States. The divestiture, whether pursuant to Section IV or Section VI of this Final Judgment,

1. shall be made to an Acquirer that, in the United States' sole discretion, has the intent and capability (including the necessary managerial, operational, technical and financial capability) of competing effectively in the business of PRR Platforms; and

2. shall be accomplished so as to satisfy the United States, in its sole discretion, that none of the terms of any agreement between Acquirer and Defendant gives Defendant the ability unreasonably to raise Acquirer's costs, to lower Acquirer's efficiency, or otherwise to interfere in the ability of Acquirer to compete effectively.

V. Other Required Conduct

A. Defendant shall provide to Acquirer and Acquirer's customers access to Defendant's syndication network for four (4) years following the date of sale of the Divestiture Assets by:

1. Providing Syndication Services according to the financial terms described in the fee schedule set forth in the definitive divestiture agreement. The pricing contained in the fee schedule shall reflect only Defendant's actual costs in providing the service with no additional fees or charges in connection with the provision of this service. The Acquirer may elect to pay Defendant directly or to have Defendant bill Acquirer's customers for Syndication Services; and

2. Providing Syndication Services on non-discriminatory terms with respect to Defendant's and Acquirer's customers. For the avoidance of doubt, the following is a non-exhaustive list of terms for which Defendant may not discriminate:

i. Speed of content transmission;

ii. server lag time and/or uptime;

iii. alignment of product databases;

iv. database synchronization;

v. content presentation;

vi. pricing to Defendant's customers based on syndication partner(s);

vii. data fields transmitted or utilized; and

viii. integration with Question and Answer products.

Nothing in this paragraph shall be interpreted to permit Acquirer's customers receiving Syndication Services from Defendant to violate any terms of service that are applicable to all of Defendant's customers receiving Syndication Services.

B. Defendant shall promptly notify the Trustee and the United States of all complaints, whether written or oral, it receives relating to Section V.A of this Final Judgment. The Trustee may conduct an investigation of any complaint and shall submit all findings from any such investigation to the United States and Defendant.

C. Defendant shall refrain from soliciting the customers acquired by Acquirer as part of the Divestiture Assets for six (6) months following the date of sale of the Divestiture Assets.

D. Defendant shall provide to Acquirer, at no cost to Acquirer, an irrevocable, fully paid-up perpetual and non-exclusive license to all Bazaarvoice patents and patent applications related to PRR Platforms issued or filed at the time the Divestiture Assets are sold to Acquirer. Defendant shall not sue any PRR Platform customer of Acquirer for infringement of any patent or patent application issued or filed at the time the Divestiture Assets are sold relating to such customer's use of any PRR Platform or other Divestiture Asset provided by Acquirer.

E. Defendant is prohibited from retaining a copy of or offering for sale any of the Divestiture Assets described in Section II.C.1 and 2.

VI. Appointment of Trustee

A. Upon application of the United States, the Court shall appoint a Trustee selected by the United States and approved by the Court to monitor Defendant's compliance with the obligations set forth in this Final Judgment, and, if necessary, effect the sale of the Divestiture Assets.

B. If Defendant has not sold the Divestiture Assets during the period set forth in Section IV.A, only the Trustee shall have the right to sell the Divestiture Assets. The Trustee shall have the power and authority to accomplish the divestiture to an Acquirer acceptable to the United States at such price and on such terms as are then obtainable upon reasonable effort by the Trustee, subject to the provisions of Sections IV, V, VI, and VII of this Final Judgment, and shall have such other powers as this Court deems appropriate. Subject to Section VI.D of this Final Judgment, the Trustee may hire at the cost and expense of Defendant any investment bankers, attorneys, or other agents, who shall be solely accountable to the Trustee, reasonably necessary in the Trustee's judgment to assist in the divestiture and performance of the other duties required of the Trustee by this Final Judgment. The Trustee shall provide notice to the United States and Defendant of all persons hired by the Trustee, and the terms of such persons' compensation, within one (1) day of hiring.

C. Defendant shall not object to a sale by the Trustee on any ground other than the Trustee's malfeasance. Any such objections by Defendant must be conveyed in writing to the United States and the Trustee within ten (10) calendar days after the Trustee has provided the notice required under Section VII.

D. The Trustee shall serve at the cost and expense of Defendant, on such terms and conditions as the United States approves, and shall account for all monies derived from the sale of the assets sold by the Trustee and all costs and expenses so incurred. After approval by the Court of the Trustee's accounting, including any remaining fees for its services and those of any professionals and agents retained by the Trustee, all remaining money shall be paid to Defendant. The compensation of the Trustee and any professionals and agents retained by the Trustee shall be on reasonable and customary terms. With respect to work performed pertaining to the divestiture, incentives based on the price and terms of the divestiture and the speed with which it is accomplished may be provided. If the Trustee and Defendant are unable to reach agreement on the Trustee's or any agents' or consultants' compensation or other terms and conditions of engagement within fourteen (14) calendar days of appointment of the Trustee, the United States may, in its sole discretion, take appropriate action, including making a recommendation to the Court.

E. Defendant shall use its best efforts to assist the Trustee in accomplishing the required divestiture and performing the other duties required of the Trustee by this Final Judgment. The Trustee and any consultants, accountants, attorneys, and other persons retained by the Trustee shall have full and complete access to the personnel, books, records, and facilities of Defendant, and Defendant shall develop financial and other information from Defendant as the Trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information. Defendant shall take no action to interfere with or to impede the Trustee's accomplishment of the divestiture or any other duties outlined in this Final Judgment.

F. After appointment, the Trustee shall file monthly reports with the United States, Defendant, and the Court setting forth the Trustee's efforts to accomplish the divestiture ordered under this Final Judgment, and Defendant's compliance with the other terms of this Final Judgment. To the extent such reports contain confidential or highly confidential information under the Protective Order, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person. The Trustee shall maintain full records of all efforts made to divest the Divestiture Assets.

G. If the Trustee has not accomplished the divestiture ordered under this Final Judgment within six (6) months after appointment, the Trustee shall promptly file with the Court a report setting forth (1) the Trustee's efforts to accomplish the required divestiture, (2) the reasons, in the Trustee's judgment, why the required divestiture has not been accomplished, and (3) the Trustee's recommendations. To the extent such reports contain confidential or highly confidential information under the Protective Order, such reports shall not be filed in the public docket of the Court. The Trustee shall at the same time furnish such report to the United States which shall have the right to make additional recommendations consistent with the purpose of the Final Judgment. The Court thereafter shall enter such orders as it deems appropriate to carry out the purpose of the Final Judgment.

H. The Trustee shall serve until four (4) years following the date of sale of the Divestiture Assets.

I. If the United States determines that the Trustee has ceased to act or failed to act diligently or in a reasonably cost-effective manner, it may recommend the Court appoint a substitute Trustee.

VII. Notice and Court Approval of Proposed Divestiture

A. Within one (1) calendar day following execution of a definitive divestiture agreement, Defendant or the Trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States and the Court of any proposed divestiture required by Section IV or VI of this Final Judgment. If the Trustee is responsible, the Trustee shall similarly notify Defendant; if Defendant is responsible, it shall similarly notify the Trustee. The notice shall set forth the details of the proposed divestiture and list the name, address, and telephone

number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets, together with full details of the same.

B. Within three (3) calendar days of receipt by the United States of such notice, the United States may request from Defendant, the proposed Acquirer, any other third party, or the Trustee, if applicable, additional information concerning the proposed divestiture, the proposed Acquirer, and any other potential Acquirer. Defendant and the Trustee shall furnish any additional information requested within five (5) calendar days of the receipt of the request, unless the parties shall otherwise agree.

C. Within twenty-one (21) calendar days after receipt of the notice or within fifteen (15) calendar days after the United States has been provided the additional information requested from Defendant, the proposed Acquirer, any third party, and the Trustee, whichever is later, the United States shall provide written notice to Defendant and the Trustee stating whether or not it objects to the proposed divestiture. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Defendant's limited right to object to the sale under Section VI.C of this Final Judgment. Absent written notice that the United States does not object to the proposed Acquirer or upon objection by the United States, a divestiture proposed under Section IV or Section VI shall not be consummated. Upon objection by Defendant under Section VI.C, a divestiture proposed under Section VI shall not be consummated unless approved by the Court.

VIII. Financing

Defendant shall not finance all or any part of any purchase made pursuant to Section IV or VI of this Final Judgment.

IX. Affidavits

A. Within twenty (20) calendar days of the entry of this Final Judgment, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV or VI, Defendant shall deliver to the United States an affidavit as to the fact and manner of its compliance with Section IV or VI of this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts Defendant has taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective Acquirers, including the limitations, if any, on such information.

B. Within twenty (20) calendar days of the date of the sale of the Divestiture Assets, Defendant shall deliver to the United States an affidavit that describes in reasonable detail all actions Defendant has taken and all steps Defendant has implemented on an ongoing basis to comply with Section V of this Final Judgment. Defendant shall deliver to the United States an affidavit describing any changes to the efforts and actions outlined in Defendant's earlier affidavits filed pursuant to this section within fifteen (15) calendar days after the change is implemented.

C. Defendant shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

X. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of any related order, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time authorized representatives of the United States Department of Justice, including consultants and other persons retained by the United States, shall, upon written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to Defendant, be permitted:

1. Access during Defendant's office hours to inspect and copy, or at the option of the United States, to require Defendant to provide hard copy or electronic copies of, all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendant, relating to any matters contained in this Final Judgment; and

2. To interview, either informally or on the record, Defendant's officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendant.

B. Upon the written request of an authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendant shall submit written reports or respond to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. If at the time information or documents are furnished by Defendant to the United States, Defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under the Protective Order, then the United States shall give Defendant ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

XI. Notification

A. Unless such transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. § 18a (the ''HSR Act''), Defendant, without providing advance notification to the Antitrust Division, shall not directly or indirectly acquire any assets of or any interest, including any financial, security, loan, equity or management interest, in a person providing PRR Platforms in the United States during the term of this Final Judgment if the purchase price of such assets or interest exceeds $10,000,000.

B. Such notification shall be provided to the Antitrust Division in the same format as, and per the instructions relating to the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended, except that the information requested in Items 5 through 9 of the instructions must be provided only about PRR Platforms. Notification shall be provided at least thirty (30) calendar days prior to acquiring any such interest, and shall include, beyond what may be required by the applicable instructions, the names of the principal representatives of the parties to the agreement who negotiated the agreement, and any management or strategic plans discussing the proposed transaction. If within the 30-day period after notification, representatives of the Antitrust Division make a written request for additional information, Defendant shall not consummate the proposed transaction or agreement until thirty (30) calendar days after submitting all such additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and

provisions of the HSR Act and rules promulgated thereunder. This Section shall be broadly construed and any ambiguity or uncertainty regarding the filing of notice under this Section shall be resolved in favor of filing notice.

XII. No Reacquisition

Defendant may not reacquire any part of the Divestiture Assets during the term of this Final Judgment.

XIII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XIV. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry.

XV. Public Interest Determination

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

IT IS SO ORDERED.

Dated: _____

_____
HON. WILLIAM H. ORRICK
United States District Judge

[FR Doc. 2014–11577 Filed 5–19–14; 8:45 am]

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DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Anhydrous Ammonia Storage and Handling Standard

AGENCY: Office of the Secretary, DOL.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Anhydrous Ammonia,'' 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 19, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201403-1218-006* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3507(a)(1)(D).

This ICR seeks to extend PRA authority for the Anhydrous Ammonia Storage and Handling Standard information collection requirements codified in regulations 29 CFR 1910.111. Markings the Standard requires help to ensure that employers use only properly designed and tested containers and systems to store anhydrous ammonia, thereby, preventing accidental release of, and exposure of workers to, this highly toxic and corrosive substance. The Occupational Safety and Health Act authorizes this information collection. *See* 29 U.S.C. 651, 657.

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 1218–0208.

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, 2014. 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 December 26, 2013 (78 FR 78393).

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 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0208. 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–OSHA.

Title of Collection: Anhydrous Ammonia Storage and Handling Standard.

OMB Control Number: 1218–0208.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 2,030.

Total Estimated Number of Responses: 2,030.

Total Estimated Annual Time Burden: 345 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: May 13, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–11524 Filed 5–19–14; 8:45 am]

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DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Manlifts Standard

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Manlifts Standard,'' 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 19, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201403-1218-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (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 Manlifts Standard information collection requirements codified in regulations 29 CFR 1910.68(e). More specifically the standard requires an Occupational Safety and Health Act (OSHAct) covered employer to create and maintain a certification record of each manlift inspection. The standard also provides that the employer must inspect each manlift at least once every 30 days and to check limit switches weekly. The OSHAct authorizes this information collection. *See* 29 U.S.C. 651, 657.

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 1218–0226.

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, 2014. 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 December 26, 2013 (78 FR 78396).

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 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0226. 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–OSHA.

Title of Collection: Manlifts Standard.

OMB Control Number: 1218–0226.

Affected Public: Private sector—businesses or other for-profits.

Total Estimated Number of Respondents: 3,000.

Total Estimated Number of Responses: 36,042.

Total Estimated Annual Time Burden: 37,801 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: May 13, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–11526 Filed 5–19–14; 8:45 am]

BILLING CODE 4510–26–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting

TIME AND DATE: The Legal Services Corporation's Board of Directors and its Audit Committee will meet telephonically on May 22, 2014. The

meetings will commence at 3 p.m., EDT, with an Audit Committee meeting followed by a Board meeting that will continue until the conclusion of the Board's agenda.

PLACE: F. William McCalpin Conference Center, Legal Services Corporation Headquarters, 3333 K Street NW., Washington, DC 20007.

STATUS: Public Observation: Members of the public who are unable to attend in person but wish to listen to the public proceedings may do so by following the telephone call-in directions provided below.

Call-in Directions for Open Sessions

- Call toll-free number: 1–866–451–4981;
- When prompted, enter the following numeric pass code: 5907707348
- When connected to the call, please immediately ''MUTE'' your telephone.

Members of the public are asked to keep their telephones muted to eliminate background noises. To avoid disrupting the meeting, please refrain from placing the call on hold if doing so will trigger recorded music or other sound. From time to time, the presiding Chair may solicit comments from the public.

Status of Meetings: Open.

MATTERS TO BE CONSIDERED:

Audit Committee

1. Approval of agenda
2. Briefing on LSC's Form 990 for FY 2013
   - David Richardson, Treasurer/Comptroller
3. Public Comment
4. Consider and act on other business
5. Consider and act on adjournment of meeting

Board of Directors

1. Approval of agenda
2. Consider and act on the Board of Directors' transmittal to accompany the Inspector General's Semiannual Report to Congress for the period of October 1, 2013 through March 30, 2014
2. Public Comment
3. Consider and act on other business
4. Consider and act on adjournment of meeting

FOR FURTHER INFORMATION CONTACT: Katherine Ward, Executive Assistant to the Vice President & General Counsel, at (202) 295–1500. Questions may be sent by electronic mail to *FR_NOTICE_QUESTIONS@lsc.gov.*

Accessibility: LSC complies with the Americans with Disabilities Act and Section 504 of the 1973 Rehabilitation Act. Upon request, meeting notices and materials will be made available in alternative formats to accommodate individuals with disabilities. Individuals who need other accommodations due to disability in order to attend the meeting in person or telephonically should contact Katherine Ward, at (202) 295–1500 or *FR_NOTICE_QUESTIONS@lsc.gov*, at least 2 business days in advance of the meeting. If a request is made without advance notice, LSC will make every effort to accommodate the request but cannot guarantee that all requests can be fulfilled.

Dated: May 15, 2014.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2014–11707 Filed 5–16–14; 11:15 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (14–042)]

National Environmental Policy Act: Kennedy Space Center (KSC); Center-wide Operations

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Intent to Prepare a Programmatic Environmental Impact Statement (PEIS) and Conduct PEIS Scoping.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), as amended, (42 U.S.C. 4321 et seq.), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA; 40 Code of Federal Regulations (CFR) Parts 1500–1508; and NASA policy and procedures, 14 CFR part 1216, Subpart 1216.3, NASA intends to prepare a PEIS covering Center-wide operations at KSC. The United States (U.S.) Fish and Wildlife Service (USFWS), National Park Service (NPS), and the Federal Aviation Administration (FAA) will serve as Cooperating Agencies. They possess both regulatory authority and specialized expertise regarding the PEIS subject Proposed Action.

The purpose of this notice is to apprise interested agencies, organizations, tribal governments, and individuals of NASA's intent to prepare the PEIS and request input regarding environmental issues and concerns associated with the Proposed Action and alternative(s).

In cooperation with USFWS, NPS, and FAA, NASA will hold two public scoping meetings as part of the NEPA process associated with the development of the PEIS. The scoping meetings locations and dates are provided under **SUPPLEMENTARY INFORMATION** below.

DATES: Interested parties are invited to submit comments on environmental issues and concerns, preferably in writing, on or before July 7, 2014, to assure full consideration during the scoping process.

ADDRESSES: Comments submitted by mail should be addressed to Mr. Donald Dankert, Environmental Management Branch, NASA Kennedy Space Center, Mail Code: TA–A4C, Kennedy Space Center, FL 32899.

Comments may be submitted via email to *ksc-dl-centerwide-eis@mail.nasa.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Donald Dankert, Environmental Management Branch, NASA Kennedy Space Center, Mail Code: TA–A4C, Kennedy Space Center, FL 32899, Email: *Donald.J.Dankert@nasa.gov,* Telephone: (321) 861–1196.

Additional KSC information may be found on the internet at: *http://www.nasa.gov/centers/kennedy/home/.*

SUPPLEMENTARY INFORMATION:

Background

This PEIS is being prepared in conjunction with an updated Center Master Plan (CMP) to evaluate potential environmental impacts from proposed Center-wide operations and activities for a 20-year planning horizon from 2012–2032. The PEIS will consider a range of future scenarios from repurposing existing facilities and recapitalizing infrastructure, to reorganizing KSC management of its land resources with various types of commercial partnerships. The PEIS is intended to ensure NASA is in compliance with applicable environmental statutes as it sets program priorities for future operations and activities.

A CMP for Kennedy was developed in 2002 with a 50-year planning horizon. NASA Policy Directive 8810.2, Master Planning for Real Property, requires the CMP to be updated every five years. The 2008 CMP update was based on the now cancelled Constellation Program, while the current CMP update will guide KSC as it transitions towards a multiuser spaceport over the next 20 years.

KSC History

In the late 1950s the U.S. embarked on a new era of human space exploration. The first human space flight initiative was Project Mercury in 1958. The crewed spacecraft first

launched from Cape Canaveral Air Force Station (CCAFS) in the early 1960s. In 1963 NASA's Launch Operations Center and portions of CCAFS used by NASA were renamed the John F. Kennedy Space Center. Project Mercury was followed by Project Gemini, which served to perfect maneuvers in Earth's orbit. The Apollo Program began in 1961, and aboard Apollo 11, American astronauts successfully landed on the moon and returned safely to Earth in July 1969. Eventually, seven Apollo missions landed 12 astronauts on the moon, the last of which was in December 1972.

In the mid-1970s, NASA initiated development of the Space Transportation System (commonly called the Space Shuttle) as the next crewed vehicle. Designed solely for missions to lower Earth orbit, the Space Shuttle was the first and, to date, the only winged spacecraft capable of vertically launching a crew into orbit and horizontally landing upon return. The Space Shuttle era lasted 30 years, from the Columbia launch on April 12, 1981, to the Atlantis landing on July 21, 2011. The Space Shuttle fleet supported 135 missions, recovered and repaired satellites, conducted cutting-edge scientific research under zero gravity conditions, and helped construct and service the International Space Station, the largest structure built in space.

KSC Location and Facilities

KSC is located on Merritt Island in Brevard and Volusia counties, Florida, north-northwest of Cape Canaveral on the Atlantic Ocean, midway between Miami and Jacksonville on Florida's Space Coast, approximately 50 miles east of Orlando. It is 34 miles (55 km) long and roughly six miles (10 km) wide, covering 219 square miles (570 km^2).

The total KSC land and water area jurisdiction is approximately 140,000 acres. Only a very small part of the total acreage of KSC is developed or designated for NASA's operational and industrial use. Merritt Island consists of prime habitat for unique and endangered wildlife. In 1972 NASA entered into an agreement with the USFWS to establish a wildlife preserve within KSC boundaries known as the Merritt Island National Wildlife Refuge. Public Law 93–626 created the Canaveral National Seashore (CNS), and thereby, an agreement with the Department of the Interior was also formed in 1975 due to the location of CNS within KSC boundaries.

Since December 1968, all launch operations have been conducted from Launch Complex 39 (LC–39) Pads A and B. Both pads are close to the ocean and three miles (five km) east of the Vehicle Assembly Building. From 1969–1972, LC–39 was the departure point for all six Apollo manned moon-landing missions using the Saturn V rocket. LC–39 was used from 1981–2011 for all Space Shuttle launches. The Shuttle Landing Facility, located just to the north, was used for most Shuttle landings. At 15,000 feet (4,572 meters or 2.8 miles) it is among the longest runways in the world. The KSC Industrial Area, where many of the Center's support facilities are located, is five miles (eight kilometers) south of LC–39. It includes the Headquarters Building, the Operations and Checkout Building, Space Station Processing Facility and the Central Instrumentation Facility.

KSC is a major central Florida tourist destination and approximately a one-hour drive from the Orlando area. The Visitor Complex offers public tours of the Center and CCAFS. Because much of the installation is a restricted area and only nine percent of the land is developed, the site also serves as an important wildlife sanctuary. Mosquito Lagoon, Indian River, Merritt Island National Wildlife Refuge, and CNS are other natural area features.

Proposed Action and No Action Alternatives

Under the Proposed Action in the years ahead, KSC will implement the aforementioned CMP update and transition from a Government, program-focused, single-user launch and landing complex to a more central capability, cost effective, and multiuser spaceport. KSC's new mission will be to furnish both Government and commercial space providers with the necessary facilities, experienced workforce, and knowledge to support existing mission sets and new space programs.

The KSC master planning process is identified in NASA's institutional requirements to report to Congress, pursuant to the NASA Authorization Act of 2010, Section 1102. The resulting CMP update will result in changes to the infrastructure, land use, space transportation providers and users' customer base, and business model over a 20-year planning horizon from 2012–2032. The CMP update will include a number of component plans, including future land use, facility development, area development, transportation, utilities systems, and safety and security control. Implementing the future land use plan will promote the right-sizing of NASA KSC operations and attract non-NASA investment by providing more operational autonomy. Consolidating NASA operations into a smaller geographic footprint is a major component of the future land use plan. Applying the Central Campus concept, for example, allows NASA to recapitalize functions and capabilities into higher-efficiency facilities and combine nonhazardous and spread out functions into a more efficient, smaller, secured geographic footprint. Likewise, directing future NASA and non-NASA development into functional areas with defined, allowable operations will streamline safety and security considerations while promoting maximum utilization of KSC's horizontal infrastructure capacities. In addition, the future land use plan supports expansion of the quint-modal capabilities to provide multiuser spaceport users increased support.

The future land use plan identifies 18 land use categories, their existing acreages, and their proposed future acreages. Changes in the size and location between existing and proposed land uses will constitute the basis for differential potential environmental impacts between the Proposed Action and the No Action alternatives.

Under the No Action Alternative, KSC would not transition towards a multiuser spaceport with fully integrated NASA programs and non-NASA users. Each NASA program would continue to operate to a significant degree as an independent entity, funded separately and managing activities and buildings in support of its own program. A limited non-NASA presence would continue at KSC.

Scoping Meeting(s)

NASA and its Cooperating Agencies plan to hold two public scoping meetings to provide KSC PEIS information and solicit public comments regarding environmental concerns and alternatives for PEIS consideration. The public scoping meetings are scheduled as follows:

1. Eastern Florida State College Titusville Campus, John Henry Jones Gymnatorium, June 4, 2014, 5–8 p.m.
2. New Smyrna Beach High School Gymnasium, 1015 Tenth Street, New Smyrna Beach, June 5, 2014, 5–8 p.m.

The meeting format will include an open-house workshop from 5:00 to 6:00 p.m. KSC staff will provide an overview of the environmental process from 6:00 to 6:15 p.m., followed by a public comment period from 6:15 to 8:00 p.m. The open-house workshop will consist of poster stations describing the proposed project and the NEPA process. NASA KSC and Cooperating Agencies staff will be present during the open-house workshop portion to answer

general questions about the proposed project and the NEPA process.

As the PEIS is prepared, the public will be provided several opportunities for involvement, the first of which is during scoping. If an interested party does not have input at this time, other avenues, including reviews of the Draft and Final PEIS, will be offered in the future. The availability of these documents will be published in the **Federal Register** and through local news media to ensure all members of the public have the opportunity to actively participate in the NEPA process.

Written public input on alternatives and environmental issues and concerns associated with this proposed action are hereby requested.

Calvin F. Williams,

Assistant Administrator, Office of Strategic Infrastructure.

[FR Doc. 2014–11565 Filed 5–19–14; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2014–029]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of a currently approved information collection used to obtain information from private foundations or other entities in order to design, construct and equip Presidential libraries. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before July 21, 2014 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (ISSD), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–7409; or electronically mailed to *tamee.fechhelm@nara.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694, or fax number 301–713–7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology; and (e) whether small businesses are affected by this collection. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Presidential Library Facilities.

OMB number: 3095–0036.

Agency form number: None.

Type of review: Regular.

Affected public: Presidential library foundations or other entities proposing to transfer a Presidential library facility to NARA.

Estimated number of respondents: 1.

Estimated time per response: 31 hours.

Frequency of response: On occasion.

Estimated total annual burden hours: 31 hours.

Abstract: The information collection is required for NARA to meet its obligations under 44 U.S.C. 2112(a)(3) to submit a report to Congress before accepting a new Presidential library facility. The report contains information that can be furnished only by the foundation or other entity responsible for building the facility and establishing the library endowment.

Dated: May 9, 2014.

Swarnali Haldar,

Acting Executive for Information Services/CIO.

[FR Doc. 2014–11549 Filed 5–19–14; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2014–030]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collections described in this notice. The public is invited to comment on the proposed information collections pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before June 19, 2014 to be assured of consideration.

ADDRESSES: Send comments to Mr. Nicholas A. Fraser, Desk Officer for NARA, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5167; or electronically mailed to *Nicholas_A._Fraser@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694 or fax number 301–713–7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on March 11, 2014 (79 FR 13678 and 13679). No comments were received. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collections are necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology; and (e) whether small businesses are affected by these collections. In this notice, NARA is

soliciting comments concerning the following information collections:

1. *Title:* Court Order Requirements.

OMB number: 3095–0038.

Agency form number: NA Form 13027.

Type of review: Regular.

Affected public: Veterans and Former Federal civilian employees, their authorized representatives, state and local governments, and businesses.

Estimated number of respondents: 5,000.

Estimated time per response: 15 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 1,250 hours.

Abstract: The information collection is prescribed by 36 CFR 1233.14. In accordance with rules issued by the Office of Personnel Management, the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) administers Official Personnel Folders (OPF) and Employee Medical Folders (EMF) of former Federal civilian employees. In accordance with rules issued by the Department of Defense (DOD) and the Department of Transportation (DOT), the NPRC also administers military service records of veterans after discharge, retirement, and death, and the medical records of these veterans, current members of the Armed Forces, and dependents of Armed Forces personnel. The NA Form 13027, Court Order Requirements, is used to advise requesters of (1) the correct procedures to follow when requesting certified copies of records for use in civil litigation or criminal actions in courts of law and (2) the information to be provided so that records may be identified.

2. *OMB number:* 3095–0039.

Agency form number: NA Forms 13036, 13042, 13055, and 13075.

Type of review: Regular.

Affected public: Veterans, their authorized representatives, state and local governments, and businesses.

Estimated number of respondents: 79,800.

Estimated time per response: 5 minutes.

Frequency of response: On occasion (when respondent wishes to request information from a military personnel, military medical, and dependent medical record).

Estimated total annual burden hours: 6,650 hours.

Abstract: The information collection is prescribed by 36 CFR 1233.18. In accordance with rules issued by the Department of Defense (DOD) and the Department of Transportation (DOT, U.S. Coast Guard), the National Personnel Records Center (NPRC) of the National Archives and Records Administration (NARA) administers military personnel and medical records of veterans after discharge, retirement, and death. In addition, NPRC administers the medical records of dependents of service personnel. When veterans, dependents, and other authorized individuals request information from or copies of documents in military personnel, military medical, and dependent medical records, they must provide on forms or in letters certain information about the veteran and the nature of the request. A major fire at the NPRC on July 12, 1973, destroyed numerous military records. If individuals' requests involve records or information from records that may have been lost in the fire, requesters may be asked to complete NA Form 13075, Questionnaire about Military Service, or NA Form 13055, Request for Information Needed to Reconstruct Medical Data, so that NPRC staff can search alternative sources to reconstruct the requested information. Requesters who ask for medical records of dependents of service personnel and hospitalization records of military personnel are asked to complete NA Form 13042, Request for Information Needed to Locate Medical Records, so that NPRC staff can locate the desired records. Certain types of information contained in military personnel and medical records are restricted from disclosure unless the veteran provides a more specific release authorization than is normally required. Veterans are asked to complete NA Form 13036, Authorization for Release of Military Medical Patient Records, to authorize release to a third party of a restricted type of information found in the desired record.

Dated: May 14, 2014.

Swarnali Haldar,

Acting Executive for Information Services/CIO.

[FR Doc. 2014–11547 Filed 5–19–14; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub., L. 92–463 as amended), the National Science Foundation announces the following meeting:

Name: Site visit review of the Cornell High Energy Synchrotron Source (CHESS) at Cornell University by the Division of Materials Research (DMR) #1203.

Dates and Times:

July 9, 2014; 8:00 a.m.–8:00 p.m.
July 10, 2014; 8:00 a.m.–4:00 p.m.

Place: Cornell University, Ithaca, NY.

Type of Meeting: Part open.

Contact Person: Dr. Thomas Rieker, Program Director, Materials Research Science and Engineering Centers Program, Division of Materials Research, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone (703) 292–4914.

Purpose of Meeting: To provide advice and recommendations concerning operations and management of the CHESS facility at Cornell.

Agenda:

Wednesday, July 9, 2014

8:00 a.m.–9:45 a.m. Closed—Executive session
9:45 a.m.–4:45 p.m. Open—Presentations
4:45 p.m.–6:00 p.m. Closed—Executive session

Thursday, July 10, 2014

8:30 a.m.–4:00 p.m. Closed—Executive session, Draft and Review Report

Reason for Closing: The work being reviewed may include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the facility. These matters are exempt under 5 U.S.C. 552 b(c), (4) and (6) of the Government in the Sunshine Act.

Date: May 15, 2014.

Suzanne Plimpton,

Acting Committee Management Officer.

[FR Doc. 2014–11619 Filed 5–19–14; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Notice of National Transportation Safety Board Public Health Authority Status

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Notice.

SUMMARY: The NTSB is publishing this notice to inform health care providers, including hospitals, health plans, and other health organizations, of the NTSB's status as a ''public health authority'' under the health care privacy requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

FOR FURTHER INFORMATION CONTACT: David Tochen, General Counsel, (202) 314–6080.

SUPPLEMENTARY INFORMATION:

I. Background

The NTSB is an independent Federal agency with statutory responsibility for investigating and determining the probable causes of all civil aviation and certain railroad, highway, marine, hazardous materials, and pipeline accidents and incidents. *See* 49 U.S.C. 1116, 1131. Through its comprehensive public reports on transportation accidents and incidents and safety recommendations, the NTSB protects and promotes public health and safety by helping prevent recurrences of accidents and injuries to the hundreds of millions of Americans who travel or are employed in the nation's channels of transportation each year. The NTSB has issued more than 13,000 safety recommendations since its establishment in 1967.

The NTSB possesses statutory authority to obtain information in investigations by subpoena and ''may inspect any record, process, control, or facility related to an accident investigation.'' *Id.* §§ 1113(a)(1), 1134(a)(2). The NTSB may also ''order an autopsy to be performed and have other tests made when necessary to investigate an accident.'' *Id.* § 1134(f)(1). In any accident investigation, NTSB staff obtains relevant information through a variety of means, including voluntary measures, subpoenas, and testimony at public investigative hearings.

II. HIPAA Privacy Rule

Congress enacted HIPAA (Pub. L. 104–191, 110 Stat. 1936 (1996)) to create and strengthen national standards for the privacy of Americans' health information, among several other major purposes. In response to a mandate in section 264(c)(1) of HIPAA, the U.S. Department of Health and Human Services (HHS) in 2000 finalized a set of regulatory requirements to protect health information privacy. *See Standards for Privacy of Individually Identifiable Health Information,* 65 FR 82462 (Dec. 28, 2000), as amended, 78 FR 5566 (Jan 25, 2013). These requirements, described collectively as the HIPAA Privacy Rule (Privacy Rule) and codified in relevant part at 45 CFR parts 160 and 164, govern uses and disclosures of individuals' health information by ''covered entities'': health care providers, health plans, and health care clearinghouses. 45 CFR 160.103.

The Privacy Rule generally limits a covered entity's ability to disclose an individual's protected health information to another person. *See id.* § 164.502(a). An exception to this general prohibition expressly permits a covered entity to disclose protected health information without the individual's authorization or opportunity to object to a

> public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health surveillance, public health investigations, and public health interventions. . . .

Id. § 164.512(b)(1)(i). The Privacy Rule defines a ''public health authority'' as

> an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate.

Id. § 164.501. In the preamble to the final Privacy Rule, HHS described the definition of ''public health authority'' as a ''broad'' definition, commensurate with a ''broad Congressional mandate [in HIPAA] not to interfere with current public health practices'' under State public health laws. 65 FR 82624.

III. NTSB Public Health Authority Status

The NTSB is a public health authority for purposes of the HIPAA Privacy Rule. HHS specifically cited the NTSB as an example of a public health authority in the preamble to a notice of proposed rulemaking (NPRM) on the Privacy Rule in 1999; the preamble included the NTSB in an illustrative list of several ''government agencies and entities [that] carry out public health activities in the course of their missions.'' *Standards for Privacy of Individually Identifiable Health Information,* 64 FR 59918, 59956 (Nov. 3, 1999). The definition of ''public health authority'' adopted in the final rule does not differ in any relevant respect from the definition contemplated in the NPRM.[1] In the 14 years since publication of the final Privacy Rule, the NTSB's status as a public health authority has facilitated the Board's access to information that substantially assisted the Board in issuing safety recommendations that prevented accidents and injuries and saved lives.

Moreover, as HHS noted in the NPRM, NTSB's activities, by design, ''reduce mortality and injury by making recommendations for safety improvements,'' 64 FR 59956, and fall well within the ambit of public health activities conducted ''for the purpose of preventing or controlling . . . injury,'' 45 CFR 164.512(b)(1)(i). NTSB investigations thoroughly examine causal and contributing factors in transportation accidents and incidents, including human factors such as fatigue among crewmembers, so regulators, transportation operators, and other stakeholders may implement appropriate measures to prevent the accidents and incidents from recurring. NTSB investigations also examine the nature and extent of accident victims' injuries so that the Board may issue appropriate recommendations to improve the crashworthiness of transportation vehicles and to improve accidents' survivability. Finally, the NTSB examines emergency responses to transportation accidents to identify measures that could mitigate injuries and prevent deaths in the future.

Dated: May 14, 2014.

Christopher A. Hart,

Acting Chairman.

[FR Doc. 2014–11579 Filed 5–19–14; 8:45 am]

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[1] In relevant part, the final rule modified the proposed definition of ''public health authority'' ''slightly to clarify that a 'public health authority' also includes a person or entity acting under a grant of authority from or contract with a public health agency.'' 65 FR 82497. The final rule also added language to the provision authorizing disclosures to a public health authority to permit disclosures to a foreign government agency acting in collaboration with a public health authority. *See* 65 FR 82525.

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0089]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 81, ''Standard Specifications for the Granting of Patent Licenses.''

2. *Current OMB approval number:* 3150–0121.

3. *How often the collection is required:* Applications for licenses are submitted once. Other reports are submitted annually or as events require.

4. *Who is required or asked to report:* Applicants for and holders of NRC licenses to inventions covered by patents or patent applications.

5. *The number of annual respondents:* There are no anticipated respondents to this collection over the next three years.

6. *The number of hours needed annually to complete the requirement or request:* 0 hours. No applications are anticipated during the next 3 years.

7. *Abstract:* As specified in Part 81 of Title 10 of the *Code of Federal Regulations,* the NRC may grant non-exclusive licenses or limited exclusive licenses to its patent inventions to responsible applicants. Applicants for licenses to NRC inventions are required to provide information which may provide the basis for granting the requested license. In addition, all license holders must submit periodic reports on efforts to bring the invention to a point of practical application and the extent to which they are making the benefits of the invention reasonably accessible to the public. Exclusive license holders must submit additional information if they seek to extend their licenses, issue sublicenses, or transfer the licenses. In addition, if requested, exclusive license holders must promptly supply to the United States Government copies of all pleadings and other papers filed in any patent infringement lawsuit, as well as evidence from proceedings relating to the licensed patent.

Submit, by July 21, 2014, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly-available documents, including the draft supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.* The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2014–0089. You may submit your comments by any of the following methods: Electronic comments go to *http://www.regulations.gov* and search for Docket No. NRC–2014–0079. Mail comments to the Acting NRC Clearance Officer, Fajr Majeed (T–5 F50), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the Acting NRC Clearance Officer, Fajr Majeed (T–5 F50), U.S. Nuclear Regulatory Commission Washington, DC 20555–0001; telephone: 301–415–6736, or by email to *INFOCOLLECTS.Resource@NRC.GOV.*

Dated at Rockville, Maryland, this 15th day of May, 2014.

For the Nuclear Regulatory Commission.

Fajr Majeed,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–11620 Filed 5–19–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2014–0079]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of pending NRC action to submit an information collection request to the Office of Management and Budget (OMB) and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) invites public comment about our intention to request the OMB's approval for renewal of an existing information collection that is summarized below. We are required to publish this notice in the **Federal Register** under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* NRC Form 450, ''General Assignment.''

2. *Current OMB approval number:* 3150–0114.

3. *How often the collection is required:* Once during the contract closeout process.

4. *Who is required or asked to report:* Contractors.

5. T*he number of annual respondents:* 15.

6. T*he number of hours needed annually to complete the requirement or request:* 30.

7. A*bstract:* During the contract closeout process for cost-reimbursement and time-and-materials type contracts, the NRC requires the contractor to execute NRC Form 450, General Assignment. Execution of this form grants to the government all rights, title, and interest to refunds arising out of the contractor performance.

Submit, by July 21, 2014, comments that address the followings questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

The public may examine and have copied for a fee publicly-available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.* The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments submitted in writing or in electronic form will be made available for public inspection. Since your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed. Comments submitted should reference Docket No. NRC–2014–0079. You may submit your comments by any of the following methods: Electronic comments go to *http://*

www.regualtions.gov and search for Docket No. NRC–2014–0079. Mail comments to the Acting NRC Clearance Officer, Fajr Majeed (T–5 F50), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Questions about the information collection requirements may be directed to the Acting NRC Clearance Officer, Fajr Majeed (T–5 F50), U.S. Nuclear Regulatory Commission Washington, DC 20555–0001; telephone: 301–415–6736, or by email to *INFOCOLLECTS.Resource@NRC.GOV*.

Dated at Rockville, Maryland, this 15th day of May, 2014.

For the Nuclear Regulatory Commission.

Fajr Majeed,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–11611 Filed 5–19–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–266 and 50–301; NRC–2014–0117]

Exemption for NextEra Energy Point Beach, LLC; Point Beach Nuclear Plant, Units 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an exemption in response to a June 4, 2013, request from NextEra Energy Point Beach, LLC, requesting an exemption to use of a different fuel rod cladding material (Optimized ZIRLO™).

ADDRESSES: Please refer to Docket ID NRC–2014–0117 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0117. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Terry A. Beltz, Office of Nuclear Reactor Regulation, telephone: 301–415–3049; email: *Terry.Beltz@nrc.gov*, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001.

I. Background

NextEra Energy Point Beach, LLC (NextEra or the licensee) is the holder of renewed Facility Operating License Nos. DPR–24 and DPR–27, which authorize operation of the Point Beach Nuclear Plant (Point Beach), Units 1 and 2, respectively. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the NRC now or hereafter in effect.

The facility consists of two pressurized-water reactors located in Manitowac County in Wisconsin.

II. Request/Action

Pursuant to Section 50.12 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Specific exemptions,'' the licensee has, by letter dated June 4, 2013 (ADAMS Accession No. ML13155A239), requested an exemption from 10 CFR 50.46, ''Acceptance criteria for emergency core cooling systems [ECCS] for light-water nuclear power reactors,'' and 10 CFR Part 50, Appendix K, ''ECCS Evaluation Models,'' to allow the use of fuel rod cladding with Optimized ZIRLO™ alloy for future reload applications. The regulations in 10 CFR 50.46 contain acceptance criteria for the ECCS for reactors fueled with zircaloy or ZIRLO™ fuel rod cladding material. In addition, paragraph I.A.5 of Appendix K to 10 CFR Part 50 requires that the Baker-Just equation be used to predict the rates of energy release, hydrogen concentration, and cladding oxidation from the metal/water reaction. The Baker-Just equation assumes the use of a zirconium alloy, which is a material different from Optimized ZIRLO™. Thus, the strict application of these regulations does not permit the use of fuel rod cladding material other than zircaloy or ZIRLO™. Because the material specifications of Optimized ZIRLO™ differ from the specifications for zircaloy or ZIRLO™, and the regulations specify a cladding material other than Optimized ZIRLO™, a plant-specific exemption is required to allow the use of, and application of these regulations to, Optimized ZIRLO™ at Point Beach.

The exemption request relates solely to the cladding material specified in these regulations (i.e., fuel rods with zircaloy or ZIRLO™ cladding material). This exemption would allow application of the acceptance criteria of 10 CFR 50.46 and 10 CFR Part 50, Appendix K, to fuel assembly designs using Optimized ZIRLO™ fuel rod cladding material. In its letter dated June 4, 2013, the licensee indicated that it was not seeking an exemption from the acceptance and analytical criteria of these regulations. The intent of the request is to allow the use of the criteria set forth in these regulations for the use of Optimized ZIRLO™ fuel rod cladding material at Point Beach.

III. Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when: (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. Under 10 CFR 50.12(a)(2)(ii), special circumstances include, among other things, when application of the specific regulation in the particular circumstance would not serve, or is not necessary to achieve, the underlying purpose of the rule.

A. Special Circumstances

Special circumstances, in accordance with 10 CFR 50.12(a)(2)(ii), are present whenever application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. The underlying purpose of 10 CFR 50.46 and Appendix K to 10 CFR Part 50 is to establish acceptance criteria for ECCS performance to provide reasonable assurance of safety in the event of a loss-of-coolant accident (LOCA). Although the regulations in 10 CFR 50.46 and Appendix K are not expressly applicable to Optimized ZIRLO™, the evaluations described in the following sections of this exemption show that the purpose of the regulations are met by this exemption in that, subject to certain

conditions, the acceptance criteria are valid for Optimized ZIRLO™ fuel cladding material, Optimized ZIRLO™ would maintain better post-quench ductility, and the Baker-Just correlation conservatively bounds LOCA scenario metal-water reaction rates and is applicable to Optimized ZIRLO™. Thus, a strict application of the rule (which would preclude the applicability of ECCS performance acceptance criteria to, and the use of, Optimized ZIRLO™ fuel cladding material) is not necessary to achieve the underlying purposes of 10 CFR 50.46 and Appendix K to 10 CFR Part 50. The purpose of these regulations is achieved through application of the requirements to the use of Optimized ZIRLO™ fuel rod cladding material. Therefore, the special circumstances required by 10 CFR 50.12(a)(2)(ii) for the granting of an exemption exist.

B. Authorized by Law

This exemption would allow the use of Optimized ZIRLO™ fuel rod cladding material for future reload operations at Point Beach. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR Part 50 provided that special circumstances are present. As described above, the NRC staff has determined that special circumstances exist to grant the requested exemption. In addition, granting the exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

C. No Undue Risk to Public Health and Safety

Section 10 CFR 50.46 requires that each boiling or pressurized light-water nuclear power reactor fueled with uranium dioxide pellets within cylindrical zircaloy or ZIRLO™ cladding must be provided with an ECCS that must be designed so that its calculated cooling performance following a postulated loss-of-coolant accident (LOCA) conforms to the criteria set forth in paragraph (b) of this section. The underlying purpose of 10 CFR 50.46 is to establish acceptance criteria for adequate ECCS performance. As previously documented in the NRC staff's safety evaluation dated June 10, 2005 (ADAMS Accession No. ML051670395), of topical reports submitted by Westinghouse Electric Company, LLC (Westinghouse), and subject to compliance with the specific conditions of approval established therein, the NRC staff found that Westinghouse demonstrated the applicability of these ECCS acceptance criteria to Optimized ZIRLO™. Ring compression tests performed by Westinghouse on Optimized ZIRLO™ (see WCAP–14342–A & CENPD–404–NP–A at ADAMS Accession No. ML062080569) demonstrate an acceptable retention of post-quench ductility up to 10 CFR 50.46 limits of 2,200 degrees Fahrenheit and 17 percent equivalent clad reacted. Furthermore, the NRC staff has concluded that oxidation measurements provided by the licensee in letter LTR–NRC–07–58 from Westinghouse to the NRC, ''SER Compliance with WCAP–12610–P–A & CENPD–404–P–A, Addendum 1–A, 'Optimized ZIRLO™,' '' dated November 6, 2007 (public version located at ADAMS Accession No. ML073130560), illustrate that oxide thickness and associated hydrogen pickup for Optimized ZIRLO™ at any given burnup would be less than both zircaloy-4 and ZIRLO™. Hence, the NRC staff concludes that Optimized ZIRLO™ would be expected to maintain better post-quench ductility than ZIRLO™. This finding is further supported by an ongoing LOCA research program at Argonne National Laboratory, which has identified a strong correlation between cladding hydrogen content (caused by in-service corrosion) and post-quench ductility.

In addition, the provisions of 10 CFR 50.46 require the licensee to periodically evaluate the performance of the ECCS, using currently approved LOCA models and methods, to ensure that the fuel rods will continue to satisfy 10 CFR 50.46 acceptance criteria. In its letter dated June 4, 2013, the licensee stated that it will evaluate fuel assemblies using Optimized ZIRLO™ fuel rod cladding material using NRC-approved analytical methods and plant-specific models to address the changes in cladding material properties. The NRC staff concludes that granting the exemption to allow the licensee to use Optimized ZIRLO™ fuel rod cladding material and apply 10 CFR 50.46 criteria would not diminish this requirement of periodic evaluation of ECCS performance. Thus, the underlying purpose of the rule to maintain post-quench ductility in the fuel cladding material through ECCS performance criteria will continue to be achieved for Point Beach.

Paragraph I.A.5 of Appendix K to 10 CFR Part 50 states that the rates of energy release, hydrogen concentration, and cladding oxidation from the metal-water reaction shall be calculated using the Baker-Just equation. Since the Baker-Just equation presumes the use of zircaloy clad fuel, strict application of this provision of the rule would not permit use of the equation for Optimized ZIRLO™ fuel rod cladding material for determining acceptable fuel performance. The underlying purpose of this regulation, however, is to ensure that analyses of fuel response to LOCAs are conservatively calculated. In its evaluation of the approved topical reports, the NRC staff previously found that metal-water reaction tests performed by Westinghouse on Optimized ZIRLO™ (see Appendix B of WCAP–12610–P–A and CENPD–404–P–A, Addendum 1–A) demonstrate conservative reaction rates relative to the Baker-Just equation, and that the Baker-Just equation conservatively bounds post-LOCA scenarios of, and applicable to, Optimized ZIRLO™ fuel rod cladding. Thus, the NRC staff determined that the strict application of Appendix K, Paragraph I.A.5 (which would preclude its applicability to, and the use of, Optimized ZIRLO™) is not necessary to achieve the underlying purpose of the rule in these circumstances. Since these evaluations demonstrate that the underlying purpose of the rule will be met, there will be no undue risk to the public health and safety.

D. Consistent With the Common Defense and Security

The licensee's exemption request is to allow the application of an improved fuel rod cladding material to the regulations in 10 CFR 50.46 and paragraph I.A.5 of Appendix K to 10 CFR 50. In its letter dated June 4, 2013, the licensee stated that all the requirements and acceptance criteria will be maintained. The licensee is required to handle and control special nuclear material in these assemblies in accordance with its approved procedures. This change to reactor core internals is adequately controlled by NRC requirements and is not related to security issues. Therefore, the NRC staff determined that this exemption does not impact, and thus is consistent with, the common defense and security.

E. Environmental Considerations

The NRC staff determined that the exemption discussed herein meets the eligibility criteria for the categorical exclusion set forth in 10 CFR 51.22(c)(9) because it is related to a requirement concerning the installation or use of a facility component located within the restricted area, as defined in 10 CFR Part 20, and issuance of this exemption involves: (i) No significant hazards consideration, (ii) no significant change in the types or a significant increase in the amounts of any effluents that may be released offsite, and (iii) no significant

increase in individual or cumulative occupational radiation exposure. Therefore, in accordance with 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the NRC's consideration of this exemption request. The basis for the NRC staff's determination is discussed as follows with an evaluation against each of the requirements in 10 CFR 51.22(c)(9)(i)–(iii).

Requirements in 10 CFR 51.22(c)(9)(i)

The NRC staff evaluated whether the exemption involves no significant hazards consideration using the standards described in 10 CFR 50.92(c), as presented below:

1. Does the proposed exemption involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed exemption would allow the use of Optimized ZIRLO™ fuel rod cladding material in the reactors. The NRC approved topical report WCAP–12610–P–A and CENPD–404–P–A, Addendum 1–A ''Optimized ZIRLO™,' '' prepared by Westinghouse, addresses Optimized ZIRLO™ and demonstrates that Optimized ZIRLO™ has essentially the same properties as currently licensed ZIRLO®. The fuel cladding itself is not an accident initiator and does not affect accident probability. Use of Optimized ZIRLO™ fuel cladding material will continue to meet all 10 CFR 50.46 acceptance criteria and, therefore, will not increase the consequences of an accident.

Therefore, the proposed exemption does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed exemption create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The use of Optimized ZIRLO™ fuel rod cladding material will not result in changes in the operation or configuration of the facility. Topical Reports WCAP–12610–P–A and CENPD–404–P–A demonstrated that the material properties of Optimized ZIRLO™ are similar to those of standard ZIRLO®. Therefore, Optimized ZIRLO™ fuel rod cladding material will perform similarly to those fabricated from standard ZIRLO®, thus precluding the possibility of the fuel cladding becoming an accident initiator and causing a new or different type of accident. Therefore, the proposed exemption does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed exemption involve a significant reduction in a margin of safety?

Response: No.

The proposed exemption will not involve a significant reduction in the margin of safety because it has been demonstrated that the material properties of the Optimized ZIRLO™ are not significantly different from those of standard ZIRLO®. Optimized ZIRLO™ is expected to perform similarly to standard ZIRLO® for all normal operating and accident scenarios, including both LOCA and non-LOCA scenarios. For LOCA scenarios, where the slight difference in Optimized ZIRLO™ material properties relative to standard ZIRLO® could have some impact on the overall accident scenario, plant-specific LOCA analyses using Optimized ZIRLO™ properties will demonstrate that the acceptance criteria of 10 CFR 50.46 have been satisfied.

Therefore, the proposed exemption does not involve a significant reduction in a margin of safety.

Based on the above evaluation of the standards set forth in 10 CFR 50.92(c), the NRC staff concludes that the proposed exemption involves no significant hazards consideration. Accordingly, the requirements of 10 CFR 51.22(c)(9)(i) are met.

Requirements in 10 CFR 51.22(c)(9)(ii)

The proposed exemption would allow the use of Optimized ZIRLO™ fuel rod cladding material in the reactors. Optimized ZIRLO™ has essentially the same material properties and performance characteristics as the currently licensed ZIRLO® cladding. Thus, the use of Optimized ZIRLO™ fuel rod cladding material will not significantly change the types of effluents that may be released offsite, or significantly increase the amount of effluents that may be released offsite. Therefore, the requirements of 10 CFR 51.22(c)(9)(ii) are met.

Requirements in 10 CFR 51.22(c)(9)(iii)

The proposed exemption would allow the use of Optimized ZIRLO™ fuel rod cladding material in the reactors. Optimized ZIRLO™ has essentially the same material properties and performance characteristics as the currently licensed ZIRLO® cladding. Thus, the use of Optimized ZIRLO™ fuel rod cladding material will not significantly increase individual occupational radiation exposure, or significantly increase cumulative occupational radiation exposure. Therefore, the requirements of 10 CFR 51.22(c)(9)(iii) are met.

Conclusion

Based on the above, the NRC staff concludes that the proposed exemption meets the eligibility criteria for the categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, in accordance with 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the NRC's proposed issuance of this exemption.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances pursuant to 10 CFR 50.12(a)(2)(ii) are present. Therefore, the Commission hereby grants NextEra an exemption from the requirements of 10 CFR 50.46 and Appendix K to 10 CFR Part 50, to allow the application of those criteria to, and the use of, Optimized ZIRLO™ fuel rod cladding material at the Point Beach Nuclear Plant, Units 1 and 2.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 9th day of May 2014.

For The Nuclear Regulatory Commission.

Michele G. Evans,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–11615 Filed 5–19–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[IA–13–059; NRC–2014–0115]

In the Matter of Richard Brian Smith

AGENCY: Nuclear Regulatory Commission.

ACTION: Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an order prohibiting Richard Brian Smith's involvement in any NRC-licensed activities for a period of five years. This Order is based on Richard Brian Smith having twice tested positive for an illegal substance during random fitness-for-duty (FFD) tests while holding an NRC operator's license at the Grand Gulf Nuclear Station and the results of an NRC investigation.

DATES: *Effective Date:* See attachment.

ADDRESSES: Please refer to Docket ID NRC–2014–0115 when contacting the NRC about the availability of information regarding this document. You may access 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–2014–0115. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@ nrc.gov.*
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.''* For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@ nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Gerry Gulla, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–2872, email: *Gerald.Gulla@ nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Rockville, Maryland, this 14th day of May 2014.

For the Nuclear Regulatory Commission.

Roy P. Zimmerman,

Director, Office of Enforcement.

Order Prohibiting Involvement in NRC-Licensed Activities

I

Richard Brian Smith was formerly employed as a senior reactor operator (SRO) at Entergy Operations, Inc., Grand Gulf Nuclear Station (Grand Gulf or licensee). Mr. Smith was the holder of SRO license No. SOP–44682, which was issued by the U.S. Nuclear Regulatory Commission (NRC) on May 29, 2013. The license authorized Mr. Smith to manipulate, and supervise the manipulation of, the controls of Grand Gulf, Facility License No. NPF–29, located in Port Gibson, Mississippi.

II

On May 16, 2013, Mr. Smith self-reported an arrest for driving under the influence of alcohol, in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) 73.56, ''Personnel access authorization requirements for nuclear power plants.'' As a result of this arrest, Mr. Smith was subjected to an increased fitness-for-duty (FFD) testing frequency in accordance with Grand Gulf procedures. On July 18, 2013, Mr. Smith participated in the FFD testing process, which resulted in a negative indication for alcohol. However, on July 22, 2013, the Grand Gulf Medical Review Officer received Mr. Smith's FFD test sample results, which confirmed a positive test result for a cocaine metabolite. The licensee immediately relieved Mr. Smith of his watchstanding duties and revoked his unescorted site access, in accordance with 10 CFR 26.75, ''Sanctions.''

On September 9, 2013, the NRC received follow-up information regarding Mr. Smith's July 18, 2013, positive test result from Grand Gulf. Included in this letter was the licensee's plan to reinstate Mr. Smith to licensed duties, pending the successful completion of both a substance abuse treatment program and a subsequent medical evaluation by the facility's Medical Review Officer. By email dated November 18, 2013, and subsequent phone call on November 20, 2013, Grand Gulf notified the NRC that Mr. Smith had satisfactorily completed medical examinations, a substance abuse evaluation, and a clinical evaluation with a psychologist, as well as security and FFD processing. Based on the satisfactory completion of these evaluations, Grand Gulf granted Mr. Smith unescorted access to the protected area, but did not allow him to perform licensed duties.

On December 4, 2013, the NRC's Office of Investigations (OI), Region IV Field Office, initiated an investigation based on Mr. Smith's positive FFD test results. The investigation was completed on January 22, 2014, and the results were documented in the NRC's OI Report No. 4–2014–012. Based on the evidence developed during the investigation, it was determined that Mr. Smith deliberately used cocaine while an employee of Grand Gulf.

On December 11, 2013, Grand Gulf received the results from an FFD test sample submitted by Mr. Smith on December 5, 2013. Mr. Smith's December sample also resulted in a positive test result for a cocaine metabolite. Grand Gulf immediately reported the positive test result for an illegal drug to the NRC. On January 6, 2014, Grand Gulf requested the termination of Mr. Smith's license, retroactive to December 11, 2013. On January 6, 2014, the NRC retroactively terminated Mr. Smith's license, effective on December 11, 2013.

III

The NRC holds licensed operators to high performance standards and entrusts them with assuring the public health and safety in the operation of a nuclear power plant. Incorporated into this trust is the expectation that licensed operators will follow all NRC requirements. A licensed operator testing positive for an illegal substance is a violation of 10 CFR 55.53(d), which requires the licensee to observe all applicable rules, regulations, and orders of the Commission, and 10 CFR 55.53(j), which states, in part, ''The licensee shall not use, possess, or sell any illegal drugs.'' Mr. Smith also violated 10 CFR 50.5, the NRC's deliberate misconduct rule, when he deliberately participated in drug use activities.

Consequently, due to Mr. Smith's positive FFD test results on two separate occasions, and his deliberate actions related to drug use activities, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Smith were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety, and interest require that Mr. Smith be prohibited from any involvement in NRC-licensed activities for a period of five years, effective 30 days from the date of issuance of this Order.

During this five year prohibition period, Mr. Smith cannot engage in activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20. Additionally, Mr. Smith is required to notify the NRC of his first employment in NRC-licensed activities for a period of one year following the prohibition period.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, and 10 CFR 30.10, *it is hereby ordered that:*

1. Richard Brian Smith is prohibited for five years from engaging in any NRC-

licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

3. If Richard Brian Smith is involved with another licensee in NRC-licensed activities, then he must cease those activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer.

4. For a period of one year after the five year period of prohibition has expired, Richard Brian Smith shall, within 30 days of acceptance of his first employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. This notification should be clearly marked as a ''Reply to an Order; IA–13–059.'' In the notification, Richard Brian Smith shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements. He shall also include: (1) The reason for the violation, or, if contested, the basis for disputing the violation, (2) the corrective steps that have been taken and the results achieved, (3) the corrective steps that will be taken to avoid further violations, and (4) the date when full compliance was achieved.

The above provisions are effective 30 days from the date of issuance of this Order.

The Director, Office of Enforcement, or designee, may, in writing, relax or rescind any of the above conditions upon demonstration by Richard Brian Smith of good cause.

V

At this time Mr. Smith is not required to respond to this Order; however, if he chooses to respond, he must submit a written answer to this Order under oath or affirmation within 30 days of its issuance. Any person adversely affected by this Order may submit a written answer to this Order within 30 days of its issuance. In addition, Mr. Smith may demand, and any other person adversely affected by this Order may request, a hearing on this Order within 30 days of its issuance. Where good cause is shown, consideration will be given to extending the time to answer and demand or request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–001 and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a demand or request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a demand or request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007, as amended by 77 FR 46562, August 3, 2012), codified in pertinent part at 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@ nrc.gov*, or by telephone at (301) 415–1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a demand or request for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* System requirements for accessing the E-Submittal server are detailed in NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange (EIE), users will be required to install a Web browser plug-in obtained from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

After the Office of the Secretary has created a docket and a participant has obtained a digital ID certificate, the participant may submit a demand for hearing or request for hearing and petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC Office of the General Counsel and other persons who have advised the Office of the Secretary that they wish to participate in the proceeding. The filer need not serve the documents on participants separately. Therefore, others who wish to participate in the proceeding (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing demand or request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email at *MSHD.Resource@nrc.gov*, or by a toll-

free call at (866) 672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in paper format are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines the reason for the exemption no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC electronic hearing docket, which is available to the public at *http://ehd1.nrc.gov/ehd/*, unless excluded pursuant to an order of the Commission or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, participants are requested not to include copyrighted materials in their submission, except for limited excerpts that serve the purpose of the adjudicatory filings and constitute a Fair Use application.

If a person other than Mr. Smith requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f). If a hearing is demanded by Mr. Smith or requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. In the absence of any demand or request for hearing, or written approval of an extension of time in which to demand or request a hearing, the provisions specified in Section IV above shall be effective and final 30 days of its issuance without further order or proceedings. If an extension of time for demanding or requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing demand or request has not been received.

Dated at Rockville, Maryland, this 14th day of May 2014.

For the Nuclear Regulatory Commission.

Roy P. Zimmerman,
Director Office of Enforcement.

[FR Doc. 2014–11616 Filed 5–19–14; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Court Orders Affecting Retirement Benefits, 5 CFR 838.221, 838.421, and 838.721, 3206–0204

AGENCY: Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an extension, without change, of a currently approved information collection request (ICR) 3206–0204, Court Orders Affecting Retirement Benefits. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on January 23, 2014 at Volume 79 FR 3880 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until June 19, 2014. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent by email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent by email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Court Orders Affecting Retirement Benefits, 5 CFR 838.221, 838.421, and 838.721 describe how former spouses give us written notice of a court order requiring us to pay benefits to the former spouse. Specific information is needed before OPM can make court-ordered benefit payments.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Court Orders Affecting Retirement Benefits, 5 CFR 838.221, 838.421, and 838.721.

OMB Number: 3206–0204.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 19,000.

Estimated Time Per Respondent: 30 minutes.

Total Burden Hours: 9,500.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–11617 Filed 5–19–14; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Letter Reply to Request for Information; Former Spouse Survivor Annuity Election; Information on Electing a Survivor Annuity for Your Former Spouse, 3206–0235

AGENCY: Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an extension, without change, of a currently approved information collection request, (ICR) 3206–0235, Letter Reply to Request for Information and Information on Electing a Survivor Annuity for Your Former Spouse. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on January 23, 2014 at Volume 79 FR 3881 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until June 19, 2014. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent by email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent by email to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

RI 20–64, Letter Reply to Request for Information, is used by the Civil Service Retirement System (CSRS) to provide information about the amount of annuity payable after a survivor reduction, to explain the annuity reductions required to pay for the survivor benefit, and to give the beginning rate of survivor annuity. RI 20–64A, Former Spouse Survivor Annuity Election, is used by the CSRS to obtain a survivor benefits election from annuitants who are eligible to elect to provide survivor benefits for a former spouse. RI 20–64B, Information on Electing a Survivor Annuity for Your Former Spouse, is a pamphlet that provides important information to retirees under the CSRS who want to provide a survivor annuity for a former spouse.

Analysis:

Agency: Retirement Operations, Retirement Services, Office of Personnel Management

Title: Letter Reply to Request for Information; Former Spouse Survivor Annuity Election

OMB Number: 3206–0235

Frequency: On occasion

Affected Public: Individual or Households

Number of Respondents: 38

Estimated Time per Respondent: 45 minutes for RI 20–64A and 8 minutes for RI 20–64

Total Burden Hours: 24 hours

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–11614 Filed 5–19–14; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; March 2014

AGENCY: U.S. Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: This notice identifies Schedule A, B, and C appointing authorities applicable to a single agency that were established or revoked from March 1, 2014, to March 31, 2014.

FOR FURTHER INFORMATION CONTACT: Senior Executive Resources Services, Senior Executive Services and Performance Management, Employee Services, 202–606–2246.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 213.103, Schedule A, B, and C appointing authorities available for use by all agencies are codified in the Code of Federal Regulations (CFR). Schedule A, B, and C appointing authorities applicable to a single agency are not codified in the CFR, but the Office of Personnel Management (OPM) publishes a notice of agency-specific authorities established or revoked each month in the **Federal Register** at *www.gpo.gov/fdsys/.* OPM also publishes an annual notice of the consolidated listing of all Schedule A, B, and C appointing authorities, current as of June 30, in the **Federal Register**.

Schedule A

No Schedule A authorities to report during March 2014.

Schedule B

No Schedule B authorities to report during March 2014.

Schedule C

The following Schedule C appointing authorities were approved during March 2014.

Agency name	Organization name	Position title	Authorization No.	Effective date
DEPARTMENT OF AGRICULTURE	Office of the Secretary	Confidential Assistant	DA140046	3/ 21/ 2014
DEPARTMENT OF COMMERCE	International Trade Administration	Deputy Director of Public Affairs	DC140063	3/7/2014
COMMODITY FUTURES TRADING COMMISSION.	Office of the Chairperson	Attorney Advisor (General)	CT140003	3/14/2014
DEPARTMENT OF DEFENSE	Office of the Assistant Secretary of Defense (Homeland Defense and America's Security Affairs).	Special Assistant for Homeland Defense and Americas' Security Affairs.	DD140047	3/5/2014
	Office of the Assistant Secretary of Defense (Asian and Pacific Security Affairs).	Special Assistant for South and Southeast Asia.	DD140050	3/12/2014
	Washington Headquarters Services	Defense Fellow	DD140049	3/25/2014
DEPARTMENT OF THE ARMY	Office Assistant Secretary Army (Civil Works).	Special Assistant (Civil Works)	DW140011	3/13/2014
DEPARTMENT OF EDUCATION	Office of the Deputy Secretary	Confidential Assistant	DB140039	3/5/2014
	Office of Planning, Evaluation and Policy Development.	Confidential Assistant	DB140044	3/6/2014
		Deputy Assistant Secretary for Planning and Policy Development.	DB140048	3/6/2014
		Special Assistant	DB140052	3/13/2014
	Office of Elementary and Secondary Education.	Chief of Staff	DB140049	3/6/2014
	Office of the Secretary	Special Assistant	DB140015	3/11/2014
	Office of Communications and Outreach.	Assistant Press Secretary	DB140053	3/26/2014
		Deputy Assistant Secretary for State and Local Engagement.	DB140054	3/27/2014
DEPARTMENT OF ENERGY	Assistant Secretary for Congressional and Intergovernmental Affairs.	Senior Advisor	DE140044	3/5/2014
	Office of the Secretary	White House Liaison	DE140045	3/7/2014
	Assistant Secretary for Energy Efficiency and Renewable Energy.	Chief of Staff	DE140040	3/10/2014
	Office of Public Affairs	Deputy Press Secretary	DE140043	3/11/2014
	Office of Management	Special Assistant	DE140039	3/13/2014
ENVIRONMENTAL PROTECTION AGENCY.	Office of the Administrator	Deputy Press Secretary	EP140021	3/13/2014
EXPORT–IMPORT BANK	Office of the Chairman	Executive Secretary	EB140004	3/11/2014
	Office of Communications	Vice President of External Relations and Outreach.	EB140005	3/18/2014
GENERAL SERVICES ADMINISTRATION.	Pacific Rim Region	Special Assistant	GS140009	3/6/2014
DEPARTMENT OF HOMELAND SECURITY.	U.S. Customs and Border Protection.	Senior Advisor	DM140097	3/7/2014
		Advisor	DM140102	3/13/2014
	U.S. Immigration and Customs Enforcement.	Advisor to the Commissioner	DM140098	3/07/2014
		Congressional Relations Director	DM140099	3/11/2014
	U.S. Citizenship and Immigration Services.	Counselor	DM140100	3/11/2014
	Office of the Assistant Secretary for Policy.	Director	DM140101	3/11/2014
	Office of the Assistant Secretary for Policy.	Special Assistant	DM140105	3/14/2014
	Office of the Under Secretary for Science and Technology.	Special Assistant for Science and Technology.	DM140109	3/25/2014
	Office of the Chief of Staff	Director of Trips and Advance	DM140111	3/25/2014
	Federal Emergency Management Agency.	Special Assistant	DM140112	3/25/2014
	Privacy Officer	Advisor to the Chief Privacy Officer	DM140113	3/26/2014
	Immediate Office of the Deputy Secretary.	Special Assistant	DM140108	3/28/2014
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.	Office of Public Affairs	General Deputy Assistant Secretary for Public Affairs.	DU140014	3/20/2014
DEPARTMENT OF THE INTERIOR	Bureau of Safety and Environmental Enforcement.	Special Assistant	DI140021	3/25/2014
	Secretary's Immediate Office	Special Assistant (2)	DI140022	3/27/2014
			DI140023	3/27/2014
DEPARTMENT OF JUSTICE	Executive Office for United States Attorneys.	Counsel	DJ140037	3/28/2014
DEPARTMENT OF LABOR	Office of the Secretary	Special Assistant	DL140034	3/28/2014
NATIONAL ENDOWMENT FOR THE ARTS.	National Endowment for the Arts	Director of Public Affairs	NA140002	3/6/2014

Agency name	Organization name	Position title	Authorization No.	Effective date
		Congressional Liaison	NA140003	3/27/2014
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.	Occupational Safety and Health Review Commission.	Confidential Assistant	SH140001	3/26/2014
SMALL BUSINESS ADMINISTRATION.	Office of Communications and Public Liaison.	Senior Speechwriter	SB140012	3/21/2014
DEPARTMENT OF STATE	Bureau of Public Affairs	Staff Assistant	DS140065	3/5/2014
	Bureau of Western Hemisphere Affairs.	Staff Assistant	DS140011	3/11/2014
	Bureau of Legislative Affairs	Legislative Management Officer	DS140067	3/11/2014
	Bureau of International Narcotics and Law Enforcement Affairs.	Senior Advisor	DS140024	3/13/2014
	Office of the Under Secretary for Public Diplomacy and Public Affairs.	Staff Assistant	DS140069	3/19/2014
DEPARTMENT OF THE TREASURY.	Under Secretary for Terrorism and Financial Intelligence.	Senior Policy Advisor	DY140047	3/6/2014
	Assistant Secretary for Financial Institutions.	Senior Advisor	DY140053	3/10/2014
UNITED STATES INTERNATIONAL TRADE COMMISSION.	Office of Commissioner Broadbent	Staff Assistant	TC140005	3/7/2014
DEPARTMENT OF VETERANS AFFAIRS.	Office of the Secretary and Deputy	Special Assistant/ White House Liaison.	DV140026	3/27/2014

The following Schedule C appointing authorities were revoked during March 2014.

Agency name	Organization name	Position Title	Authorization No.	Vacate date
COMMODITY FUTURES TRADING COMMISSION.	Office of the Chairperson	Public Affairs Specialist (Speechwriter).	CT110003	3/13/2014
DEPARTMENT OF EDUCATION	Office of Innovation and Improvement.	Confidential Assistant	DB120062	3/7/2014
	Office of Planning, Evaluation and Policy Development.	Chief of Staff	DB100040	3/8/2014
	Special Assistant	DB100074	3/8/2014	
	Office of Legislation and Congressional Affairs.	Chief of Staff	DB120063	3/8/2014
	Office of the Deputy Secretary	Confidential Assistant	DB130052	3/14/2014
	Office of Vocational and Adult Education.	Special Assistant	DB130010	3/22/2014
DEPARTMENT OF HOMELAND SECURITY.	U.S. Citizenship and Immigration Services.	Counselor to the Director	DM100341	3/13/2014
	Office of the Under Secretary for National Protection and Programs Directorate.	Senior Advisor for Public Affairs	DM120086	3/22/2014
DEPARTMENT OF LABOR	Office of the Secretary	White House Liaison	DL130029	3/21/2014
DEPARTMENT OF TRANSPORTATION.	Administrator	Director, Office of Governmental Affairs, Policy and Strategic Planning.	DT100040	3/14/2014
ENVIRONMENTAL PROTECTION AGENCY.	Office of the Assistant Administrator for Air and Radiation.	Senior Counsel to the Assistant Administrator for Air and Radiation.	EP100018	3/1/2014
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.	Occupational Safety and Health Review Commission.	Confidential Assistant to the Chairman.	SH090007	3/7/2014

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp., p. 218.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–11618 Filed 5–19–14; 8:45 am]

BILLING CODE 6325–39–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 163; SEC File No. 270–556, OMB Control No. 3235–0619.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission

(''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Rule 163 (17 CFR 230.163) provides an exemption from Section 5(c) (15 U.S.C. 77e(c)) under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) for certain communications by or on behalf of a well-known seasoned issuer. The information filed under Rule 163 is publicly available. We estimate that it takes approximately 0.24 burden hours per response to provide the information required under Rule 163 and is filed by approximately 53 issuers. We estimate that 25% of the 0.24 hours per response (0.06 hours) is prepared by the issuer for an annual reporting burden of 3 hours (0.06 hours per response × 53 responses).

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 control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC. 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: May 14, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–11573 Filed 5–19–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Form CB., SEC File No. 270–457, OMB Control No. 3235–0518.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form CB (17 CFR 239.800) is a document filed in connection with a tender offer for a foreign private issuer. This form is used to report an issuer tender offer conducted in compliance with Exchange Act Rule 13e–4(h)(8) (17 CFR 240.13e–4(h)(8)), a third-party tender offer conducted in compliance with Exchange Act Rule 14d–1(c) (17 CFR 240.14d–1(c)) and a going private transaction conducted in accordance with Rule 13e–3(g)(6) (17 CFR 240.13e–3(g)(6). Form CB is also used by a subject company pursuant to Exchange Act Rule 14e–2(d) (17 CFR 240.14e–2(d)). This information is made available to the public. Information provided on Form CB is mandatory. Form CB takes approximately 0.5 hours per response to prepare and is filed by approximately 200 respondents annually. We estimate that 25% of the 0.5 hours per response (0.125 hours) is prepared by the respondent for an annual reporting burden of 25 hours (0.125 hours per response x 200 responses).

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 control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: May 14, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–11575 Filed 5–19–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Regulation S–X; SEC File No. 270–003, OMB Control No. 3235–0009.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Information collected and information prepared pursuant to Regulation S–X focus on the form and content of, and requirements for, financial statements filed with periodic reports and in connection with the offer and sale of securities. Investors need reasonably current financial statements to make informed investment and voting decisions.

The potential respondents include all entities that file registration statements or reports pursuant to the Securities Act of 1933 (15 U.S.C. 77a, *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a, *et seq.*) or the Investment Company Act of 1940 (15 U.S.C. 80a–1, *et seq.*).

Regulation S–X specifies the form and content of financial statements when those financial statements are required to be filed by other rules and forms under the federal securities laws. Compliance burdens associated with the financial statements are assigned to the rule or form that directly requires the financial statements to be filed, not to Regulation S–X. Instead, an estimated burden of one hour traditionally has been assigned to Regulation S–X for incidental reading of the regulation. The estimated average burden hours are solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules or forms.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate

of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F St. NE., Washington DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: May 14, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–11574 Filed 5–19–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31046; 812–14147]

Partners Group Private Equity (Master Fund), LLC and Partners Group (USA) Inc.; Notice of Application

May 14, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(c) and 18(i) of the Act and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

Summary of Application: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of limited liability company interests (''Interests'') with sales loads and/or asset-based distribution and/or service fees and contingent deferred sales loads (''CDSCs'').

Applicants: Partners Group Private Equity (Master Fund), LLC (the ''Fund'') and Partners Group (USA) Inc. (the ''Adviser'') (together, the ''Applicants'').

Filing Dates: The application was filed on April 10, 2013 and amended on June 10, 2013, September 18, 2013, and April 28, 2014.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail.

Hearing requests should be received by the Commission by 5:30 p.m. on June 9, 2014, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants, c/o Brooks Lindberg, Esq., Partners Group (USA) Inc., 1114 Avenue of the Americas, 37th Floor, New York, New York 10036.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, at (202) 551–6876 or Daniele Marchesani, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.html* or by calling (202) 551–8090.

Applicants' Representations

1. The Fund is a continuously offered closed-end management investment company registered under the Act and organized as a Delaware limited liability company.[1] The Adviser, a Delaware corporation, is registered with the Commission as an investment adviser under the Investment Advisers Act of 1940, as amended (the ''Advisers Act''). Foreside Fund Services, LLC, a registered broker-dealer under the Securities Exchange Act of 1934, as amended (''1934 Act''), currently acts as a placement agent for the Fund. Foreside Fund Services, LLC and any future placement agent or distributor of the Fund (the ''Placement Agent'') will be unaffiliated with the Adviser.

2. The Fund continuously offers Interests[2] in private placements in reliance on the provisions of Regulation D under the Securities Act of 1933, as amended (''Securities Act'').[3] Interests of the Fund are not listed on any securities exchange and do not trade on an over-the-counter system such as NASDAQ. Applicants do not currently expect that a substantial and regular secondary market for the Interests will develop.

3. The Fund currently issues a single class of Interests (the ''Initial Class''). Interests in the Initial Class are not currently subject to a sales load or distribution and/or service fees. If the requested relief is granted, the Fund intends to redesignate its Initial Class as the ''Service Class.'' Additionally, if the requested relief is granted, the Fund currently intends to continuously offer at least one additional class of Interests, ''Institutional Class,'' with each class having its own fee and expense structure. For the Service Class and Institutional Class, the Placement Agent may charge a front-end sales load. Any waiver of, scheduled variation in, or elimination of, the sales load will comply with the requirements of rule 22d–1 under the Act as if that rule applied to closed-end management investment companies. Each class may (but would not necessarily) be subject to asset-based distribution and/or service fees.

4. In order to provide a limited degree of liquidity to members (''Members''), the Fund may from time to time offer to repurchase Interests at their then current net asset value pursuant to rule 13e–4 under the 1934 Act pursuant to written tenders by Members.[4] Repurchases will be made at such times, in such amounts and on such terms as may be determined by the Fund's board of managers (the ''Board''), in its sole discretion. The Adviser expects to

[1] The Fund currently serves as the master fund in a master-feeder structure operating in accordance with section 12(d)(1)(E) of the Act with four feeder funds. If the requested relief is granted and Members (as defined below) of the Fund approve the reorganization of the feeder funds into the Fund, the feeder funds will be dissolved and the Fund will no longer operate within a master-feeder structure. If the feeder funds are not dissolved, applicants will not rely on the requested relief.

[2] ''Interests'' includes any other equivalent designation of a proportionate ownership interest (such as shares or units) of the Fund (or any other registered closed-end management investment company relying on the requested order).

[3] Interests of the Fund are only sold to ''accredited investors,'' as defined in Regulation D under the Securities Act, and ''qualified clients,'' as defined in the Adviser's Act. The Fund reserves the right to conduct a public offering of the Interests under the Securities Act in the future.

[4] Service Class and Institutional Class Interests will be subject to an early repurchase fee at a rate of 2% of the aggregate net asset value of the Member's Interest repurchased by the Fund (the ''Early Repurchase Fee'') if the interval between the date of purchase of the Interests and the valuation date with respect to the repurchase of the Interest is less than one year. The Early Repurchase Fee will equally apply to all classes of Interests of the Fund, consistent with section 18 of the Act and rule 18f–3 thereunder. To the extent the Fund determines to waive, impose scheduled variations of, or eliminate the Early Repurchase Fee, it will do so consistently with the requirements of rule 22d–1 under the Act and the Fund's waiver of, scheduled variation in, or elimination of, the Early Repurchase Fee will apply uniformly to all classes of shares of the Fund.

ordinarily recommend that the Board authorize the Fund to offer to repurchase Interests from Members quarterly.

5. The Applicants request that the order also apply to any other continuously-offered registered closed-end management investment company existing now or in the future, for which the Adviser or any entity controlling, controlled by, or under common control (as the term ''control'' is defined in section 2(a)(9) of the Act) with the Adviser acts as investment adviser, and which provides periodic liquidity with respect to its Interests pursuant to rule 13e–4 under the 1934 Act.[5]

6. Applicants represent that any asset-based service and distribution fees will comply with the provisions of rule 2830(d) of the Conduct Rules of the National Association of Securities Dealers, Inc. (''NASD Conduct Rule 2830'').[6] Applicants also represent that the Fund will disclose in each private placement memorandum the fees, expenses and other characteristics of each class of Interests offered for sale by that private placement memorandum, as is required for open-end, multiple class funds under Form N–1A. The Fund will disclose fund expenses borne by Members as if it were an open-end management investment company during the reporting period in Member reports and describe in its private placement memorandum any arrangements that result in breakpoints in, or elimination of, sales loads with respect to each class of Interests offered for sale by that prospectus.[7] The Fund or Placement Agent will also comply with any requirement that may be adopted by the Commission or FINRA regarding disclosure at the point of sale and in transaction confirmations about the costs and conflicts of interest arising out of the distribution of open-end investment company shares, and regarding private placement memorandum disclosure of sales loads and revenue sharing arrangements as if those requirements applied to the Fund and the Placement Agent.[8] In addition, Applicants will comply with applicable enhanced fee disclosure requirements for fund of funds, including registered funds of hedge funds.[9]

7. All expenses incurred by the Fund will be allocated among its various classes of Interests based on the respective net assets of the Fund attributable to each such class, except that the net asset value and expenses of each class will reflect the expenses associated particularly with the distribution and service plan, Member servicing fees (including transfer agency fees) and any other incremental expense particular to each class. Expenses of the Fund allocated to a particular class of the Fund's Interest will be borne on a pro rata basis by each outstanding Interest of that class. The Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

8. Although the Fund does not currently intend to impose CDSCs, the Fund will only impose a CDSC in compliance with rule 6c–10 as if that rule applied to closed-end management investment companies. Applicants further state that, in the event it imposes CDSCs, the Fund will apply the CDSCs (and any waivers or scheduled variations of the CDSCs) uniformly to all Members of a given class and consistently with the requirements of rule 22d–1 under the Act.

Applicants' Legal Analysis

Multiple Classes of Shares

1. Section 18(c) of the Act provides, in relevant part, that a closed-end investment company may not issue or sell any senior security if, immediately thereafter, the company has outstanding more than one class of senior security. Applicants state that the creation of multiple classes of Interests of the Funds may be prohibited by section 18(c) of the Act.

2. Section 18(i) of the Act provides that each share of stock issued by a registered management investment company will be a voting stock and have equal voting rights with every other outstanding voting stock. Applicants state that permitting multiple classes of Interests of the Funds may violate section 18(i) of the Act because each class would be entitled to exclusive voting rights with respect to matters solely related to that class.

3. Pursuant to section 6(c) of the Act, the Commission may, by order on application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or from any rule or regulation under the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request exemptive relief under section 6(c) from sections 18(c) and 18(i) to permit the Funds to issue multiple classes of Interests.

4. Applicants also believe that the proposed allocation of expenses relating to distribution and voting rights is equitable and will not discriminate against any group or class of Members. Applicants submit that the proposed arrangements would permit the Fund to facilitate the distribution of Interests and provide investors with a broader choice of Member options. Applicants believe that the proposed multiple class system does not raise the concerns underlying section 18 of the Act to any greater degree than open-end investment companies' multiple class structures. Applicants believe that the rationale for and the conditions contained in rule 18f–3 are as applicable to a closed-end investment company seeking to offer multiple classes of Interests with varying distribution and service arrangements in a single portfolio as they are to open-end investment companies. Applicants state that the Fund will comply with the provisions of rule 18f–3 as if it were an open-end investment company.

CDSCs

1. Applicants believe that the requested relief meets the standards of section 6(c) of the Act. Rule 6c–10 under the Act permits open-end investment companies to impose CDSCs, subject to certain conditions. Applicants state that although the Fund does not currently intend to impose CDSCs, the Fund will only impose a CDSC in compliance with rule 6c–10 as if that rule applied to closed-end management investment companies. The Fund would also make required disclosures in accordance with the requirements of Form N–1A concerning CDSCs as if the Fund were an open-end

[5] Any Fund relying on this relief will do so in a manner consistent with the terms and conditions of the application. Applicants represent that each investment company presently intending to rely on the order requested in the application is listed as an applicant.

[6] All references to NASD Conduct Rule 2830 include any successor or replacement rule that may be adopted by FINRA.

[7] See Shareholder Reports and Quarterly Portfolio Disclosure of Registered Management Investment Companies, Investment Company Act Release No. 26372 (Feb. 27, 2004) (adopting release); and Disclosure of Breakpoint Discounts by Mutual Funds, Investment Company Act Release No. 26464 (June 7, 2004) (adopting release).

[8] See Confirmation Requirements and Point of Sale Disclosure Requirements for Transactions in Certain Mutual Funds and Other Securities and Other Confirmation Requirement Amendments, and Amendments to the Registration Form for Mutual Funds, Investment Company Act Release No. 26341 (Jan. 29, 2004) (proposing release).

[9] Fund of Funds Investments, Investment Company Act Rel. Nos. 26198 (Oct. 1, 2003) (proposing release) an 27399 (Jun. 20, 2006) (adopting release). See also Rules 12d1–1, et seq. of the Act.

investment company. Applicants further state that, in the event it imposes CDSCs, the Fund will apply the CDSCs (and any waivers or scheduled variations of the CDSCs) uniformly to all Members of a given class and consistently with the requirements of rule 22d–1 under the Act. Finally, to the extent the Fund determines to waive, impose scheduled variations of, or eliminate the Early Repurchase Fee, it will do so consistently with the requirements of Rule 22d–1 under the 1940 Act and the Fund's waiver of, scheduled variation in, or elimination of, the Early Repurchase Fee will apply uniformly to all classes of shares of the Fund.

Asset-based Service and Distribution Fees

1. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates unless the Commission issues an order permitting the transaction. In reviewing applications submitted under section 17(d) and rule 17d–1, the Commission considers whether the participation of the investment company in a joint enterprise or joint arrangement is consistent with the provisions, policies and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants.

2. Rule 17d–3 under the Act provides an exemption from section 17(d) and rule 17d–1 to permit open-end investment companies to enter into distribution arrangements pursuant to rule 12b–1 under the Act. Applicants request an order pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder to the extent necessary for the Fund to pay asset-based distribution and/or service fees. Applicants have agreed to comply with rules 12b–1 and 17d–3 as if those rules applied to closed-end investment companies.

Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Applicants will comply with the provisions of rules 6c–10, 12b–1, 17d–3, 18f–3, and 22d–1 under the Act, as amended from time to time or replaced, as if those rules applied to closed-end management investment companies, and will comply with NASD Conduct Rule 2830, as amended from time to time or replaced, as if that rule applied to all closed-end management investment companies.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–11571 Filed 5–19–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Wednesday, May 21, 2014 at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Stein, as duty officer, voted to consider the items listed for the Closed Meeting in closed session, and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

institution and settlement of administrative proceedings;

an adjudicatory matter; and

other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: May 15, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–11706 Filed 5–16–14; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72163; File No. SR–ISE–2014–27]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees

May 14, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 2, 2014, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change, as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. 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 ISE proposes to amend its Schedule of Fees to introduce a new Market Maker Plus rebate for Market Makers that quote certain symbols in size, and to update the definition of Mini Option to reflect the recent Google stock split. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.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 self-regulatory organization 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 self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Schedule of Fees to introduce a new Market Maker Plus rebate for Market Makers that quote certain symbols in size, and to update the definition of Mini Option to reflect the recent Google stock split. The fee changes discussed apply to both Standard Options and Mini Options traded on the Exchange. The Exchange's Schedule of Fees has separate tables for fees applicable to Standard Options and Mini Options. The Exchange notes that while the discussion below relates to fees for Standard Options, the fees for Mini Options, which are not discussed below, are and shall continue to be 1/10th of the fees for Standard Options.

1. Market Maker Plus: BAC, SPY, IWM

In order to promote and encourage liquidity in symbols that are in the penny pilot program (''Select Symbols''), the Exchange currently offers Market Makers [3] who meet the quoting requirements for Market Maker Plus [4] a rebate of $0.20 per contract for adding liquidity in those symbols. In addition, the Exchange pays a higher rebate of $0.22 per contract to Market Makers who meet the quoting requirements for Market Maker Plus and are affiliated with an Electronic Access Member (''EAM'') that executes a total affiliated Priority Customer [5] average daily volume (''ADV'') of 200,000 contracts or more in a calendar month. The Exchange now proposes to introduce an additional higher Market Maker Plus rebate for members that meet specified quotation size requirements on a trade by trade basis in three actively traded Select Symbols: Bank of America Corp (''BAC''), SPDR S&P 500 ETF Trust (''SPY''), and the iShares Russell 2000 ETF (''IWM'').[6] In particular, Market Makers who qualify as Market Maker Plus in BAC, SPY, and IWM will earn a rebate of $0.25 per contract if at the time of the trade their displayed quantity, [7] in the traded series, [8] is at least 1,000 contracts.[9] Market Makers that achieve Market Maker Plus will continue to receive the current rebate amounts when the Market Maker does not have a displayed size of 1,000 contracts or more at the time of the trade. If a Market Maker that qualifies for the $0.22 per contract Market Maker Plus rebate based on total affiliated Priority Customer ADV also qualifies for the new rebate that Market Maker will receive the higher $0.25 per contract rebate.

2. Mini Option Definition: Google Stock Split

The ISE recently amended Supplementary Material .13 to Rule 504, listing standards for Mini Options, to enable the continued trading of Mini Options on Google Class A shares, which were assigned a new symbol, ''GOOGL'', in connection with Google's recent stock split.[10] The Exchange now proposes to similarly update the definition of ''Mini Option'' in its Schedule of Fees to indicate that Mini Options include options overlying ten shares of ''GOOGL''. As proposed, ''Mini Options'' are options overlying ten (10) shares of AAPL, AMZN, GLD, GOOGL and SPY.[11]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[12] in general, and Section 6(b)(4) of the Act, [13] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

1. Market Maker Plus: BAC, SPY, IWM

The Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to introduce a higher Market Maker Plus rebate for Market Makers that meet the specified quotation size requirements in BAC, SPY, and IWM as the higher rebates will encourage Market Makers to post deep markets in these actively traded symbols, which will benefit all market participants that trade on the ISE. The Market Maker Plus rebate is competitive with incentives provided by other exchanges, and has proven to be an effective incentive for Market Makers to provide liquidity in Select Symbols. The Exchange believes that the new rebate will similarly be effective in encouraging Market Makers to post tighter markets, in size, in BAC, SPY, and IWM. Furthermore, the Exchange believes that the new Market Maker Plus rebate for these symbols is not unfairly discriminatory because all Market Makers can achieve the new higher rebate by satisfying the current quoting requirements and maintaining quotes of 1,000 contracts or more (at the time of the trade) in these symbols.

2. Mini Option Definition: Google Stock Split

As part of Google's recent stock split, the symbol ''GOOG'' was assigned to the new Google Class C shares, while Google Class A shares were assigned the symbol ''GOOGL''. The Exchange recently updated its Mini Options rules to clarify that it will continue listing Mini Options on the Google Class A shares, i.e., GOOGL, and believes that it is reasonable, equitable, and not unfairly discriminatory to update the definition of ''Mini Option'' in the Schedule of Fees in order to eliminate investor confusion about which options classes are tradable as Mini Options on the Exchange.

The Exchange notes that it has determined to charge fees and provide rebates in Mini Options at a rate that is 1/10th the rate of fees and rebates the Exchange provides for trading in Standard Options. The Exchange believes it is reasonable and equitable and not unfairly discriminatory to assess lower fees and rebates to provide market participants an incentive to trade Mini Options on the Exchange. The Exchange believes the proposed fees and rebates are reasonable and equitable in light of the fact that Mini Options have a smaller exercise and assignment value, specifically 1/10th that of a standard option contract, and, as such, is providing fees and rebates for Mini

[3] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* ISE Rule 100(a)(25).

[4] A Market Maker Plus is a Market Maker who is on the National Best Bid or National Best Offer at least 80% of the time for series trading between $0.03 and $3.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $3.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium in each of the front two expiration months. A Market Maker's single best and single worst quoting days each month based on the front two expiration months, on a per symbol basis, will be excluded in calculating whether a Market Maker qualifies for this rebate, if doing so will qualify a Market Maker for the rebate.

[5] A Priority Customer is defined in ISE Rule 100(a)(37A) as a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[6] The new rebate will only apply to Mini Options on SPY as the ISE does not offer Mini Options on BAC or IWM.

[7] There is no trade quantity minimum.

[8] There is no requirement that the Market Maker maintain a quote size of 1,000 contracts in all series in order to qualify for the higher rebate.

[9] 1,000 contract size requirement applies to both Standard Options and Mini Options.

[10] *See* Securities Exchange Act Release No. 71932 (April 11, 2014), 79 FR 21816 (April 17, 2014) (SR–ISE–2014–21).

[11] For purposes of the Schedule of Fees, AAPL, AMZN, GLD and SPY are Select Symbols and GOOGL is a Non-Select Symbol.

[12] 15 U.S.C. 78f.

[13] 15 U.S.C. 78f(b)(4).

Options that are 1/10th of those applicable to Standard Options.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, [14] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed rule change is pro-competitive as it provides an additional incentive for Market Makers to make deep markets in three actively traded Select Symbols, which will benefit all market participants that trade on the ISE. In addition, the proposed change to the definition of Mini Option is a technical change that will have no competitive impact. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [15] and subparagraph (f)(2) of Rule 19b–4 thereunder, [16] because it establishes a due, fee, or other charge imposed by ISE.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings 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 No. SR–ISE–2014–27 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–ISE–2014–27. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. 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–ISE–2014–27 and should be submitted by June 10, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–11570 Filed 5–19–14; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78f(b)(8).

[15] 15 U.S.C. 78s(b)(3)(A)(ii).

[16] 17 CFR 240.19b–4(f)(2).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Fusion Pharm, Inc.; Order of Suspension of Trading

May 16, 2014.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of FusionPharm, Inc. (''FusionPharm'') because of questions regarding the accuracy of assertions by FusionPharm and by others, in filings and disclosures made by FusionPharm on OTC Link (previously ''Pink Sheets'') operated by OTC Markets Group. Inc. and press releases to investors concerning, among other things: (1) The company's assets; (2) the company's revenues; (3) the company's financial statements; (4) the company's business transactions; and (5) the company's current financial condition.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended from the period 9:30 a.m. EDT, on May 16, 2014, through 11:59 p.m. EDT, on May 30, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–11739 Filed 5–16–14; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Global Stevia Corp.; Order of Suspension of Trading

May 16, 2014.

It appears to the Securities and Exchange Commission that there is a lack of complete and accurate information concerning the securities of

Global Stevia Corp. (''Global Stevia'') because of questions that have been raised about the accuracy and reliability of publicly available information concerning, among other things, possible undisclosed control persons of Global Stevia. Global Stevia was a Nevada corporation based in Hammonds Plains, Nova Scotia, Canada, whose corporate status was revoked in January 2014. Its securities are quoted on OTC Link (previously ''Pink Sheets'') operated by OTC Markets Group, Inc. under the ticker symbol ''GSTV.''

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on May 16, 2014, through 11:59 p.m. EDT on May 30, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–11738 Filed 5–16–14; 11:15 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13977 and #13978]

North Carolina Disaster #Nc-00061

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of North Carolina dated 05/14/2014.

Incident: Tornadoes, High Winds, and Severe Storms.

Incident Period: 04/25/2014.

Effective Date: 05/14/2014.

Physical Loan Application Deadline Date: 07/14/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 02/16/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Beaufort; Pasquotank; Perquimans.

Contiguous Counties:

North Carolina: Camden; Chowan; Craven; Gates; Hyde; Martin; Pamlico; Pitt; Washington.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.375
Homeowners Without Credit Available Elsewhere	2.188
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 13977 C and for economic injury is 13978 0.

The State which received an EIDL Declaration # is North Carolina.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: May 14, 2014.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–11691 Filed 5–19–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13985]

Colorado Disaster # Co-00068 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Colorado, dated 05/14/2014.

Incident: Red Mountain Pass Rockslide.

Incident Period: 01/13/2014 and continuing.

Effective Date: 05/14/2014.

EIDL Loan Application Deadline Date: 02/16/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Ouray.

Contiguous Counties:

Colorado: Gunnison; Hinsdale; Montrose; San Juan; San Miguel.

The Interest Rates are:

	Percent
Businesses And Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for economic injury is 139850

The State which received an EIDL Declaration # is Colorado.

(Catalog of Federal Domestic Assistance Number 59002)

Dated: May 14, 2014.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–11694 Filed 5–19–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Advisory Committee on Veterans Business Affairs

AGENCY: U.S. Small Business Administration.

ACTION: Notice of open Federal Advisory Committee meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time, and agenda for the next meeting of the Advisory Committee on Veterans Business Affairs. The meeting will be open to the public.

DATES: Wednesday, June 11, 2014 from 9 a.m. to 4 p.m.

ADDRESSES: U.S. Small Business Administration, 409 3rd Street SW., Washington, DC 20416. *Room:* Eisenhower Conference room, located on the Concourse Level.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Advisory Committee on Veterans Business Affairs. The Advisory Committee on Veterans Business Affairs serves as an independent source of advice and policy recommendation to the Administrator of the U.S. Small Business Administration.

The purpose of this meeting is to discuss current and future programs for veterans' small business owners. For information regarding our veterans' resources and partners, please visit our Web site at *www.sba.gov/vets*.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public, however, advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the Advisory Committee must contact Barbara Carson, by June 1, 2014, by email in order to be placed on the agenda. Comments for the Record should be emailed prior to the meeting for inclusion in the public record, verbal presentations; however, will be limited to five minutes in the interest of time and to accommodate as many presenters as possible. Written comments should be emailed to Barbara Carson, Deputy Associate Administrator, Office of Veterans Business Development, U.S. Small Business Administration, 409 3rd Street SW., Washington, DC 20416.

Additionally, if you need accommodations because of a disability or require additional information, please contact Barbara Carson, Designated Federal Official for the Advisory Committee on Veterans Business Affairs at (202) 205–6773; or by email at *barbara.carson@sba.gov*. For more information, please visit our Web site at *www.sba.gov/vets*.

Dated: May 14, 2014.

Diana Doukas,

SBA Committee Management Officer.

[FR Doc. 2014–11628 Filed 5–19–14; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

Interagency Task Force on Veterans Small Business Development

AGENCY: U.S. Small Business Administration.

ACTION: Notice of open Federal Interagency Task Force meeting.

SUMMARY: The SBA is issuing this notice to announce the location, date, time, and agenda for its public meeting of the Interagency Task Force on Veterans Small Business Development. The meeting will be open to the public.

DATES: Friday, June 6, 2014, from 9:00 a.m. to 12:00 p.m.

ADDRESSES: SBA 409 3rd Street NW., Washington, DC 20419.

Room: Eisenhower Conference room, located on the Concourse Level.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), SBA announces the meeting of the Interagency Task Force on Veterans Small Business Development. The Task Force is established pursuant to Executive Order 13540 and focused on coordinating the efforts of Federal agencies to improve capital, business development opportunities and pre-established Federal contracting goals for small business concerns owned and controlled by veterans (VOB's) and service-disabled veterans (SDVOSB'S). Moreover, the Task Force shall coordinate administrative and regulatory activities and develop proposals relating to ''three focus areas'': (1) Training, Counseling & Capital; (2) Federal Contracting & Verification; (3) Improved Federal Support On November 1, 2011, the Interagency Task Force on Veterans Small Business Development submitted its first report to the President, which included 18 Recommendations. In addition, the Task Force will allow time to obtain public comment from individuals and representatives of organizations regarding the areas of focus.

FOR FURTHER INFORMATION CONTACT: The meeting is open to the public, however, advance notice of attendance is requested. Anyone wishing to attend and/or make a presentation to the Task Force must contact Barbara Carson, by May 30, 2014 by email in order to be placed on the agenda. Comments for the Record should be applicable to the ''three focus areas'' of the Task Force and emailed prior to the meeting for inclusion in the public record, verbal presentations; however, will be limited to five minutes in the interest of time and to accommodate as many presenters as possible. Written comments should be emailed to Barbara Carson, Designated Federal Officer Office of Veterans Business Development, U.S. Small Business Administration, 409 3rd Street SW., Washington, DC 20416, at the email address for the Task Force, *vetstaskforce@sba.gov.* Additionally, if you need accommodations because of a disability or require additional information, please contact Barbara Carson, Designated Federal Official for the Task Force at (202) 205–6773; or by email at: *barbara.carson@sba.gov.* For more information, please visit our Web site at *www.sba.gov/vets.*

Dated: May 14, 2014.

Diana Doukas,

SBA Committee Management Officer.

[FR Doc. 2014–11627 Filed 5–19–14; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 8737]

60-Day Notice of Proposed Information Collection: Foreign Service Officer Test Registration Form

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to June 19, 2014.

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

- *Web:* Persons with access to the Internet may use the Federal Docket Management System (FDMS) to comment on this notice by going to *www.Regulations.gov*. You can search for the document by entering ''Public Notice 8737'' in the Search bar. If necessary, use the Narrow by Agency filter option on the Results page.
- *Email: StaebenDK@state.gov*.
- *Mail:* HR/REE, SA–1, H–518, 2401 E Street NW., Washington DC 20522.
- *Fax:* 202.923.6472.
- *Hand Delivery or Courier:* SA–44, 301 4th Street SW., Room 324, Washington, DC 20547; telephone: 202.203.5117.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests

for copies of the proposed collection instrument and supporting documents, to Claudia M. Coleman, who may be reached on 202.203.5126 or at *ColemanCM@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Foreign Service Officer Test Registration Form.
- *OMB Control Number:* 1405–0008.
- *Type of Request:* Extension.
- *Originating Office:* HR/REE/BEX.
- *Form Number:* DS–1998E.
- *Respondents:* registrants for the Foreign Service Officer Test.
- *Estimated Number of Respondents:* 32,000.
- *Estimated Number of Responses:* 32,000.
- *Average Time Per Response:* 2 hours.
- *Total Estimated Burden Time:* 64,000 hours.
- *Frequency:* on occasion.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection:

Individuals registering for the Foreign Service Officer Test will complete a registration form that consists of an application form that gathers information about their name, age, Social Security number, contact information, sex, race, national origin, disability, education, work history and military experience. The information will be used to prepare and issue admission to the Foreign Service officer test, to provide data useful for improving future tests and to conduct research studies based on the test results.

Methodology: Responses are submitted electronically.

Dated: May 12, 2014.

William E. Schaal, Jr.,

Executive Director, HE/EX, Department of State.

[FR Doc. 2014–11535 Filed 5–19–14; 8:45 am]

BILLING CODE 4710–15–P

DEPARTMENT OF STATE

[Public Notice 8738]

30-Day Notice of Proposed Information Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to June 19, 2014.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents to: Raymond Ciupek, Department of State, Office of Directives Management, 1800 G St. NW., Suite 2400, Washington, DC 20522–2202, who may be reached at *ciupekra@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.
- *OMB Control Number:* 1405–0193.
- *Type of Request:* Extension of an approved collection.
- *Originating Office:* Office of Directives Management, A/GIS/DIR.
- *Form Number:* Various public surveys.
- *Respondents:* Individuals responding to Department of State customer service evaluation requests.
- *Estimated Number of Respondents:* 125,000.
- *Estimated Number of Responses:* 125,000.
- *Average Time per Response:* 3.5 minutes.
- *Total Estimated Annual Burden Time:* 7,292 hours.
- *Frequency:* Once per request.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection:

The information collection activity will garner qualitative customer feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. This qualitative feedback will provide insights into customer perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require

more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

Methodology: Respondents will fill out a brief customer survey after completing their interaction with a Department Office or Embassy. Surveys are designed to gather feedback on the customer's experiences.

Dated: May 13, 2014.

Janet Freer,

Director, Office of Directives Management, Department of State.

[FR Doc. 2014–11533 Filed 5–19–14; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 8740]

Culturally Significant Objects Imported for Exhibition Determinations: ''Face to Face: The Neo-Impressionistic Portrait, 1886–1904''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Face to Face: The Neo-Impressionistic Portrait, 1886–1904,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Indianapolis Museum of Art, Indianapolis, Indiana, from on or about June 13, 2014, until on or about September 7, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: May 13, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–11671 Filed 5–19–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

[Docket ID Number RITA 2008–0002]

Agency Information Collection; Activity Under OMB Review; Report of Financial and Operating Statistics for Small Aircraft Operators

AGENCY: Office of the Assistant Secretary for Research and Technology.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for extension of currently approved collection. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 3, 2014 (79 FR 41, Page 11873). No comments were received.

DATES: Written comments should be submitted by June 19, 2014.

FOR FURTHER INFORMATION CONTACT: Marianne Seguin, Office of Airline Information, RTS–42, Room E34–418, OST–R, BTS, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, Telephone Number (202) 366–1547, Fax Number (202) 366–3383 or EMAIL *Marianne.Seguin@dot.gov.*

Comments: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street NW., Washington, DC 20503, Attention: RITA/BTS Desk Officer.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138–0009.

Title: Report of Financial and Operating Statistics for Small Aircraft Operators.

Form No.: BTS Form 298–C.

Type Of Review: Extension of a currently approved collection for the financial data.

Respondents: Small certificated (29) and commuter air carriers (24).

Schedule F1:

Number of Respondents: 53.

Number of Annual responses: 212.

Total Burden Per Response: 4 hours.

Total Annual Burden: 848 hours.

Schedule F2:

Number of Respondents: 29.

Number of Annual responses: 116.

Total Burden Per Response: 12 hours.

Total Annual Burden: 1,392 hours.

Needs and Uses: Program uses for Form 298–C financial data are as follows:

Mail Rates

The Department of Transportation sets and updates the Intra-Alaska Bush mail rates based on carrier aircraft operating expense, traffic, and operational data. Form 298–C cost data, especially fuel costs, terminal expenses, and line haul expenses are used in arriving at rate levels. DOT revises the established rates based on the percentage of unit cost changes in the carriers' operations. These updating procedures have resulted in the carriers receiving rates of compensation that more closely parallel their costs of providing mail service and contribute to the carriers' economic well-being.

Essential Air Service

DOT often has to select a carrier to provide a community's essential air service. The selection criteria include historic presence in the community, reliability of service, financial stability and cost structure of the air carrier.

Carrier Fitness

Fitness determinations are made for both new entrants and established U.S. domestic carriers proposing a substantial change in operations. A portion of these applications consists of an operating plan for the first year (14 CFR part 204) and an associated projection of revenues and expenses. The carrier's operating costs, included in these projections, are compared against the cost data in Form 298–C for a carrier or carriers with the same aircraft type and similar operating characteristics. Such a review validates the reasonableness of the carrier's operating plan.

The quarterly financial submissions by commuter and small certificated air

carriers are used in determining each carrier's continuing fitness to operate. Section 41738 of Title 49 of the United States Code requires DOT to find all commuter and small certificated air carriers fit, willing, and able to conduct passenger service as a prerequisite to providing such service to an eligible essential air service point. In making a fitness determination, DOT reviews three areas of a carrier's operation: (1) The qualifications of its management team, (2) its disposition to comply with laws and regulations, and (3) its financial posture. DOT must determine whether or not a carrier has sufficient financial resources to conduct its operations without imposing undue risk on the traveling public. Moreover, once a carrier begins conducting flight operations, DOT is required to monitor its continuing fitness.

Senior DOT officials must be kept fully informed and advised of all current and developing economic issues affecting the airline industry. In preparing financial condition reports or status reports on a particular airline, financial and traffic data are analyzed. Briefing papers prepared for senior DOT officials may use the same information.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 U.S.C. 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued on May 15, 2014.

Rolf R. Schmitt,

Deputy Director, Bureau of Transportation Statistics.

[FR Doc. 2014–11601 Filed 5–19–14; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Land Release for Canandaigua Airport (D38)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice, Request for Public Comment.

SUMMARY: The Federal Aviation Administration is requesting public comment on the Canandaigua Airport (D38), Canandaigua, New York, Notice of Proposed Release from Aeronautical Use of approximately 8.315 +/− acres of airport property, to allow for non-aeronautical development.

The parcel is located approximately west of the midpoint of Runway 13–31 at the Canandaigua Airport. The tract currently consists of 8.315 +/− acres and it is currently vacant. The requested release is for the purpose of permitting the Ontario County Industrial Development Agency (Airport Sponsor) to convey title of 8.315 +/− acres to Paul and Susan Yarnall in exchange for a 4.20 +/− acre parcel previously conveyed to the Ontario County Industrial Development Agency by Paul and Susan Yarnall. Documents reflecting the Sponsor's request are available, by appointment only, for inspection at the Office of the Ontario County Industrial Development Agency and the FAA New York Airport District Office.

DATES: Comments must be received by June 19, 2014.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Steven M. Urlass, Manager, FAA New York Airports District Office, 1 Aviation Plaza, Jamaica, New York 11434. In addition, a copy of any comments submitted to the FAA must be mailed or delivered to Mr. Michael Manikowski, Executive Director, Ontario County Industrial Development Agency, at the following address: 20 Ontario Street, Suite 1068, Canandaigua, NY 14424.

FOR FURTHER INFORMATION CONTACT: Steven M. Urlass, Manager, New York Airports District Office, 1 Aviation Plaza, Jamaica, New York 11434; telephone (718) 995–5771; FAX (718) 995–5790; email *Steve.Urlass@faa.gov*.

SUPPLEMENTARY INFORMATION: Section 125 of the Wendell H. Ford Aviation Investment and Reform Act for the 1st Century (AIR21) requires the FAA to provide an opportunity for public notice and comment before the Secretary may waive a Sponsor's Federal obligation to use certain airport land for aeronautical use.

Issued in Garden City, New York, on May 12, 2014.

Steven M. Urlass,

Manager, New York, Airports District Office, Eastern Region.

[FR Doc. 2014–11560 Filed 5–19–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA 2014–0022]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that FHWA will submit the collection of information described below to the Office of Management and Budget (OMB) for review and comment. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 14, 2014. The PRA submission describes the nature of the information collection and its expected cost and burden.

DATES: Please submit comments by June 19, 2014.

ADDRESSES: You may submit comments identified by DOT Docket ID 2014–0022 by any of the following methods:

Web site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *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, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: William Ostrum, 202–366–4651, Department of Transportation, FHWA, Office of Project Development and Environmental Review, E76–116, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: FHWA Environmental Excellence Awards

Background: In 1995 FHWA established the biennial Environmental Excellence Awards to recognize partners, projects, and processes that

use FHWA funding sources to go beyond environmental compliance and achieve environmental excellence. The Environmental Excellence Awards also recognize partners, projects, and processes that exemplify innovation and commitment to the human environment, and organization and process innovation. Awardees must make an outstanding contribution that goes beyond traditional transportation projects and that encourages environmental stewardship and partnerships to achieve a truly multi-faceted, environmentally sensitive transportation solution.

Award: Anyone can nominate a project, process, person or group that has used FHWA funding sources to make an outstanding contribution to transportation and the environment. The nominator is responsible for submitting an application via the FHWA Environmental Excellence Awards Web site that gives a summary of the outstanding accomplishments of the entry. The collected information will be used by FHWA to evaluate the project, showcase environmental excellence, and enhance the public's knowledge of environmental stewardship in the planning and project development process. Nominations will be reviewed by a panel of judges from varying backgrounds. It is anticipated that awards will be given every 2 years. The winners are presented plaques at an awards ceremony.

Respondents: Anyone who has used FHWA funding sources in the 50 States, U.S. territories, and the District of Columbia.

Frequency: The information will be collected biennially.

Estimated Average Burden per Response: 8 hours per respondent per application.

Estimated Total Annual Burden Hours: It is expected that the respondents will complete approximately 150 applications for an estimated total of 1200 annual burden hours.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: May 14, 2014.

Michael Howell,

Information Collection Officer.

[FR Doc. 2014–11623 Filed 5–19–14; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0010]

Report, Forms and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration, U.S. Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on March 14, 2014.

DATES: Comments must be submitted on or before June 19, 2014.

FOR FURTHER INFORMATION CONTACT: Wayne McKenzie, Office of Crash Avoidance Standards (NVS–121), National Highway Traffic Safety Administration, West Building W43–462, 1200 New Jersey Avenue SE., Washington, DC 20590. Mr. McKenzie can be reached at (202) 366–1729.

SUPPLEMENTARY INFORMATION:

Title: 49 CFR 571.125, Warning Devices.

OMB Control Number: 2127–0506.

Type of Request: Extension of a currently approved collection.

Abstract: 49 U.S.C. 30111, 30112 and 30117 of the National Traffic and Motor Vehicle Safety Act of 1966 as amended (''the Safety Act''), authorized the issuance of Federal Motor Vehicle Safety Standards (FMVSS). The Secretary is authorized to issue, amend, and revoke such rules and regulations as she/he deems necessary. Using this authority, the agency issued FMVSS No.125, ''Warning Devices'' (Appendix 2) which applies to devices, without self-contained energy sources, that are designed to be carried mandatory in buses and trucks that have a Gross Vehicle Weight Rating (GVWR) greater than 10,000 pounds and voluntarily in other vehicles. These devices are used to warn approaching traffic of the presence of a stopped vehicle, except for devices designed to be permanently affixed to the vehicles.

Affected Public: Businesses or other for profit organizations.

Estimated Number of Respondents: 3.

Estimated Number of Responses: 3.

Annual Estimated Total Annual Burden Hours: 1 hour.

Frequency of Collection:

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW., Washington, DC 20503.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

Claude H. Harris,

Acting Associate Administrator for Rulemaking.

[FR Doc. 2014–11598 Filed 5–19–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8937

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 8937, Report of Organizational Actions Affecting Basis of Securities.

DATES: Written comments should be received on or before July 21, 2014 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 form and instructions 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: Report of Organizational Actions Affecting Basis of Securities.

OMB Number: 1545–2224.

Form Number: 8937.

Abstract: Organizational actions that affect the basis of stock will be reported on this form. This form will be sent to stock holders of record and nominees affected.

Current Actions: There are no changes being made to this 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: 50,000.

Estimated Time per Respondent: 4 hrs., 8 mins.

Estimated Total Annual Burden Hours: 206,500.

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 8, 2014.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–11647 Filed 5–19–14; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

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Part II

Federal Communications Commission

47 CFR Part 73

2014 Quadrennial Regulatory Review; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket Nos. 14–50, 09–182, 07–294, and 04–256; FCC 14–28]

2014 Quadrennial Regulatory Review

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document completes the Commission's proceeding regarding the attribution of television joint sales agreements (JSAs)—in which a ''brokering station'' sells the advertising time for a ''brokered station''—for purposes of applying the broadcast ownership rules. The Commission, consistent with its prior decision to attribute radio JSAs, attributes to the brokering station same-market television JSAs that cover more than 15 percent of the weekly advertising time for the brokered station.

DATES: Effective June 19, 2014, except for the amendment to § 73.3613, which contains information collection requirements that are not effective until approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of these changes. A separate notice will be published in the **Federal Register** soliciting public and agency comments on the information collections and establishing a deadline for accepting such comments.

FOR FURTHER INFORMATION CONTACT: Hillary DeNigro, Industry Analysis Division, Media Bureau, FCC, (202) 418–2330. For additional information concerning the information collection requirements contained in the *Report and Order,* contact Cathy Williams at (202) 418–2918, or via the Internet at *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* in MB Docket Nos. 14–50, 09–182, 07–294, and 04–256; FCC 14–28, was adopted on March 31, 2014, and released on April 15, 2014. The complete text of the document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc., Portals II, 445 12th Street SW., Washington, DC 20554. Customers may contact BCPI, Inc. at their Web site *http://www.bcpi.com* or call 1–800–378–3160.

Synopsis

I. Introduction

Attribution of Television JSAs

1. The Commission finds that it has sufficient information to act with respect to the attribution of television JSAs, an issue on which comment was sought previously and renewed in the *NPRM,* 77 FR 2867, Jan. 19, 2012, FCC 11–186, rel. Dec. 22, 2011, in the 2010 Quadrennial Review proceeding. It has looked closely at its standards for defining the kinds of agreements between stations that confer a sufficient degree of influence or control so as to be considered an attributable ownership interest under the Commission's ownership rules. Consistent with the Commission's earlier findings regarding radio joint sales agreements (JSAs), it finds that certain television JSAs convey sufficient influence to warrant attribution. As discussed below, the ability of a broker to control a brokered television station's advertising revenue, its principal source of income, affords the broker the opportunity, ability, and incentive to exert significant influence over the brokered station. For that reason, the Commission will count television stations brokered under a same-market television JSA that encompasses more than 15 percent of the weekly advertising time for the brokered station toward the brokering station's permissible ownership totals, just as it long has done with respect to radio stations. The Commission will not count same-market JSAs toward the brokering licensee's national ownership cap to the extent that it would result in double-counting (*i.e.,* counting the same local population twice toward the national reach limit).

2. The Commission finds that a transition period is appropriate to permit licensees that entered into television JSAs of this type prior to the release of the *Report and Order* to conform their practices to its requirements. In addition, the Commission clarifies that the JSA attribution rules (radio and television) do not apply to national advertising representation agencies. It finds that the benefits of its decision to count certain television JSAs as attributable interests for purposes of the ownership rules outweigh any costs or other burdens that may result from this action.

II. Background

3. A JSA is an agreement that authorizes a broker to sell some or all of the advertising time on the brokered station. JSAs generally give the broker authority to hire a sales force for the brokered station, set advertising prices, and make other decisions regarding the sale of advertising time, subject to the licensee's preemptive right to reject the advertising. By contrast, a local marketing agreement (LMA), also referred to as a time brokerage agreement (TBA), involves ''the sale by a licensee of discrete blocks of time to a 'broker' that supplies the programming to fill that time and sells the commercial spot announcements in it.'' Based on its ongoing review of television JSAs and the comments in the TV JSA proceeding, the Commission finds that television JSAs often involve the sale of significant portions of advertising time, and many involve the sale of 100 percent of the advertising time on the brokered station. In addition, in 2012 and 2013, Commission staff reviewed 22 transactions involving the sale of 31 television stations in which a JSA was part of the proposed transaction. In each case, the JSA provided for the sale of 100 percent of the brokered station's advertising time. These agreements may provide the brokered station a flat fee, compensation based on a percentage of revenues, or a mixture of both. Of the commenters that described their fee arrangements under their JSAs, none described fee arrangements that were solely based on a flat fee to the licensee. The Commission does not exclude this possibility since such arrangements appear in radio JSAs and since the Commission did not receive information about fee arrangements in every existing television JSA, or even the arrangements in the JSAs held by commenters in the TV JSA proceeding. Indeed, the JSA in *Shareholders of the Ackerley Group, Inc.,* 17 FCC Rcd 10828 (2002) (*Ackerley*), involved the payment of a flat fee to the licensee. The agreements are often of substantial duration—typically five years or more, with provisions for renewal and cancellation by either party. Further, they are often multifaceted agreements that include, or are accompanied by, other agreements that involve the provision of programming, technical support, and/or operational services. In particular, the record indicates that television JSAs are often accompanied by various sharing agreements between the broker and the licensee, such as agreements that provide for technical assistance, sharing of studio or office space, accounting and bookkeeping services, or administrative services. Many television JSA brokers also provide programming or production services to their brokered stations under the JSA or related sharing agreements. In addition, television JSAs are often executed in conjunction with

an option, right of first refusal, put/call arrangement, or other similar contingent interest, or a loan guarantee. For example, of the 22 transactions involving television JSAs reviewed by Commission staff in 2012 and 2013 all involved some type of contingent interest agreement. Over time, the Commission has seen an increase in the prevalence of television JSAs, and recently such agreements have received more attention in broadcast television transactions.

4. The Commission's attribution rules seek to identify those interests in licensees that confer on their holders a degree of ''influence or control such that the holders have a realistic potential to affect the programming decisions of licensees or other core operating functions.'' For purposes of the multiple ownership rules, the concept of ''control is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.'' Influence and control are important criteria in applying the attribution rules because these rules define which interests are significant enough to be counted for purposes of the Commission's multiple ownership rules. An interest that confers influence is an interest that is less than controlling, but through which the holder may obtain the ability to induce a licensee to take actions to protect the interests of the holder, and/or where a realistic potential exists to affect a station's programming and other core operational decisions. The attribution rules determine what interests are cognizable under the Commission's broadcast ownership rules; they are not ownership limits in themselves.

5. The Commission first adopted attribution rules for LMAs involving radio stations in the same geographic market in 1992. The Commission was concerned that absent such rules significant time brokerage under such agreements could undermine the Commission's competition and diversity goals. The Commission found that the ability to control the programming on a non-commonly owned in-market radio station allowed the brokering party the ability to unduly influence the brokered station. In 1999, the Commission extended the attribution of time brokerage agreements to include LMAs between television stations, finding that the rationale for attributing same-market radio LMAs applied equally to same-market television LMAs. In its *1999 Attribution Order,* 64 FR 50622, Sept. 17, 1999, FCC 99–207, rel. Aug. 6, 1999, the Commission considered also whether to attribute certain radio and television JSAs. The Commission acknowledged that same-market JSAs could raise competitive concerns but stated that, at that time, it did not believe that such agreements conveyed a sufficient degree of influence or control over station programming or core operations to warrant attribution, adding that JSAs could promote diversity by ''enabling smaller stations to stay on the air.'' In the *2002 Biennial Review Order,* 68 FR 46286, Aug. 5, 2003, FCC 03–127, rel. July 2, 2003, however, the Commission revisited its earlier decision not to attribute same-market radio JSAs. It concluded, on reexamination, that influence or control over the advertising revenue of a brokered station, generally the principal source of a licensee's income, afforded the JSA broker, like the LMA broker, the potential to exercise sufficient influence over the core operations of a station to warrant attribution. As it had with respect to both radio and television LMAs, the Commission adopted a 15 percent weekly threshold for determining whether to attribute same-market radio JSAs. It also concluded that same-market radio JSAs may sufficiently undermine the Commission's interest in broadcast competition to warrant limitation under the multiple ownership rules. As the Commission had not explicitly included the issue of attribution of television JSAs in the underlying Notice of Proposed Rulemaking, it did not address television JSAs in the *2002 Biennial Review Order,* but rather indicated that it would issue a further Notice of Proposed Rulemaking to seek comment on whether or not to attribute television JSAs. It subsequently did so in the *TV JSA NPRM,* 69 FR 52464, Aug. 26, 2004, FCC 04–173, rel. Aug. 2, 2004.

6. In the *TV JSA NPRM,* the Commission tentatively concluded that television JSAs have the same effects in local television markets that radio JSAs do in local radio markets and that the Commission should therefore attribute television JSAs. The Commission noted that it had no reason to believe that the terms and conditions of television JSAs differ substantially from those of radio JSAs. The Commission asked, however, whether differences existed between television and radio JSAs such that it should not attribute television JSAs, and it asked whether television JSAs should be grandfathered if they were deemed attributable.

7. The commenters in response to the *TV JSA NPRM* consist entirely of broadcasters, nearly all of whom urge the Commission not to attribute television JSAs. Commenters urge the Commission to reaffirm the 1999 determination that television JSAs, unlike LMAs, do not convey a sufficient degree of influence or control over broadcast stations to warrant attribution. They argue that the record does not support a change in policy, and that the Commission must give a reasoned account if it now rejects the previous conclusion.

8. The Commission sought comment generally on attribution of agreements among co-market stations in the Notice of Proposed Rulemaking in the 2010 Quadrennial Review proceeding, specifically referencing the Commission's ongoing proceeding regarding the proposed attribution of television JSAs. Many parties addressed attribution of television JSAs in that proceeding. For example, UCC *et al.'*s comments in the 2010 Quadrennial Review proceeding support the Commission's tentative conclusion in the *TV JSA NPRM* that certain same-market television JSAs should be attributed. Numerous public interest groups, trade associations, and unions support the Commission's proposed attribution of certain television JSAs and its inquiry into SSAs. Many broadcast commenters, however, assert that television JSAs should not be attributable or urge the Commission to seek additional comment on television JSAs before issuing a decision on attribution.

9. On February 20, 2014, DOJ submitted *ex parte* comments strongly supporting the Commission's tentative conclusion to attribute television JSAs. DOJ, noting its extensive and growing experience reviewing television JSAs in the context of its antitrust analysis of broadcast television transactions, asserts that television JSAs provide incentives similar to common ownership and should be made attributable under the Commission's rules. DOJ asserts that failure to attribute such agreements could result in circumvention of the Commission's media ownership limits and frustrate competition in local markets.

III. Discussion

10. The Commission believes that the record compiled in response to the *TV JSA NPRM,* as informed by its ongoing transaction review and comments in the 2010 Quadrennial Review proceeding, provides it with relevant and sufficient information from which to act. Since the release of the *TV JSA NPRM,* the Commission has continued to review JSAs, often in conjunction with applications for approval to transfer or assign a television station license. The Commission notes that during the pendency of this rulemaking proceeding, the Media Bureau

continued to consider and approve applications for the assignment of license or transfer of control of broadcast television licenses that complied with the Commission's rules in effect at the time of the transfer or assignment, some of which included television JSAs. In the absence of a Commission rule attributing television JSAs, the Bureau reviewed and approved transactions that it determined did not raise questions of *de facto* control and where, in its opinion, the licensee of the brokered station retained a sufficient interest in the advertising revenue received from a JSA such that it retained control and remained invested in the successful operation of the station. However, there has never been a Media Bureau policy generally applicable to JSAs that the television licensee receive a specified percentage of the revenues under a JSA and, indeed, there is no requirement that JSAs even be approved by the Commission. The Bureau's approval of particular transactions in no way limits the Commission's ability to change its attribution rules going forward or to adopt a reasonable transition period for parties to ensure that existing television JSAs comply with the new attribution standard. Therefore, reliance on the Media Bureau's approval of transactions that included a JSA during a period when there was no television JSA attribution rule is misplaced. The Media Bureau applied the attribution rules in effect at the time it processed those applications. Indeed, the Bureau's decisions in cases involving television JSAs often referred to the pending TV JSA proceeding and reminded parties that the Bureau's actions were subject to any subsequent Commission action in that proceeding. Even assuming that the Bureau's past decisions could be read to mean that same-market television JSAs, generally speaking, do not confer influence over programming decisions if the brokered station retains at least 70 percent of the station's advertising revenues, the Commission rejects that premise and reaches a different conclusion in the *Report and Order.* The Media Bureau's review of future transactions will be guided by the new rule adopted herein. Based on the Commission's ongoing experience reviewing JSAs, it observes that neither the terms and conditions of JSAs as described in the comments nor their competitive impact on markets appear to have changed significantly. In addition, the submissions in the 2010 Quadrennial Review proceeding regarding television JSAs are consistent with the comments filed in the television JSA proceeding. Furthermore, some of those more recent submissions that advocate an additional formal comment period primarily seek an opportunity to provide additional argument about the potential public interest benefits associated with combined station operation under television JSAs and the existence of increased competition for broadcast television stations from non-broadcast video alternatives. The Commission finds, however, that those arguments bear on the issue of liberalization of the local television ownership rules and not on the question of whether JSAs give the brokering station a degree of influence and control that rises to the level of attribution, which is the sole focus of the inquiry here. As discussed below, the asserted public interest benefits of common ownership, operation, or control of stations in the same local market, and the issue of whether competition from other video alternatives warrants relaxation of the ownership rules, are appropriately raised and considered in the context of setting the terms of the local television ownership rule. Moreover, the record already includes numerous comments on those points with regard to television JSAs. In addition, the Commission's decision is informed by its experience with the attribution of radio JSAs, which has operated to ensure that the goals of the radio ownership rules are not undermined by nonattributable agreements conferring the potential for significant influence over a station's core operating functions. Accordingly, the Commission finds that the existing record provides a sufficient basis on which to make the decision herein.

11. On further examination of the issue, the Commission finds that television JSAs, like radio JSAs and radio and television LMAs, have the potential to convey significant influence over a station's operations such that they should be attributable. This is consistent with the Commission's more recent determination in 2003 to attribute same-market radio JSAs, which reversed the Commission's earlier determination in the *1999 Attribution Order* that same-market radio JSAs should not be attributable. In *Prometheus Radio Project* v *FCC,* 373 F.3d 372 (3d Cir. 2004) (*Prometheus I*), the Third Circuit upheld the Commission's change of course with respect to the attribution of radio JSAs, finding that the Commission's reexamination of the potential for a radio JSA to convey the ability for a brokering station to influence a brokered station satisfied the Commission's obligation to provide a ''reasoned analysis'' for the change in policy. Consistent with the Commission's analysis supporting attribution of radio JSAs and with the tentative conclusion in the *TV JSA NPRM,* it now finds that television JSAs involving a significant portion of the brokered station's advertising time convey the incentive and potential for the broker to influence program selection and station operations. Thus, as the Commission concluded in 2003 with respect to radio JSAs, it concludes that the Commission's previous view that television JSAs do not convey sufficient influence to warrant attribution was incorrect. Whether a JSA provides the brokered station a fixed fee or a percentage fee, the broker's revenues depend on its ability to sell the ad time for the brokered station, which depends in turn on the popularity of the brokered station's programming. The broker therefore has a strong incentive to influence the brokered station's programming decisions. As Hubbard states, ''the assumption of market risk associated with local advertising sales, and the ability to create greater market strength in sales, necessarily influences programming decisions. In commercial broadcasting, programming and sales are inextricably connected.'' In addition, to the extent it transfers market risk to the brokering station, the licensee of the brokered station will have less incentive to maintain or attain significant ratings share in the market. In upholding the Commission's attribution rules in the past, courts have held that the Commission reasonably designed those rules to identify interests that provide the holder with the incentive and ability to influence or control the programming or other core operational decisions of the licensees, rather than to address individual instances of actual influence or control.

12. The Commission finds that JSAs provide incentives for joint operation that are similar to those created by common ownership. For example, when two stations are commonly owned, the paired stations may benefit by winning advertising accounts that are new to both of them (rather than by having one co-owned station win an account from the other) and, possibly, by being able to raise advertising prices above those that they would obtain if the stations were independently owned. A broker selling advertising time on two stations, one of which is owned by the broker, has incentives similar to those of an owner of two stations to coordinate advertising activity between the two stations. JSAs thus provide strong incentives for coordination of

advertising activities rather than competition for advertising revenue.

13. In addition, contrary to some commenters' claims, the Commission's experience indicates that television JSAs can be used to coordinate the operations of two ostensibly separately owned entities. For example, in *Ackerley,* the Commission found that the intertwined non-attributable television JSA and time brokerage agreement were ''substantively equivalent'' to an attributable LMA. Many commenters assert that their agreements are structured so that the brokered station maintains control of its programming and other core operations. This argument misses the point. The issue in this proceeding is whether sufficient influence exists such that the interest should be counted in applying the ownership rules, which is a separate issue from whether the licensee has maintained ultimate control over its programming and core operations so as to avoid the potential for an unauthorized transfer of control or the existence of an undisclosed or unauthorized real party in interest.

14. Several commenters acknowledge that a JSA broker may have some influence over a brokered station, but they argue that the level of influence is minimal because the broker is involved only in non-network advertising sales. They note that television JSAs differ from radio JSAs because television stations typically have network affiliations, and in such cases the network influences programming. For example, Entravision argues that television station affiliations are motivated by the economic arrangements between the licensee and the network and have little relationship to non-network advertising; that affiliations do not tend to change; that the broker cannot control the network arrangement; and that, given the affiliation agreements, it is questionable whether a JSA broker could ever control the programming decisions of a network-affiliated licensee. Entravision contrasts this with radio, where format changes occur regularly and where network affiliations are generally uncommon. Entravision asserts that, because television stations produce little of their own programming other than news and public affairs, there is little room for the JSA broker to control anything except how advertising is sold. Accordingly, commenters argue, a television JSA does not convey influence over selection of programming or other core operations.

15. The Commission disagrees. It is possible for multiple parties to influence the programming decisions of a station. Television stations provide local and/or syndicated programming, not merely network programming. Thus, the fact that a station may air network programming does not prevent the broker from influencing the selection of non-network programming, be it local programming that the licensee of the brokered station produces or syndicated programming that it acquires to fill the rest of the broadcast day. The Commission notes further that not all stations are affiliated with national networks, and even among those that are, the amount of programming time provided by a national network can vary widely. Accordingly, the amount of non-network advertising time available on a station is not uniformly small, as some commenters would suggest, and the broker's ability to influence the brokered station may not be meaningfully constrained, even if the Commission accepted commenters' arguments regarding the impact of network programming. Furthermore, § 73.658(e) of the Commission's rules prohibits a station from entering into an affiliation agreement that does not permit the affiliate to preempt network programming that it finds ''unsatisfactory or unsuitable or contrary to the public interest'' and to substitute ''a program which, in the station's opinion, is of greater local or national importance.'' The JSA broker can potentially influence the brokered station's decision whether or not to pre-empt network programming, as well as its choice of non-network programs, and has an incentive to do so given the strong relationship between programming decisions and sale of advertising time discussed above. In addition, a JSA broker can potentially influence the brokered station's choice of network affiliation. A broker has a strong incentive to ensure that the brokered station provides programming—and an audience—that is complementary to that offered by its own station in order to maximize the attractiveness of the two stations to advertisers. As a result, the effects of a JSA extend even to programming in dayparts in which the broker does not sell the advertising time. The more time the broker sells, the more likely it becomes that the broker will have the ability to act on that incentive and influence the selection of the brokered station's programming. Thus, the fact that some television stations have network affiliations does not undermine the finding that television JSAs confer sufficient influence that they should be attributed.

16. In addition, many commenters argue that different treatment of radio and television JSAs is warranted because radio and television markets are different. They contend that television stations incur special costs (such as greater programming and equipment costs) that radio stations do not, and also face more competition than radio stations, because television stations compete with a greater variety and increasing number of alternative media outlets. Commenters also contend that television stations depend less on local advertisers than radio stations. Hubbard disagrees that market differences between radio and television justify different treatment of JSAs. According to Hubbard, there are fewer television outlets than radio outlets and fewer television programming networks than radio networks, so that ''economic arrangements that tie local television stations together represent greater harm to diversity of programming and to competition than in radio.''

17. The Commission does not agree that market or service differences support treating radio and television JSAs differently. While television stations may depend less on local advertisers than radio stations as a percentage of overall advertising revenue, advertising revenue data demonstrate that television stations do depend on local advertising for revenues to a significant degree. Also, arguments that television stations need JSAs to survive in a competitive television market are properly addressed in the context of setting the applicable ownership limits rather than in deciding whether television JSAs confer influence such that they should be attributed in the first place. Ultimately, the Commission finds that the fundamental nature of television JSAs and radio JSAs is the same, in that they both allow an in-market, same-service competitor the right to sell advertising time on an independently owned station and give rise to the same types of incentives and opportunities to influence the programming and operations of the brokered station. The Commission finds that the fee structure associated with the JSA does not change this conclusion. In deciding to attribute radio JSAs, the Commission made clear that the *sine qua non* of attribution is an interest ''through which the holder is likely to induce a licensee to take actions to protect the interests of the holder.'' And the Commission has calibrated attribution levels ''based on our judgment regarding what interests in a licensee convey a realistic potential to affect its programming and other core

operational decisions.'' To be sure, the Commission has noted that some licensee/broker arrangements, such as radio JSAs providing for payment of a flat fee to the licensee, not only provide the broker with the incentive and ability to influence station operations and programming, but also deprive the licensee of a financial stake in its own station. The Commission has never stated, however, that the licensee must be deprived of all financial stake in its station to warrant attribution. Regardless of the fee structure, the television JSA broker has the ability and incentive to influence the brokered station. Accordingly, the Commission finds that these agreements should receive the same treatment for attribution purposes. In deciding to change the attribution policy with respect to radio JSAs, the Commission stated that its reexamination of the issue had led it to find that, because of the broker's control over advertising revenues of the brokered station, JSAs ''have the same potential as LMAs to convey sufficient influence over core operations of a station'' to warrant attribution. The Commission believes that the same finding applies to television JSAs, notwithstanding any market differences, including the presence of network agreements.

18. Schurz asserts that the Commission should refrain from making television JSAs attributable without also relaxing the ownership limits in the local television ownership rule. According to Schurz, it has typically been the Commission's practice to find certain agreements attributable at the same time as or after relaxing the relevant ownership limits. The attribution standards are not conditioned, however, on specific numerical ownership limits but instead help to ensure that the limits are not evaded. It is therefore necessary and appropriate to identify practices and agreements that confer a sufficient degree of influence that they should be counted toward the ownership limits. Although at times the Commission has acted to modify ownership limits at the same time it has revised its attribution rules, this has not always been the case. Ultimately, it is not necessary to relax the television ownership limits in conjunction with the determination that television JSAs are attributable.

19. Finally, some commenters acknowledge that television JSAs confer at least some influence over the programming of the brokered station, but argue that their public interest benefits outweigh these other considerations. Similarly, commenters in the 2010 Quadrennial Review proceeding fail to acknowledge the potential for influence over the programming of the brokered station, and argue that the Commission should refrain from attributing television JSAs because of the public interest benefits that result from the efficiencies that arise from sharing, including allegedly facilitating minority and female ownership and increasing diverse programming. While the Commission recognizes that cooperation among stations may have public interest benefits under some circumstances, particularly in small to mid-sized markets, these potential benefits do not affect the assessment of whether television JSAs confer significant influence such that they should be attributed. Rather, any such benefits should be assessed in determining where to set the applicable ownership limit, *i.e.,* how many television stations a single entity should be permitted to own, operate, or control in a local television market. The Commission's reexamination of the issue leads it to conclude that the contention that JSAs may rescue struggling stations by enabling smaller stations to stay on the air is not relevant to the question of whether JSAs confer the potential for significant influence, warranting attribution. Rather, it is an argument that is relevant to the determination of where to set the ownership limits and potentially to whether a waiver of the ownership rules is warranted in a particular case. The same holds true for any other asserted public interest benefits of television JSAs. Nonetheless, the Commission will afford transitional relief to stations that are party to existing television JSAs, as discussed below.

20. The Commission does not wish to imply that all JSAs are harmful. The Commission has recognized that common ownership may have public interest benefits in some circumstances, and it believes that the same may be true of JSAs. JSAs may, for example, facilitate cost savings and efficiencies that could enable the stations to provide more locally oriented programming. JSAs, however, should not be used to circumvent the local broadcast television ownership rules, which are designed to promote competition. Some assert that it is unfair to attribute television JSAs while allowing multichannel video programming distributors (MVPDs) to engage in similar conduct through local ''interconnects.'' While there are various Commission rules relating to MVPD ownership, there is no counterpart in the MVPD context to the local television ownership rule. And the broadcast attribution rules are designed to ensure that parties cannot circumvent the broadcast ownership rules. Further, the issue of MVPD local interconnects was not subject to notice in either the *NPRM* in the 2010 Quadrennial Review or the *TV JSA NPRM,* and is beyond the scope of this proceeding. If interested parties perceive a problem that would be remedied by attribution of MVPD joint advertising arrangements, they may file a petition for rulemaking, which the Commission will consider. Because television JSAs encompassing a substantial portion of the brokered station's advertising time create the potential to influence the brokered station and provide incentives for joint operation that are similar to those created by common ownership, the Commission finds that television JSAs that permit the sale of more than 15 percent of the advertising time per week of the brokered station, as described in greater detail below, should be cognizable interests for purposes of applying the ownership rules.

21. Paxson submits a declaration of Mark Fratrik, Ph.D., Vice President of BIA Financial Network discussing the impact on the Herfindahl-Hirschman Index (HHI)—a measure used to analyze a proposed merger's potential impact on competition—of attribution of certain of Paxson's own television JSAs and other television JSAs it identified in publicly available records. According to Paxson, the combinations reviewed would produce only a small increase in the HHI below the 100 point threshold that typically implicates DOJ antitrust issues. The analysis, however, does not address the ability and incentive for the brokering station to exert influence over the brokering stations core operating functions. Rather, Paxson's analysis goes to the appropriateness of the Commission's local television ownership limits (or the appropriateness of a waiver of those limits), which are not based simply on a structural antitrust analysis, but rather on a broader concern with promoting competition, localism, and diversity.

22. The Commission has consistently applied a 15 percent threshold to determine whether to attribute JSAs in radio markets and LMAs in both television and radio markets, and it finds that it is appropriate to use that same threshold here. This threshold was most recently applied in the Commission's decision to attribute certain same-market radio JSAs, a decision that was upheld by the Third Circuit in *Prometheus I.* A 15 percent advertising time threshold will allow a station to broker a small amount of

advertising time through a JSA with another station in the same market without triggering attribution, yet will fall short of providing the broker a significant incentive or ability to exert influence over the brokered station's programming or other core operating functions because it will not be selling the advertising time in a substantial portion of the station's programming. Just as in the radio context, the Commission believes that a 15 percent advertising time threshold will identify the level of control or influence that would realistically allow holders of such influence to affect core operating functions of a station, including programming choices, and give them an incentive to do so.

23. Sinclair asserts that applying the 15 percent threshold used for radio and television LMAs and radio JSAs would be arbitrary and capricious because of differences in the radio and television marketplace. Sinclair's reference to comments DOJ filed in a prior attribution proceeding could be read to mean that DOJ determined that it was not appropriate to treat radio and television markets the same for attribution purposes. In fact, the cited comments merely pointed out that the agency had not analyzed television JSAs and therefore limited its comments to radio JSAs. The recent *ex parte* submission from DOJ strongly supporting the Commission's decision to attribute television JSAs confirms that Sinclair's reading of DOJ's earlier comments was mistaken. In addition, Sinclair is misguided in asserting that television JSAs cannot be attributed in the absence of detailed definitions of categories of station's advertising and programming time. Such elements would apply equally to radio and television LMAs and/or radio JSAs and have not proved necessary as components of the rule for successful implementation in those attribution rules. As discussed herein, the Commission finds that the differences between the radio and television markets do not warrant different treatment of radio and television JSAs. In addition, as discussed above, the Commission finds that the ability of the brokering station to control the advertising revenue of the brokered stations, the common component of JSAs and LMAs, gives the brokering station under a JSA the same incentive and ability to influence the brokered station's core operating functions as a brokering station under an LMA. For example, while an LMA gives the brokering station the direct ability to influence programming on the brokered station because the LMA broker provides the programming to the brokered station, the Commission has found that the sale of advertising time pursuant to a JSA provides the brokering station with the indirect ability to influence the brokered station's programming. As the amount of advertising revenue controlled by the brokering station increases, so too does its incentive and ability to influence brokered station's programming—including programming in dayparts in which the broker does not sell the advertising time. The Commission can see no benefit to permitting greater indirect influence over the brokering station's programming than could be achieved directly through an LMA; accordingly, the Commission reject Sinclair's assertion that applying the 15 percent threshold to television JSAs would be arbitrary and capricious. Were the Commission to establish a higher limit for JSAs, licensees and brokers could be expected to simply choose to enter into JSAs instead of LMAs because of the higher attribution threshold, thus creating a ready avenue for evading the LMA attribution rule and the ownership limits.

24. In addition, Paxson briefly offers two proposals of its own: (1) A 35 percent all-market advertising sales standard and (2) a ''JSA-Plus'' standard that would result in attribution in situations involving various levels of advertising sales, ownership options, and programming rights. Paxson's brief discussion, however, does not provide any empirical or theoretical basis upon which to adopt either of these proposals, both of which appear to focus primarily on the impact of the brokerage agreement on the competitive market rather than the broker's incentive and ability to influence the brokered station's core operating functions. Further, Paxson appears to have devised the thresholds, at least in the first option, in order to avoid the attribution of its own television JSAs. Ultimately, the record does not support the adoption of either of these alternatives, and the Commission believes that a broker has the ability and incentive to exert influence over a brokered station's programming and operations well below the threshold or combination of interests that Paxson proposes.

25. The rationale for attributing LMAs and JSAs is the same for radio and television: To prevent the circumvention of the ownership limits. Ultimately, in attributing these other agreements, the Commission determined that the 15 percent threshold was the appropriate threshold, as below that threshold the Commission has found that a broker will lack significant incentive or ability to exert influence over the brokered station's programming or other core operating functions; and, as discussed above, the Commission finds no evidence that television JSAs are sufficiently unique as compared to other attributable agreements to justify a different attribution threshold. Thus, where an entity that owns or has an attributable interest in one or more television stations in a local television market sells more than 15 percent of the advertising time per week of another television station in the same market, it will be deemed to hold an attributable interest in the brokered station and such station will be counted toward the brokering licensee's ownership compliance.

26. Finally, the Commission notes that parties that believe that the application of the attribution rules to their particular circumstances would not serve the public interest always have the ability to seek a waiver. The Commission has an obligation to take a hard look at whether enforcement of a rule in a particular case serves the rule's purpose or instead frustrates the public interest. Thus, for example, a party seeking waiver of the attribution rule could attempt to demonstrate that a particular television JSA in context—including any related agreements or interests—does not provide the brokering entity with the opportunity, ability, and incentive to exert significant influence over the programming or operations of the brokered station. In considering a request for waiver of attribution, the Commission will take into account the totality of the circumstances in order to assess whether strict compliance with the rule is inconsistent with the public interest. For example, to make such a showing, an applicant may provide the JSA together with any other agreements, documents, facts, or information concerning the operation and management of a brokered station that demonstrate that the underlying public interest considerations supporting the Commission's decision to attribute JSAs, as discussed herein, are not present in the particular case. The relevant factors may include, without limitation: (i) Specific facts that show a lack of incentive or ability for the broker station to influence the brokered station's programming or operations, and (ii) specific facts that demonstrate that the brokered station has the incentive and ability to maintain independent operations and programming decisions that are not influenced by the broker

station and the incentive and ability to exclude the broker station from exerting influence over programming and operations. A waiver request for a JSA that is limited in scope (*i.e.,* percentage of the station's advertising sales) and duration so as to minimize or eliminate any influence on operations or programming is more likely to be successful than an open-ended request. Similarly, if a licensee believes that application of the local television ownership rule in a particular situation would adversely affect competition, diversity, or localism, it may seek a waiver of that rule. For example, an applicant may be able to demonstrate that a waiver would enable a school, community college, other institution of higher education, or other community support organization or entity to own a station and that the public interest benefits of such ownership outweigh the harms the Commission has identified with common ownership in support of the local television ownership limits. The Commission will carefully review and consider any such request on an expedited basis. The Commission recognizes that broadcast transactions are time sensitive and that Commission action on assignment and transfer applications, including any associated waiver requests, must be taken promptly without unnecessary delay. The Commission directs the Bureau to prioritize review of any applications for waiver necessitated by attribution of JSAs and to complete their review within 90 days of the record closing on such waiver petitions provided there are no circumstances requiring additional time for review.

A. Filing Requirements and Transition Procedures

27. First, subject to OMB approval, the Commission will require going forward that attributable television JSAs be filed with the Commission within 30 days after the JSA is entered into. Currently, commercial television stations are required under § 73.3526 of the Commission's rules to place a copy of any JSA involving the station in the local public inspection file, but are not required to file such agreements with the Commission. With the adoption of the *Report and Order,* commercial television stations that are party to an attributable JSA will now be required to file a copy of the agreement with the Commission pursuant to § 73.3613, consistent with requirements for attributable LMAs and attributable radio JSAs. Second, the Commission will require parties to existing attributable television JSAs and/or parties to attributable television JSAs entered into after the release of the *Report and Order* but before the filing requirement becomes effective to file a copy of such agreements with the Commission within 30 days after the filing requirement becomes effective. The Commission will seek OMB approval for the filing requirement, and, upon receiving approval, the Commission will release a document specifying the date by which television JSAs must be filed. Third, the Commission directs the Media Bureau to take the necessary steps to modify the relevant application forms to conform to the rule changes adopted in the *Report and Order,* including the reporting of attributable television JSAs, for example, in connection with a request for authority to transfer or assign a station license. Such forms would include, *inter alia,* FCC Form 314, Application for Consent to Assignment of Broadcast Station Construction Permit or License, and FCC Form 315, Application for Consent to Transfer Control of Entity Holding Broadcast Station Construction Permit or License.

28. The Commission rejects arguments that it should automatically grandfather all television JSAs permanently or indefinitely. In these circumstances, the Commission finds that such grandfathering would allow arbitrary and inconsistent changes to the level of permissible common ownership on a market-by-market basis based not necessarily on where the public interest lies, but rather on the current existence or nonexistence of television JSAs in that market when the new attribution rule becomes effective. Instead, consistent with the Commission's treatment of existing radio JSAs when the Commission first made such agreements attributable, and as discussed in the *TV JSA NPRM,* parties to existing, same-market television JSAs whose attribution results in a violation of the ownership limits will have two years from the effective date of the *Report and Order* to terminate or amend those JSAs or otherwise come into compliance with the local television ownership rule. The Commission finds that such a transition period is necessary to avoid undue disruption to current business arrangements, and it believes that the two-year compliance period will give licensees sufficient time to make alternative arrangements. No transition period is granted with regard to new television JSAs that would cause the broker to exceed the media ownership limits. In order to avoid undue disruption, however, parties may renew existing television JSAs even if renewal would cause the broker to exceed the media ownership limits, provided that the renewal period shall not exceed the two-year transition period provided for in the *Report and Order.* The Commission notes that parties to television JSAs have long been on notice of the possibility that the Commission's would attribute certain same-market television JSAs. Moreover, as noted above, licensees may seek a waiver of the Commission's rules if they believe strict application of the rules would not serve the public interest.

29. In the *TV JSA NPRM,* the Commission sought comment on whether it should take the same approach for television JSAs that it had taken when radio JSAs became attributable, noting that pre-existing radio JSAs were not grandfathered but affected licensees were given a two-year compliance period. In contrast, when the Commission proposed making television LMAs attributable, it proposed grandfathering LMAs entered into before the further notice of proposed rulemaking was issued. Moreover, as with the Commission's radio JSA decision, the Commission is providing a two-year transition period for licensees to come into compliance. Thus, the Commission disagrees with Paxson that equitable considerations warrant the same grandfathering approach here as the Commission adopted for television LMAs. Likewise, the Commission's decision not to grandfather existing television JSAs does not conflict with the grandfathering of non-compliant ownership combinations. Broadcasters have been on notice since 2004 of the Commission's tentative conclusion that certain television JSAs should be attributed and that existing television JSAs would not necessarily be grandfathered. Thus, any broadcaster that entered into or renewed a JSA after the *TV JSA NPRM* was released knew the risk of doing so. Moreover, broadcasters are not required to obtain prior approval of JSAs, and JSAs are not reviewed at all unless they are part of a transaction requiring approval. The Commission also rejects Paxson's claim that failure to grandfather pre-existing television JSAs for at least five years would result in impermissible retroactive rulemaking. The Commission's decision to make television JSAs attributable alters the future effect, not the past legal consequences, of television JSAs. It does not alter the past legality of television JSAs, does not impose liability for past actions, and does not introduce any retrospective duties for past conduct.

B. National Sales Representatives

30. Sinclair sought clarification that the Commission would not attribute television and radio stations that are represented by national advertising representative firms (rep firms) where a rep firm is co-owned with a broadcaster, and the parent owns a same-market station. Rep firms bring national advertisers who want to buy commercial time in selected markets together with the individual stations in those markets. For the reasons discussed below, the Commission finds that the record does not support attribution of a rep firm's client stations to a rep firm.

31. Some commenters argue that the Commission must reconcile its decision to eliminate the former *Golden West Broadcasters,* 16 FCC 2d 918 (1969) (*Golden West*), cross-interest policy with respect to the attribution decision herein. Since eliminating the former cross-interest policy (by which a licensee was prohibited from having an interest in more than one station in the same service in the same area), the Commission consistently has held that advertising representation does not constitute an attributable interest. Under the Commission's former *Golden West* policy, the Commission prohibited representation of a radio or television station by a national sales representative owned wholly or partially by the licensee of a competing station in the same service in the same community or service area. However, the Commission abolished that policy with respect to attribution in 1981, holding that market forces and the remedies available under antitrust laws were sufficient to deter the anticompetitive practices the policy was meant to address. The Commission also noted ''that the potential for impairment of economic competition that *Golden West* was designed to guard against will be mitigated by the incentive of the unaffiliated station to seek the sales representative that will most vigorously serve its interest.'' Since 1981, the Commission has consistently refused to prohibit or attribute sales rep agreements. The Commission believes the decision to eliminate the *Golden West* policy was sound, and the JSA attribution rules should not be read to disturb that decision.

32. In this regard, the Commission notes that some commenters claim that attribution of television JSAs would be discriminatory and inconsistent with the Commission's previous decision not to attribute national advertising agreements, because both types of agreements provide one firm with the ability to influence an unaffiliated station's operations. As explained in the *Report and Order,* the Commission is attributing same-market television JSAs because they convey a sufficient degree of influence to warrant attribution. National advertising agreements do not raise the same concerns. Unlike JSAs involving competing stations in the same local market, national advertising agreements do not combine ownership of a local, competing television station with the potential for significant influence over programming. Therefore, the Commission disagrees with commenters that the decision today to attribute same-market television JSAs is inconsistent with previous attribution decisions.

33. Given the unique nature of national advertising sales firms, as discussed below, the Commission clarifies that it will not generally apply the rules attributing television or radio JSAs to national advertising sales representation agencies. It observes that typically, national rep firms that are commonly owned with broadcast stations are operated separately from the commonly owned broadcast stations. With hundreds, if not thousands, of clients and a narrow business focus (namely, the sale of national spot advertising), rep firms are not involved in the day-to-day operations of their client stations, commonly owned or otherwise. In addition, there are fundamental differences in the relationship between a local station and a rep firm, and between local stations that are party to a JSA. For example, when a station contracts with a rep firm, it typically provides only enough information about its operations to enable the rep firm to sell national advertising spots on the station. Because of the way rep firms are structured and the contractual protections available to a local station, station-specific information is not provided to the competing stations in the market that also contract with the rep firm. By contrast, in a JSA involving multiple local stations, the advertising rate information and other otherwise confidential station information is shared between the parties. Moreover, as noted above, JSAs are often executed in conjunction with other types of sharing agreements, which leads to higher levels of common operation that are not present in relationships with rep firms. Ultimately, the Commission concludes that the relationship between a rep firm and its client station, as described herein, does not confer the same potential and incentives for the rep firm to influence a licensee that are present in a traditional JSA relationship. Therefore, national rep firms should not generally be subject to the television and radio JSA attribution rules. While the Commission is not aware of any instances of non-national advertising sales firms (*e.g.,* regional advertising sales firms) that are commonly owned with a broadcast licensee, the rationale adopted in the *Report and Order* for excluding national rep firms from the television and radio JSA attribution rules would apply to such non-national rep firms to the extent these firms are operated in the same manner as national rep firms (*i.e.,* completely separate and independent from the operation of the local broadcast stations).

34. At the present time, the Commission has no evidence to suggest that a national advertising representation firm that has a commonly owned broadcast station in a local market in which it also represents a client for advertising services would have the incentive or ability to exert significant influence over the programming or other core activities of its client. Nevertheless, the Commission will entertain complaints based on a showing that a rep firm that is commonly owned with a broadcast licensee has not insulated the business of operating its commonly owned broadcast station from the business of providing advertising representation services in a market in which the rep firm has a commonly owned broadcast station. In such cases, the Commission will make a case-by-case determination of whether attribution is appropriate.

IV. Procedural Matters

A. Final Regulatory Flexibility Analysis

35. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *TV JSA NPRM* in MB Docket No. 04–256. The Commission sought written public comment on the proposals in the *TV JSA NPRM,* including comment on the IRFA. The Commission received no comments in direct response to the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

1. Need for, and Objectives of, the Report and Order

36. Consistent with the Commission's earlier findings regarding radio joint sales agreements JSA), the *Report and Order* finds that television JSAs similarly convey sufficient influence over the brokered station's finances, personnel, and programming decisions to warrant attribution. A JSA is an agreement that authorizes a broker to

sell some or all of the advertising time on the brokered station. In particular, the *Report and Order* finds that television JSAs provide incentives—including incentives for stations to coordinate advertising activities and avoid competing with each other—that are in some cases similar to those created by common ownership. Accordingly, the *Report and Order* concludes to count television stations brokered under a same-market television JSA toward the brokering station's permissible ownership totals under the Commission's broadcast ownership rules consistent with the treatment of radio JSAs. Specifically, where an entity owns or has an attributable interest in one or more stations in a local television market, joint advertising sales of another television station in that market for more than 15 percent of the brokered station's weekly advertising time will create a cognizable interest for the brokering station for purposes of applying the broadcast ownership rules. The 15 percent threshold is the same threshold adopted by the Commission for radio JSAs and will allow a station to broker a small amount of advertising time through a JSA with another station in the same market without triggering attribution, yet will fall short of providing the broker a significant incentive or ability to exert influence over the brokered station's programming or other core operating functions because it will not be selling the advertising time in a substantial portion of the station's programming. The *Report and Order* finds that a two-year transition period is appropriate to permit licensees that entered into television JSAs of this type prior to the release of the *Report and Order* to address those circumstances. In addition, parties to existing, attributable television JSAs, and/or parties to attributable television JSAs entered into after the release of the *Report and Order* but before the filing requirement becomes effective, must file a copy of such agreements with the Commission within 30 days after the filing requirement becomes effective. Stations are already required to include these agreements in their public inspection file. Going forward, parties to attributable television JSAs must file copies of such agreements with the Commission within 30 days after execution.

37. The Commission finds in the *Report and Order* that the attribution of television JSAs is necessary because these agreements can be used to coordinate the operations of two ostensibly separately owned entities and can provide incentives that are similar to those created by common ownership. While the Commission has previously recognized the potential benefits of common ownership, and believes that JSAs may provide similar benefits, such as facilitating cost savings and efficiencies that could enable the stations to provide more locally oriented programming, the Commission finds that television JSAs should not be used to circumvent the local broadcast television ownership rule, which is designed to promote competition. Additionally, the *Report and Order* finds that television JSAs provide the brokering stations the ability and incentive to influence the selection of non-network programming on the brokered stations. In addition, the Commission finds that a JSA broker can influence the brokered station's choice of network affiliation. The *Report and Order* concludes that a broker has a strong incentive to ensure that the brokered station provides programming—and an audience—that is complementary to that offered by its own station in order to maximize the attractiveness of the two stations to advertisers. Thus, the fact that some television stations have network affiliations does not undermine the Commission's finding that television JSAs confer sufficient influence that they should be attributed.

38. The Commission finds no support for treating radio and television JSAs differently. While the *Report and Order* finds that television stations may depend less on local advertisers than radio stations as a percentage of overall advertising revenue, advertising revenue data demonstrate that television stations do depend on local advertising for revenues to a significant degree. Also, the Commission finds that arguments that television stations need JSAs to survive in a competitive television market are properly addressed in the context of setting the applicable ownership limits rather than in deciding whether television JSAs confer influence such that they should be attributed in the first place. In addition, the *Report and Order* concludes that fundamental nature of television JSAs and radio JSAs is the same and that these agreements should be treated the same for attribution purposes. In deciding to change its attribution policy with respect to radio JSAs, the Commission stated that its reexamination of the issue had led it to find that, because of the broker's control over advertising revenues of the brokered station, JSAs have the same potential as LMAs to convey sufficient influence over core operations of a station to warrant attribution. The *Report and Order* finds that the same finding applies to television JSAs, notwithstanding any market differences, including the presence of network agreements.

39. Because television JSAs can create the potential to influence the brokered station and provide incentives for joint operation that are similar to those created by common ownership, as described in the *Report and Order,* the Commission finds that same-market television JSAs that permit the sale of more than 15 percent of the advertising time per week of the brokered station should be cognizable interests for purposes of applying the broadcast ownership rules.

40. The *Report and Order* also clarifies that the radio and television JSA attribution requirements do not apply to national sales representative firms (rep firms). The Commission concludes that the relationship between a rep firm and its client station as understood by the Commission does not raise the same issues of control that are present in a traditional JSA relationship. Therefore, national rep firms should not generally be subject to the television and radio JSA attribution rules. However, the Commission will entertain complaints based on a showing that a rep firm that is commonly owned with a broadcast licensee has not insulated the business of operating its commonly owned broadcast station from the business of providing advertising representation services in a market in which the rep firm has a commonly owned broadcast station. In such cases, the Commission will make a case-by-case determination of whether attribution is appropriate.

2. Legal Basis

41. The *Report and Order* is adopted pursuant to sections 1, 2(a), 4(i), 303, 307, 309, 310, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 1544(i), 303, 307, 309, 310, and 403, and section 202(h) of the Telecommunications Act of 1996.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

42. The Commission received no comments in direct response to the IRFA.

C. Description and Estimate of the Number of Small Entities to Which Rules Will Apply

43. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The final rules adopted herein affect small television and radio broadcast stations and small entities that operate daily newspapers. A description of these small entities, as well as an estimate of the number of such small entities, is provided below.

44. *Television Broadcasting.* The SBA defines a television broadcasting station that has no more than $35.5 million in annual receipts as a small business. The definition of business concerns included in this industry states that establishments are primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. Census data for 2007 indicate that 2,076 such establishments were in operation during that year. Of these, 1,515 had annual receipts of less than $10.0 million per year and 561 had annual receipts of more than $10.0 million per year. Based on this data and the associated size standard, the Commission concludes that the majority of such establishments are small.

45. The Commission has estimated the number of licensed commercial television stations to be 1,387. According to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) as of November 26, 2013, 1,294 (or about 90 percent) of an estimated 1,387 commercial television stations in the United States have revenues of $35.5 million or less and, thus, qualify as small entities under the SBA definition. The Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 396. The Commission notes, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. This estimate, therefore, likely overstates the number of small entities that might be affected by this action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

46. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also, as noted, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

D. Description of Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

47. The *Report and Order* adopts a requirement that parties to existing, attributable television JSAs, and/or parties to attributable television JSAs entered into after the release of the *Report and Order* but before the filing requirement becomes effective, must file a copy of such agreements with the Commission within 30 days after the filing requirement becomes effective. Going forward, parties to attributable television JSAs must file copies of such agreements with the Commission within 30 days after execution. The *Report and Order* directs the Media Bureau to take the necessary steps to modify the relevant application forms to require applicants to file attributable television JSAs at the time an application is filed using the forms.

48. In addition, the following FCC forms and/or their instructions will be modified to require the reporting of attributable television JSAs: (1) FCC Form 301, Application for Construction Permit For Commercial Broadcast Station; (2) FCC Form 314, Application for Consent to Assignment of Broadcast Station Construction Permit or License; (3) FCC Form 315, Application for Consent to Transfer Control of Corporation Holding Broadcast Station Construction Permit or License; (4) FCC Form 323, Ownership Report for Commercial Broadcast Station. The impact of these changes will be the same on all entities, and compliance will likely require only the expenditure of *de minimis* additional resources.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

49. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

50. The *Report and Order* finds that television JSAs convey sufficient influence to warrant attribution, such that the Commission will count television stations brokered under a same-market television JSA toward the brokering station's permissible ownership totals if the amount of time jointly sold is equal to or greater than 15 percent of the station's advertising time. This rule brings the Commission's policy regarding JSAs in the television market in line with the existing rules regarding radio markets. While the *Report and Order* recognizes that JSAs may have public interest benefits, particularly in small- to mid-sized markets, these potential benefits do not affect the assessment of whether television JSAs confer significant influence such that they should be attributed. The rule adopted in the *Report and Order* protects local markets—including small businesses operating in local markets, as opposed to regional or national markets—from exposure to competitive harms that might result from contractual agreements between stations for control

of advertising. Therefore, the Commission believes that in many cases the attribution of a same-market television JSA will protect small businesses, as well as large, from the adverse impacts of competing stations' coordination of advertising sales.

51. Nonetheless, the *Report and Order* finds that a transition period during which parties are required to come into compliance is necessary to avoid undue disruption to current business arrangements. Such a transition period will be especially helpful to small television stations that do not have the same financial and technical resources as large stations. Accordingly, parties to existing, same-market television JSAs whose attribution results in a violation of the ownership limits will have two years from the effective date of the *Report and Order* to terminate or amend those JSAs or otherwise come into compliance with the local television ownership rule. No transition period is granted with regard to new television JSAs that would cause the broker to exceed the media ownership limits. However, parties may renew existing television JSAs even if renewal would cause the broker to exceed the media ownership limits, provided that the renewal period shall not exceed the two-year transition period provided for in the *Report and Order.* The *Report and Order* finds that this transition period will give licensees with television JSAs sufficient time to make alternative arrangements—such as revise the agreement to limit the amount of advertising time sold to 15 percent of the weekly advertising time or enter into an agreement with another entity that would not result in an impermissible attributable interest—or to seek waiver relief from the Commission's rules, if appropriate. Parties that believe that the application of the attribution rules to their particular circumstances would not serve the public interest always have the ability to seek a waiver. These steps will minimize the adverse impact on small entities.

52. In addition, parties to existing, attributable television JSAs, and/or parties to attributable television JSAs entered into after the release of the *Report and Order* but before the filing requirement becomes effective, must file a copy of such agreements with the Commission within 30 days after the filing requirement becomes effective. Going forward, parties to attributable television JSAs must file copies of such agreements with the Commission within 30 days after execution. The impact of this filing requirement will be minimal and uniform for all entities. The Commission anticipates that compliance will only require the expenditure of *de minimis* additional resources, and believes, therefore, that the filing requirement is the least economically burdensome alternative. In addition, entities may be required to report attributable television JSAs on certain FCC Forms, for example, in connection with a request for authority to transfer or assign a station license. The Commission anticipates that compliance will only require the expenditure of *de minimis* additional resources. Accordingly, adverse economic impact on small entities will be minimal, at most, and in many cases non-existent.

F. Report to Congress

53. The Commission will send a copy of the *Report and Order,* including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Report and Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

V. Ordering Clauses

54. Accordingly, *it is ordered,* that pursuant to the authority contained in sections 1, 2(a), 4(i), 303, 307, 309, 310, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, 310, and 403, and section 202(h) of the Telecommunications Act of 1996, the *Report and Order is adopted.* The rule modifications shall be effective June 19, 2014, except for those rules and requirements involving Paperwork Reduction Act burdens, which shall become effective on the effective date announced in the **Federal Register** notice announcing OMB approval. Changes to FCC Forms required as the result of the rule amendments adopted herein *will become effective* on the effective date announced in the **Federal Register** notice announcing OMB approval.

55. *It is further ordered,* that the proceeding MB Docket No. 04–256 IS *terminated.*

56. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the *Report and Order,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects 47 CFR part 73

Radio, Reporting and recordkeeping requirements, Television.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

■ 2. Section 73.3555 is amended by redesignating paragraph k.2. as k.3., in Note 2 to § 73.3555, adding new paragraph k.2., and revising newly redesignated paragraph k.3. to read as follows:

§ 73.3555 Multiple ownership.

* * * * *

Note 2 to § 73.3555: * * *

k. * * *

2. Where two television stations are both located in the same market, as defined for purposes of the local television ownership rule contained in paragraph (b) of this section, and a party (including all parties under common control) with a cognizable interest in one such station sells more than 15 percent of the advertising time per week of the other such station, that party shall be treated as if it has an interest in the brokered station subject to the limitations set forth in paragraphs (b), (c), (d), and (e) of this section.

3. Every joint sales agreement of the type described in this Note shall be undertaken only pursuant to a signed written agreement that shall contain a certification by the licensee or permittee of the brokered station verifying that it maintains ultimate control over the station's facilities, including, specifically, control over station finances, personnel and programming, and by the brokering station that the agreement complies with the limitations set forth in paragraphs (b), (c), and (d) of this section if the brokering station is a television station or with paragraphs (a), (c), and (d) of this section if the brokering station is a radio station.

* * * * *

■ 3. Section 73.3613 is amended by revising paragraph (d)(2) to read as follows:

§ 73.3613 Filing of contracts.

* * * * *

(d) * * *

(2) *Joint sales agreements:* Joint sales agreements involving radio stations

where the licensee (including all parties under common control) is the brokering entity, the brokering and brokered stations are both in the same market as defined in the local radio multiple ownership rule contained in § 73.3555(a), and more than 15 percent of the advertising time of the brokered station on a weekly basis is brokered by that licensee; joint sales agreements involving television stations where the licensee (including all parties under common control) is the brokering entity, the brokering and brokered stations are both in the same market as defined in the local television multiple ownership rule contained in § 73.3555(b), and more than 15 percent of the advertising time of the brokered station on a weekly basis is brokered by that licensee.

Confidential or proprietary information may be redacted where appropriate but such information shall be made available for inspection upon request by the FCC.

* * * * *

[FR Doc. 2014–10874 Filed 5–19–14; 8:45 am]

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Part III

Federal Communications Commission

47 CFR Part 73

2014 Quadrennial Regulatory Review; Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket Nos. 14–50, 09–182, 07–294, and 04–256; FCC 14–28]

2014 Quadrennial Regulatory Review

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document solicits comment on proposed changes to the broadcast ownership rules in compliance with section 202(h) of the Telecommunications Act of 1996 requires the Commission to review its broadcast ownership rules quadrennially to review these rules to determine whether they are necessary in the public interest as a result of competition. In addition, this document solicits comment on certain aspects of the Commission's 2008 *Diversity Order* that the U.S. Court of Appeals for the Third Circuit remanded and directed the Commission to address in its quadrennial review proceeding. This document solicits comment also on a potential disclosure requirement for certain broadcast television shared service agreements.

DATES: Comments are due on or before July 7, 2014 and reply comments are due on or before August 4, 2014. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before July 21, 2014.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Nicholas A. Fraser, Office of Management and Budget, via email to *Nicholas_A._Fraser@omb.eop.gov* or via fax at (202) 395–5167.

FOR FURTHER INFORMATION CONTACT: Hillary DeNigro, Industry Analysis Division, Media Bureau, FCC, (202) 418–2330. For additional information concerning the PRA proposed information collection requirements contained in the *Further Notice of Proposed Rulemaking,* contact Cathy Williams at (202) 418–2918, or via the Internet at *PRA@fcc.gov*.

SUPPLEMENTARY INFORMATION: This *Further Notice of Proposed Rulemaking,* in MB Docket Nos. 14–50, 09–182, 07–294, and 04–256; FCC 14–28, was adopted on March 31, 2014, and released on April 15, 2014. The document is available for download at *http://fjallfoss.fcc.gov/edocs_public/*. The complete text of the document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street SW., Washington, DC 20554, and may also be purchased from the Commission's copy contractor, BCPI, Inc., Portals II, 445 12th Street SW., Washington, DC 20554. Customers may contact BCPI, Inc. at their Web site *http://www.bcpi.com* or call 1–800–378–3160.

Initial Paperwork Reduction Act of 1995 Analysis

This *Further Notice of Proposed Rulemaking* proposes a new or revised information collection requirement. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the OMB to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due July 21, 2014. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) way to further reduce the information collection burden on small business concerns with fewer than 25 employees. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

I. Synopsis of the Further Notice of Proposed Rulemaking

A. Introduction

1. The Commission takes another major step in its review of the broadcast ownership rules. The Commission wishes to build on that record to resolve the ongoing 2010 proceeding, and the Commission is cognizant of its statutory obligation to review the broadcast ownership rules every four years. To accomplish both objectives, with this *Further Notice of Proposed Rulemaking* the Commission is initiating this 2014 Quadrennial Review; incorporating the existing 2010 record into this proceeding; proposing rules that are formulated based on the Commission's evaluation of that existing record; and seeking new and additional information and data on market conditions and competitive indicators as they exist today. The Commission issues this *Further Notice of Proposed Rulemaking* to seek additional comment on the appropriateness of the broadcast ownership rules to today's evolving marketplace. Also, the Commission seeks additional comment on issues referred to the Commission in the Third Circuit's remand in *Prometheus II* of certain aspects of the Commission's 2008 *Diversity Order* (73 FR 28361, May 16, 2008, FCC 07–217, rel. March 5, 2008). Finally, the Commission takes steps herein to address concerns about the use of a variety of sharing agreements between independently owned television stations—Shared Service Agreements or SSAs.

B. Background

2. The media ownership rules subject to this quadrennial review are the local television ownership rule, the local radio ownership rule, the newspaper/broadcast cross-ownership rule, the radio/television cross-ownership rule, and the dual network rule. Congress requires the Commission to review these rules every four years to determine whether they ''are necessary in the public interest as the result of competition'' and to ''repeal or modify any regulation [the Commission] determines to be no longer in the public interest.'' The Third Circuit has instructed that ''necessary in the public interest'' is a '' 'plain public interest' standard under which 'necessary' means 'convenient,' 'useful,' or 'helpful,' not 'essential' or 'indispensable.' '' There is no '' 'presumption in favor of repealing or modifying the ownership rules.' '' Rather, the Commission has the discretion ''to make [the rule] more or less stringent.'' This 2014 Quadrennial Review will focus on identifying a reasoned basis for retaining, repealing, or modifying each rule consistent with the public interest.

3. *Policy Goals.* The media ownership rules have consistently been found to be necessary to further the Commission's longstanding policy goals of fostering competition, localism, and diversity.

The Commission seeks additional comment on the *NPRM*'s (77 FR 2867, Jan. 19, 2012, FCC 11–186, rel. Dec. 22, 2011) tentative conclusion that these policy goals continue to be the appropriate framework within which to evaluate and address minority and female interests as they relate to the broadcast ownership rules. Based on the record developed in response to the *NPRM,* the Commission continues to believe that the longstanding policy goals of competition, localism, and diversity are broadly defined to promote the core responsibilities of broadcast licensees. The Commission is not persuaded by the comments in the record that it would be appropriate to adopt any additional formal policy goals. The Commission seeks comment on this tentative conclusion.

C. Media Ownership Rules

1. Local Television Ownership Rule

a. Introduction

4. Based on the record that was compiled for the 2010 Quadrennial Review, the Commission tentatively concludes that the current local television ownership rule remains necessary in the public interest and should be retained with a limited modification. As discussed below, the Commission believes that, based on the current media marketplace and the record in this proceeding, the public interest would be best served by replacing the Grade B contour overlap test used to determine when to apply the local television ownership rule with a digital noise limited service contour (NLSC) test, rather than the DMA-based approach proposed in the *NPRM.* The Commission believes that the local television ownership rule is necessary to promote competition. The Commission further believes that the competition-based rule proposed in this *Further Notice of Proposed Rulemaking* also would promote viewpoint diversity by helping to ensure the presence of independently owned broadcast television stations in local markets and would be consistent with the Commission's localism goal. The Commission finds that the local television ownership rule proposed in this *Further Notice of Proposed Rulemaking* would be consistent with the goal of promoting minority and female ownership of broadcast television stations. Finally, the Commission believes that the proposed limited modification of the rule will better promote competition, and that this benefit would outweigh any burdens, which would be minimized by the proposal to grandfather combinations as described herein.

5. The Commission proposes to modify the local television ownership rule to allow an entity to own up to two television stations in the same DMA if: (1) The digital NLSCs of the stations (as determined by § 73.622(e) of the Commission's rules) do not overlap; or (2) at least one of the stations is not ranked among the top-four stations in the market and at least eight independently owned television stations would remain in the DMA following the combination. In calculating the number of stations remaining post-merger, only those stations whose digital NLSC overlaps with the digital NLSC of at least one of the stations in the proposed combination would be considered, which would be consistent with the contour overlap provision of the current rule. In addition, the Commission proposes to retain the existing failed/failing station waiver policy. The Commission seeks comment on these proposed modifications to the local television ownership rule and ask whether there have been any developments since the *NPRM* that the Commission should take into account in the review of the rule. The Commission seeks comment on the costs and benefits of the proposed local television ownership rule. To the greatest extent possible, commenters should quantify the expected costs or benefits of the proposed rule and provide detailed support for any actual or estimated values provided, including the source of such data and/or the method used to calculate reported values.

b. Background

6. In the *NPRM,* the Commission proposed to retain the local television ownership rule, with one modification. Specifically, the *NPRM* proposed to retain the top-four prohibition, eight-voices test, and numerical limits of the existing rule, while proposing to replace the Grade B contour overlap provision with a DMA-based approach, under which the Commission would prohibit ownership of two stations in the same DMA unless at least one of the stations is not rated in the top four and at least eight independent voices would remain after the transaction. The *NPRM* also invited comment on whether to adopt a market size waiver standard, the impact of multicasting on the local television ownership rule, and the impact of the proposed rule on minority and female ownership.

c. Discussion

7. *Market.* As proposed in the *NPRM,* the Commission tentatively finds that the local television ownership rule continues to be necessary to promote competition among broadcast television stations in local television viewing markets. Although the Commission believes the record in the 2010 Quadrennial Review proceeding supports its view of the appropriate parameters for defining the market, the Commission seeks comment on whether developments since the *NPRM* should cause the Commission to shift the focus of its analysis.

8. First, the Commission believes that the video programming market remains the relevant market for review of the local television ownership rule. The Commission also believes that the video programming market is distinct from the radio listening market. While multiple broadcast commenters argued in favor of an expansive market definition that would include nearly all forms of media, the Commission tentatively finds such arguments to be unpersuasive. The Commission has previously found that the video programming market is distinct from other media markets because consumers do not view non-video entertainment options (*e.g.,* listening to music or reading) and non-delivered video options (*e.g.,* DVDs or movie theaters) as good substitutes for watching television, and there is no evidence in the current record that would cause the Commission to disturb these findings. In addition, the Commission notes the *NPRM*'s tentative conclusion that it is not now appropriate to expand the relevant product market beyond video programming to include non-video information sources of local news and information. This tentative conclusion was based on evidence that Internet-only Web sites provide only a small amount of local news content and a lack of evidence that non-video information sources modify their programming decisions based on the actions of local broadcast television stations or vice versa. The Commission did not receive significant comment on this specific issue in the 2010 proceeding, and the Commission seeks comment on whether it should confirm the *NPRM*'s tentative conclusion for the reasons discussed therein.

9. Second, the Commission believes that its analysis regarding the local television ownership rule should continue to focus on promoting competition among broadcast television stations in local television viewing markets. In order to compete effectively

in its local market, and thereby gain market share, a broadcast television station must invest in better programming and provide programming tailored to the needs and interests of the local community, including local news and public interest programming. By strengthening their position in the local market, television broadcasters are better able to compete for advertising revenue and retransmission consent fees, an increasingly important source of revenue for many stations. Viewers in the local market benefit from such competition among numerous strong rivals in the form of higher quality programming.

10. While the Commission is keenly aware of the growing popularity of video programming delivered via MVPDs and the Internet, it tentatively find that competition from such video programming providers is currently of limited relevance for the purposes of its analysis. These programming alternatives compete largely in national markets—cable network programming is generally uniform across all markets, as is video programming content available via the Internet—and, unlike local broadcast stations, such programming providers are not likely to respond to conditions in local markets. Though certain broadcast commenters disputed this notion, the Commission tentatively finds their arguments to be unsupported by evidence of non-broadcast video programmers modifying their programming decisions based on the competitive conditions in a particular local market.

11. In addition, the Commission tentatively finds that broadcast television's strong position in the local advertising market supports its view that non-broadcast video programmers are not yet meaningful substitutes in local television markets. Broadcasters asserted that the Commission should expand the relevant market, in part because of increased competition for advertising from non-broadcast sources of video programming, particularly in the local advertising market. The data do not support this claim. From 2008 through 2011, though overall local advertising spending was down from its highs in 2005 and 2006, local broadcast television's market share actually increased and achieved the highest levels since 2004. While the shares of local advertising on cable television and the Internet also increased during this time period, those gains do not appear to be at the expense of broadcast television stations. NAB asserted that the recent growth in television station advertising revenue is temporary and not likely to ''address the structural changes that have taken place in the [television] market'' because the predicted 2012 advertising revenues for the broadcast television industry are below the levels achieved in 2006. While advertising revenues for broadcast television stations were lower during this period, the Commission believes the evidence does not support the conclusion that this was the result of a unique change in the television marketplace; instead, the total advertising market for all media experienced a significant contraction, which was most likely the result of the global financial crisis that impacted nearly all markets. Moreover, total station revenue for 2012 was predicted to exceed the total station revenue for 2006 and to grow steadily through 2017. However, the Commission seeks comment on whether any structural changes have occurred in the television marketplace and, if so, whether to adjust the 2014 Quadrennial Review analysis to account for such changes. The Commission seeks comment on whether there have been any significant changes since these figures became available.

12. The Commission believes that broadcast television stations continue to play a unique and vital role in local communities that is not meaningfully duplicated by non-broadcast sources of video programming. In addition to providing viewers with the majority of the most popular programming on television, broadcast television stations remain the primary source of local news and public interest programming. Moreover, millions of U.S. households lack broadband access at speeds sufficient to stream or download video programming available via the Internet. Accordingly, the Commission tentatively finds that the record continues to support a local television ownership rule designed to promote competition among broadcast television stations. The Commission believes the 2010 Quadrennial Review record supports the use of this approach, and it seeks comment on whether this market definition should apply for purposes of the 2014 Quadrennial Review.

13. *Contour Overlap.* The *NPRM* proposed to eliminate the Grade B contour overlap test and rely solely on Nielsen DMAs to determine when to apply the local television ownership rule. The *NPRM* recognized that the DMA approach could have a disproportionate impact in certain DMAs and sought comment on the impact of such a change. As discussed below, the Commission tentatively finds that the public interest is best served by retaining the contour-based approach of the previous rule but by replacing the analog Grade B contour with the digital NLSC. The Commission seeks comment on whether any developments have occurred since the *NPRM* that should cause it to reconsider this proposed approach.

14. The Commission believes that the proposed DMA-only approach would unnecessarily expand the reach of the local television ownership rule in certain DMAs and thus would be overbroad. Therefore, the Commission tentatively declines to adopt that approach. NAB argues that relying instead on the digital NLSC, which the Commission has treated as the functional equivalent of the Grade B contour, would serve the purpose of establishing a trigger that would accurately reflect current digital service areas while avoiding any potential disruptive impact, and the Commission believes that approach is reasonable. By contrast, there is no digital counterpart to a station's analog city grade contour. Accordingly, consistent with case law developed after the digital transition, the Commission would continue to evaluate all future requests for new or continued satellite status on an ad hoc basis. In addition, consistent with previous Commission decisions, the Commission tentatively finds that retaining a contour-based approach would serve the public interest by promoting local television service in rural areas. In particular such an approach would continue to allow station owners in rural areas to build or purchase an additional station in remote portions of the DMA, so long as there is no digital NLSC overlap. It is important that the local television ownership rule take into account the current digital service area of a station. The Commission confirms that the digital NLSC is an accurate measure of a station's current service area and thus would be an appropriate standard. Thus, under the modified rule proposed in the *Further Notice of Proposed Rulemaking,* the Commission would continue to define the geographic dimensions of the local television market by reference to DMAs, but the Commission would replace the analog Grade B contour with the digital NLSC, such that within a DMA an entity could own or operate two stations in a market if the digital NLSCs of those stations did not overlap. To the extent that the digital NLSC of two stations in the same DMA overlapped, then the stations serve the same area, even if there was no analog Grade B contour overlap prior to the digital transition, and in that case the combination would be permitted

only if it satisfied the top-four prohibition and the eight-voices test. In the *2002 Biennial Review Order* (68 FR 46286, Aug. 5, 2003, FCC 03–127, rel. July 2, 2003), in which the local television ownership rule was relaxed, the Commission eliminated the contour overlap provision. However, in recognition of the unique circumstances involving stations without Grade B contour overlap, the Commission adopted waiver criteria that would permit common ownership if the applicant could demonstrate ''that the stations have no Grade B overlap and that the stations are not carried by any MVPD to the same geographic area.'' The revised rule adopted in the *2002 Biennial Review Order* was overturned on appeal. The Commission believes its proposal to adopt the digital NLSC standard is in the public interest and is supported by the record, and it declines to propose alternate possible solutions, such as waiver criteria similar to those adopted in the *2002 Biennial Review Order.* However, the Commission invites commenters to propose alternate solutions if they object to the Commission's approach.

15. The *NPRM* described the potential benefits of a DMA-based approach, including correlation with DMA-wide carriage of broadcast signals pursuant to mandatory carriage requirements and benefits similar to those realized by the geographic market definition in the radio rule. For the reasons discussed above, however, that approach could have a negative impact in certain DMAs. The Commission seeks comment on the tentative conclusion that the alternative approach proposed in this *Further Notice of Proposed Rulemaking* would avert the negative impact of the DMA-based approach, accurately reflect current digital service areas, and appropriately balance the Commission's public interest goals.

16. *Grandfathering.* The Commission tentatively affirms the *NPRM's* proposal to grandfather existing ownership combinations that would exceed the numerical limits under the revised contour approach, though it tentatively finds that the sale of such combinations must comply with the local television ownership rule then in effect. In addition, the Commission proposes that all permanent waivers from the prior rule that previously have been granted would continue in effect under the new rule, but, like any newly grandfathered combinations, could not be transferred/assigned intact unless the combination complies with the local television ownership rule in effect at the time of the transfer/assignment. The Commission seeks comment on whether it should adopt this approach in the 2014 quadrennial proceeding.

17. The Commission tentatively finds that the concerns raised by those in favor of permitting grandfathering and the transfer of grandfathered combinations would largely be addressed by the proposal to retain a contour overlap provision in the local television ownership rule and to substitute the digital NLSC for the Grade B contour. The contour element of the rule would effectively maintain the status quo for most, if not all, owners of duopolies formed as a result of the previous Grade B contour overlap provision. Consistent with the tentative conclusion in the *NPRM,* however, the Commission proposes to grandfather ownership of existing combinations of television stations, if any, that would exceed the ownership limit as a result of the change to the digital NLSC test the Commission proposes herein. Even in limited circumstances, compulsory divestiture is disruptive to the marketplace and is a hardship for individual owners; the Commission believes any benefits to its policy goals (including promoting ownership diversity) would be outweighed by these countervailing equitable considerations.

18. The Commission proposes, however, to require that the sale of any such grandfathered combination comply with the local television ownership rule in place at the time the transfer of control or assignment application is filed. As stated above, the digital NLSC is an accurate measure of a station's digital service area. If the digital NLSC of two stations in the same DMA overlap, then the stations serve the same area, even if there was no Grade B contour overlap prior to the digital transition. Accordingly, requiring that the sale of a grandfathered combination comply with the new standard would be consistent with the Commission's rationale for adopting the digital NLSC-based standard and would not cause hardship by requiring premature divestiture. Consistent with the Commission's previous decisions, it tentatively finds that the public interest would not be served by allowing grandfathered combinations to be freely transferable in perpetuity where a combination does not comply with the local television ownership rule at the time of transfer/assignment. Under its proposed approach, the Commission would continue to allow *pro forma* changes in ownership and involuntary changes of ownership due to death or legal disability of the licensee. The Commission seeks comment on this tentative conclusion.

19. *Numerical Limits.* The Commission proposed in the *NPRM* to retain the current numerical limits in the local television ownership rule. The Commission seeks comment on whether to adopt that proposal, thereby permitting a licensee to own up to two stations (*i.e.,* a duopoly) in a market, subject to the other requirements proposed in this *Further Notice of Proposed Rulemaking.*

20. The Commission seeks comment on its preliminary view that the local television marketplace has not changed significantly since the *NPRM* to justify either tightening or loosening the current numerical limits of the local television rule. Ownership of a second in-market station can create substantial efficiencies, which may allow a local broadcast station to invest in programming that meets the needs of its local community, such as local news or other public interest programming. Notably, the Commission tentatively finds that there is substantial evidence in the record that the duopolies permitted subject to the restrictions of the current rule have created tangible public interest benefits for viewers in local television markets that more than offset any potential harms that are associated with common ownership. Moreover, as discussed in greater detail in the paragraphs below on multicasting, the Commission believes that the ability to multicast is not a substitute for common ownership of multiple stations and, therefore, would not justify tightening the existing numerical limits. The Commission seeks comment on these tentative findings.

21. Similarly, the Commission does not believe there have been sufficient changes in the local television marketplace to justify ownership of a third in-market station. The Commission seeks comment on this tentative conclusion. The primary ''change'' in the marketplace cited by those commenters in favor of loosening the rule is competition from non-broadcast alternatives. As discussed above, however, the Commission believes the local television ownership rule is designed to promote competition among broadcast television stations in local television markets, and the Commission has tentatively concluded that it is not yet appropriate to consider competition from non-broadcast sources in evaluating whether the rule remains necessary. Even if the Commission were to consider such competition, Entravision, which supported ownership of up to two stations in all markets and up to three stations in markets with 18 or more television stations, conceded that such

consolidation is likely to threaten the Commission's competition and diversity goals by jeopardizing small and mid-sized broadcasters. To combat these harms, Entravision proposed a series of ''behavioral regulations'' that the Commission could adopt in tandem with loosening the ownership restrictions. The Commission declined to adopt this proposal in the 2006 Quadrennial Review proceeding, a decision that was upheld in *Prometheus II,* and the Commission sees no changes in the local television marketplace that would warrant reconsideration of the Commission's previous decision. The Commission has long applied structural local media ownership rules and has previously rejected proposals for instituting behavioral rules. The Commission proposes to affirm this approach, as it continues to believe that behavioral rules are not appropriate substitutes for structural local media ownership rules. The Commission seeks comment on this proposal. Without significant evidence of the public interest benefits that could result from the ownership of three stations in a local market, the Commission does not believe that there is adequate justification at this time for increasing the numerical limits.

22. *Top-Four Prohibition.* The Commission proposes to continue to prohibit mergers between two top-four-rated stations in a local market, consistent with the tentative conclusion in the *NPRM.* The Commission tentatively finds that the top-four prohibition remains necessary to promote competition in the local television marketplace. The Commission seeks comment on whether there have been any developments since the *NPRM* that it should consider with regard to this issue.

23. Consistent with previous Commission decisions, the Commission proposes to continue to prohibit mergers involving two of the top-four stations in a market because it believe such combinations would be the most deleterious to competition. The Commission has previously identified potential harms associated with top-four combinations, and the Commission found no evidence in the 2010 Quadrennial Review record to disturb the Commission's previous findings. Accordingly, the Commission continues to believe that top-four combinations would often result in a single firm obtaining a significantly larger market share than other firms in the market and that such combinations could create welfare harms. Top-four combinations have been found to reduce incentives for local stations to improve their programming, as once strong rivals suddenly have incentives to coordinate their programming in order to minimize competition between the commonly owned stations. In addition, in general, there remains a significant ''cushion'' of audience share points that separates the top-four stations in a market from the fifth-ranked station. Accordingly, the Commission tentatively finds that the public interest is best served by retaining the top-four prohibition. The Commission seeks comment on this tentative conclusion.

24. The *NPRM* also sought comment on certain circumstances in which a licensee is able to obtain control over two of the top-four stations in a market through a transaction or series of transactions, sometimes referred to as ''affiliation swaps,'' that do not require prior Commission approval. Based on its review of the 2010 Quadrennial Review record, the Commission tentatively finds that such transactions should be subject to the top-four prohibition because it believes they circumvent the intent of the rule and are not in the public interest. The Commission seeks comment on whether it should adopt this approach.

25. In general, national network affiliation is a significant driver of a station's audience share. The Commission has previously found that, nationally, the Big Four networks (*i.e.,* ABC, CBS, Fox, and NBC) are the highest rated networks and that, in general, the national audience statistics are reflected in the rankings in the local markets. Recent Nielsen data confirm this finding. Accordingly, an affiliation swap involving a top-four station and a non-top-four station will nearly always result in the non-top-four station becoming a top-four station after the swap. Because such affiliation swaps do not involve the assignment or transfer of a station license, the transaction is not subject to prior Commission approval under Section 310(d) of the Communications Act of 1934. Thus, by engaging in an affiliation swap, parties can achieve a top-four station combination that would otherwise have been prohibited by the Commission's rules.

26. This fact is evidenced in the Honolulu, Hawaii, DMA, where an affiliation swap between a top-four station and a non-top-four station—which was commonly owned with a different top-four station in the market—was executed. In addition to the affiliation swap, the parties swapped certain of the stations' non-network programming and the stations' call signs, purportedly to avoid viewer confusion. Thus, the stations (though not the licenses) effectively changed hands without prior Commission approval—approval that was not technically required. Consistent with the Commission's observation above regarding the correlation between affiliation with a Big Four network and market rank, following the affiliation swap, the non-top-four station became a top-four station. By structuring these transactions so as to evade Commission review, a single entity was able to acquire control over a second top-four station in the market, a result that is prohibited under the local television ownership rule.

27. The Commission tentatively finds that transactions involving the sale or swap of network affiliations between in-market stations that result in an entity holding an attributable interest in two top-four stations can be used to evade the top-four prohibition. Accordingly, in order to close this loophole, the Commission proposes to clarify that such transactions must comply with the top-four prohibition at the time the agreement is executed. Specifically, the Commission believes an entity should not be permitted to directly or indirectly own, operate, or control two television stations in the same DMA through the execution of any agreement (or series of agreements) involving stations in the same DMA, or any individual or entity with a cognizable interest in such stations, in which a station (the new affiliate) acquires the network affiliation of another station (the previous affiliate), if the change in network affiliations would result in the licensee of the new affiliate, or any individual or entity with a cognizable interest in the new affiliate, directly or indirectly owning, operating, or controlling two of the top-four rated television stations in the DMA at the time of the agreement. In addition, the Commission proposes that, for purposes of making this determination, the new affiliate's post-consummation ranking would be the ranking of the previous affiliate at the time the agreement is executed, determined in accordance with § 73.3555(b)(1)(i) of the Commission's rules. The Commission proposes to find any party that has control over two top-four stations in the same DMA as a result of such transactions to be in violation of the top-four prohibition and subject to enforcement action. Application of this rule would be prospective, and parties that acquired control over a second in-market top-four station by engaging in such transactions prior to the release date of a decision to adopt such a rule would not be subject to divestiture or enforcement action.

Consistent with *KHNL/KGMB License Subsidiary,* such transactions that would not be subject to such a rule could still be considered in the context of individual licensing proceedings. All future transactions would be required to comply with the Commission's rules then in effect. The Commission seeks comment on these proposals. In addition, it seeks comment on whether and how station owners are attempting to circumvent the top-four prohibition, or any other of the media ownership rules, through the invention of similar devices. While the Commission has tentatively determined that the present circumstances support prospective application of this rule, parties are on notice that similar efforts to evade the media ownership rules could be subject to enforcement action.

28. The Commission seeks comment on whether this application of the top-four prohibition is consistent with the Commission's policy to avoid constraints on commercial activities that are designed to effect station improvements. The Commission continues to encourage licensees to improve the quality of the programming and operation of their stations in ways that are consistent with the Commission's rules and policies. Moreover, the Commission does not believe that closing this loophole in the top-four prohibition violates the First Amendment. Indeed, recent constitutional challenges to the media ownership rules have been rejected, and the Commission tentatively finds that this application of the top-four prohibition withstands First Amendment scrutiny for the same reasons.

29. While certain commenters argued to the contrary, for the reasons discussed herein, acquiring control over a second in-market top-four station through the transactions described above is easily distinguishable from other, legitimate actions a station may undertake to increase ratings at the expense of a competitor. In addition, Sinclair cautioned the Commission against interfering in the free market negotiation of affiliation agreements—which it asserted occur often and for valid business reasons—based upon a single instance where the Commission believes an affiliation swap constituted an ''end run'' around the top-four prohibition. Contrary to Sinclair's assertion, the Commission does not believe that it is necessary, or wise, to permit additional parties to evade the top-four prohibition before it acts, nor does it believe that this proposal is likely to have a significant impact on the negotiation of affiliation agreements. Consistent with Sinclair's comments, the Commission believes that the negotiation of affiliation agreements typically does not involve affiliation swaps and, therefore, would be unaffected by this proposal. And while such swaps may not occur often, given the potential of such transactions to undermine the local television ownership rule, the Commission believes that the application of the top-four prohibition to such transactions would be necessary. The Commission does not believe there is a reliable marketplace solution that would restrain the use of affiliation swaps to evade the top-four prohibition. The Commission seeks comment on these views.

30. *Eight-Voices Test.* Consistent with the proposal in the *NPRM,* the Commission tentatively concludes that a merger between two in-market stations with overlapping contours should not be permitted unless there would be at least eight independently owned commercial and noncommercial television stations remaining in the market post-merger, and at least one station is not a top-four station. The Commission tentatively finds that the eight-voices test continues to be necessary to promote competition in local television markets. The Commission seeks comment on these tentative conclusions.

31. The Commission's view is that the 2010 Quadrennial Review record does not reveal sufficient changes in the local television marketplace to warrant modification of the eight-voices test at this time. Consistent with the Commission's prior position, the Commission tentatively finds that, in order to permit common ownership of two in-market stations with digital NLSC overlap, there should be a minimum of eight independently owned and operated television stations in the market post-merger. The Commission believes this minimum threshold would help ensure robust competition among local television stations in the markets where common ownership is permitted under its proposed rule, as it would increase the likelihood that each such market would be served by stations affiliated with each of the Big Four networks as well as at least four independently owned and operated stations unaffiliated with these major networks. Indeed, nearly every market with eight or more full-power television stations—absent a waiver of the local television ownership rule or unique circumstances—is served by each of the Big Four networks and at least four independent competitors unaffiliated with a Big Four network. Competition among these independently owned stations is important, as it serves to improve the programming offered both by the major network stations and the independent stations, including increased local news and public interest programming. The Commission notes that this competition is perhaps most valuable during the parts of the day in which local broadcast stations do not transmit the programming of affiliated broadcast networks. Moreover, because there continues to be a significant gap in audience share between the top-four stations in a market and the remaining stations in most markets, the Commission continues to believe that it is appropriate to retain the eight-voices test, which helps to promote at least four independent competitors before common ownership is allowed. The Commission seeks comment on the tentative conclusion that, in light of this concentration and consistent with the *2006 Quadrennial Review Order* (73 FR 9481, Feb. 21, 2008, FCC 07–216, rel. Feb. 4, 2008), it remains prudent to require the presence of at least four additional independently owned and operated competitors in the market in order to promote competition in the local television market before permitting any common ownership in that market. The Commission is most interested in learning whether any new information has become available since the *NPRM* that it should take into account in considering this issue.

32. The Commission tentatively finds that it is appropriate to include only full-power television stations in the voice count. The primary purpose of the rule is to promote competition among broadcast television stations in local television viewing markets; therefore, the Commission tentatively finds that it would be inappropriate to include other types of media when counting voices. The Commission notes that in the *2006 Quadrennial Review Order* the Commission addressed the *Sinclair* court's criticisms of the eight-voices test, specifically the rationale for defining voices differently in the radio-television cross ownership rule and the local television ownership rule. The Commission detailed its rationale for limiting voices in the television rule to only full-power television stations, a rationale that was subsequently upheld on appeal in *Prometheus II,* and to which the Commission proposes to continue to adhere herein. The Commission seeks comment on its view that *Sinclair* does not compel the Commission to include additional voices in the eight-voices test.

33. *Market Size Waivers.* The *NPRM* sought comment on whether the

Commission should adopt a waiver standard for markets where the rules would otherwise limit ownership to a single television station, and, if so, how such a waiver standard should be structured. The *NPRM* sought comment also on whether such a market size waiver, which could even allow combinations between top-four stations, would promote additional local news offerings in small markets that are less able to support four local news operations. Based on review of the 2010 Quadrennial Review record, the Commission tentatively concludes that a market size waiver standard is not necessary. Instead, the Commission tentatively concludes that retention of the existing failed/failing station waiver policy would serve the public interest and it seeks additional comment on whether to relax the waiver criteria or establish additional grounds for waiver.

34. The Commission seeks comment on the tentative conclusion that establishing a new market size waiver standard is not needed. Having evaluated the various proposed waiver standards proffered by commenters, the Commission is concerned that many of the proposed waiver criteria would be difficult to monitor or enforce, are not rationally related to the ability of each station to compete in the local market, and could be manipulated in order to obtain a waiver. Ultimately, the Commission predicts that such standards would significantly expand the circumstances in which a waiver of the local television ownership rule would be granted. The Commission is concerned that such relaxation would be inconsistent with the tentative conclusion that the public interest is best served by retaining the existing television ownership limits. Moreover, the Commission believes that the existing waiver standard is not unduly restrictive and that it provides appropriate relief in markets of all sizes. Waiver of its rules is meant to be exceptional relief, and the Commission tentatively finds that the existing waiver criteria strike an appropriate balance between enforcing the ownership limits and providing relief from the rule on a case-by-case basis.

35. In addition, the Commission tentatively finds that it is not necessary to modify the existing waiver standard in order to promote additional local news, as the current policy already indirectly takes this into consideration in cases involving failing stations. Indeed, parties frequently pledge to continue and/or increase local news offerings in order to demonstrate that the proposed transaction would produce public interest benefits. The Commission's commitment to promoting increased local news remains strong, and the Commission believes that the existing waiver policy helps further that goal. The Commission seeks comment on whether there is new information since the *NPRM* that would alter its preliminary views on this issue.

36. The Commission seeks comment on the tentative conclusion that maintaining the failed/failing station waiver policy will serve the public interest. While it proposes to retain the existing failed/failing station waiver policy, it acknowledges that some industry participants have argued that certain elements of the existing policy are too restrictive. Accordingly, the Commission seeks comment on potential changes to the policy to address those circumstances. For example, are there circumstances in which the Commission should refrain from applying the four-percent all-day audience share requirement or adopt a higher threshold? If so, what circumstances would justify such a change? Are any other changes appropriate? The Commission encourages commenters to provide alternative waiver criteria for its consideration, including specific justifications for such criteria, as well as the potential impact on its policy goals.

37. *Multicasting.* The *NPRM* sought comment on whether the transition to digital television, and specifically a station's ability to multicast multiple program streams has eliminated the need to permit common ownership of two stations in local television markets, as the local television ownership rule does. The 2010 Quadrennial Review record does not persuade the Commission that multicasting justifies imposition of a single-station ownership restriction or other tightening of the current ownership limits. The Commission seeks comment on whether there have been any developments since the *NPRM* that should cause it to reevaluate this position.

38. The Commission tentatively concurs with the broadcast commenters that, while multicasting has produced public interest benefits, the ability to multicast does not justify tightening the current numerical limits. Based on evidence in the 2010 Quadrennial Review record, broadcasting on a multicast stream does not—at present—produce the cost savings and additional revenue streams that can be achieved by owning a second in-market station. Therefore, tightening the numerical limits might prevent those broadcasters in markets where common ownership is permitted under the existing rule from achieving the efficiencies and related public interest benefits associated with common ownership. Accordingly, the Commission's view based on the most recent record is that it is not appropriate to adjust the numerical limits as a result of stations' multicasting capability. The Commission seeks comment, however, on whether it should reconsider its position within the context of the 2014 Quadrennial Review proceeding. The Commission notes that it has authorized channel sharing by broadcast television stations in connection with the incentive auction of broadcast television spectrum and that the statutory provision mandating the incentive auction protects the must-carry rights of stations that voluntarily relinquish spectrum usage rights in order to channel share. The Commission seeks comment on the potential impact of this aspect of the incentive auction for purposes of the media ownership rules.

39. Moreover, as discussed above, the Commission tentatively finds that the public interest is served by retaining the current numerical ownership limits; it believe that doing so would promote competition in local television markets. Therefore, as the court noted in *Prometheus II,* even if multicasting did generate cost savings and new revenue streams similar to owning a second in-market station—though the Commission believes that at present it does not—the Commission is not required ''to promulgate a more restrictive rule just because entities may gain similar economies of scale and generate new revenue by multicasting.'' Indeed, for the reasons discussed herein, the Commission proposes not to make such a change, and it seeks comment on the potential consequences of such an approach for purposes of the 2014 Quadrennial Review.

40. The *NPRM* sought comment also on the impact of dual network affiliations on local markets and whether the Commission should limit the ability of stations to utilize their multicast capacity to form dual affiliations with certain networks. As discussed below, the Commission proposes to decline to regulate such dual affiliations in the context of the media ownership rules at this time, and it seeks comment on this proposal. The Commission seeks comment on multicasting issues in general and, in particular, on any potential impact on the incentive auction.

41. The Commission does not believe the 2010 Quadrennial Review record supports regulation within the context of its media ownership rules to restrict the use of multicast capability to form dual affiliations. The commenters were primarily concerned with such dual

affiliations involving two Big Four networks. Evidence available during the 2010 proceeding indicates that dual affiliations involving two Big Four networks via multicasting are generally—if not exclusively—limited to smaller markets with an insufficient number of full-power commercial television stations to accommodate each Big Four network or where other unique marketplace factors are responsible for creating the dual affiliation arrangements. BIA data from 2012 indicate that there are approximately 40 instances of dual affiliation via multicasting involving multiple Big Four networks. Each market in which the Commission identified such dual affiliation was outside the top-100 ranked DMAs, with the vast majority of such markets—approximately 73 percent—containing three or fewer full-power commercial television stations. These findings are consistent with the data and estimates provided by cable commenters, as a significant majority of the dual affiliations identified in these comments involved a Big Four network and a ''Little Two'' network (*i.e.,* The CW or MyNetworkTV). The Commission tentatively finds that Big Four/Little Two dual affiliations via multicasting, regardless of market rank, do not raise sufficient competitive concerns to justify an amendment to the local television ownership rule. While there may be potential harms that result from certain dual network affiliations, the Commission tentatively agrees with broadcast commenters that the potential benefits of dual affiliation via multicasting in these smaller markets, including dual affiliation with more than one Big Four network, outweigh any potential harms to the Commission's policy goals. Indeed, the Commission believes that a significant benefit of the multicast capability is the ability to bring more local network affiliates to smaller markets, thereby increasing access to popular network programming and local news and public interest programming tailored to the specific needs and interests of the local community. Based on the 2010 Quadrennial Review record, it appears that marketplace incentives operate to limit the occurrence of dual affiliations via multicasting involving multiple Big Four networks to these smaller markets. For these reasons, the Commission tentatively declines to regulate dual affiliations at this time, and the Commission seeks comment on this approach within the context of any marketplace changes that may have occurred since the *NPRM.*

42. *Minority and Female Ownership.* The Commission sought comment on the impact of the proposed local television ownership rule on minority and female ownership opportunities, as well as the impact of diverse television ownership on viewpoint diversity. The Commission tentatively finds that the local television ownership rule proposed in this *Further Notice of Proposed Rulemaking* is consistent with its goal to promote minority and female ownership of broadcast television stations. The Commission seeks comment on this tentative conclusion.

43. As discussed above, the Commission tentatively finds that the 2010 Quadrennial Review record demonstrates that the existing local television ownership rule remains necessary to promote competition among broadcast television stations in local markets. Moreover, the Commission believes the competition-based rule would also indirectly advance its viewpoint diversity goal by helping to ensure the presence of independently owned broadcast television stations in the local market, thereby increasing the likelihood of a variety of viewpoints. In addition, while the Commission does not propose to retain the rule with the specific purpose of preserving the current levels of minority and female ownership, the Commission tentatively finds that retaining the existing rule would effectively address the concerns of those commenters who suggested that additional consolidation would have a negative impact on minority and female ownership of broadcast television stations. The Commission notes also that it proposes to retain without modification the current failed/failing station waiver policy, including the out-of-market-buyer solicitation requirement—the failed station solicitation rule (FSSR)—which promotes new entry in a market by ensuring that out-of-market entities interested in purchasing a station, including minorities and women, will have an opportunity to bid. The Commission seeks comment on how any developments since the *NPRM* may affect these tentative findings. In addition, the Commission seeks comment on whether the incentive auction has the potential to impact minority and female broadcast ownership and whether any such impacts should affect the 2014 Quadrennial Review.

2. Local Radio Ownership Rule

a. Introduction

44. Based on the 2010 Quadrennial Review record, the Commission tentatively finds that the current local radio ownership rule remains necessary in the public interest and should be retained without modification. The Commission believes that the rule is necessary to promote competition. In addition, the Commission believes that the radio ownership limits promote viewpoint diversity ''by ensuring a sufficient number of independent radio voices and by preserving a market structure that facilitates and encourages new entry into the local media market.'' Similarly, the Commission tentatively finds that a competitive local radio market helps to promote localism, as a competitive marketplace will lead to the selection of programming that is responsive to the needs and interests of the local community. The Commission tentatively finds also that the local radio ownership rule is consistent with its goal of promoting minority and female ownership of broadcast television stations. Finally, the Commission believes that these benefits outweigh any burdens that may result from its proposal to retain the rule without modification. The Commission seeks comment on these tentative conclusions.

45. In accordance with these tentative conclusions, the Commission proposes that an entity may continue to own: (1) Up to eight commercial radio stations in radio markets with 45 or more radio stations, no more than five of which can be in the same service (AM or FM); (2) up to seven commercial radio stations in radio markets with 30–44 radio stations, no more than four of which can be in the same service (AM or FM); (3) up to six commercial radio stations in radio markets with 15–29 radio stations, no more than four of which can be in the same service (AM or FM); and (4) up to five commercial radio stations in radio markets with 14 or fewer radio stations, no more than three of which can be in the same service (AM or FM), provided that an entity may not own more than 50 percent of the stations in such a market, except that an entity may always own a single AM and single FM station combination. The Commission seeks comment on the costs and benefits of its proposal to retain the existing local radio ownership rule. To the greatest extent possible, commenters should quantify the expected costs or benefits of retaining the rule and provide detailed support for any actual or estimated values provided, including the source of such data and/or the

method used to calculate reported values.

b. Background

46. In the *NPRM,* the Commission proposed to retain the local radio ownership rule without modification, including the AM/FM subcaps, and sought comment on this tentative conclusion. The Commission also sought comment on whether and, if so, how, to incorporate new audio platforms into the rule and on the impact of such platforms on the broadcast radio industry. In addition, the *NPRM* sought comment on whether to adopt a specific waiver standard for the local radio ownership rule and on how the proposed rule would affect minority and female ownership opportunities.

c. Discussion

47. *Market.* In the *NPRM,* the Commission tentatively concluded that the relevant market for review of the local radio ownership rule is the radio listening market and that it is not appropriate, at this time, to expand that market to include non-broadcast sources of audio programming. Based on the Commission's review of the 2010 Quadrennial Review record, it believes this approach is appropriate, and it seeks comment on whether it should maintain this market definition.

48. The Commission tentatively finds that, for purposes of the Commission's ownership rules, non-broadcast sources of audio programming are not yet meaningful substitutes for broadcast radio stations with respect to either listeners or advertisers. While alternate platforms such as satellite radio and Internet-delivered audio are growing in popularity, broadcast radio remains the dominant radio technology. In 2012, 92 percent of Americans age 12 or older listened to broadcast radio, a figure that has remained essentially constant over the last decade. Satellite radio still serves only a small portion of the population, even though its subscription rates continue to climb. And though recent data suggest that a significant portion of adult U.S. broadband households (42 percent) listen to Internet-delivered audio programming, the Commission notes that millions of U.S. households continue to lack broadband connections. In addition, only 14 percent of Internet radio listeners listen in their cars, where most broadcast radio listening occurs. Thus, the Commission tentatively concludes that Internet-delivered audio programming is not yet a meaningful substitute for broadcast radio listening for most listeners. The Commission seeks comment on this tentative conclusion and invites commenters to provide any more recent relevant information and data.

49. The Commission believes, moreover, that satellite radio and content delivered via the Internet generally are national platforms that are not likely to respond to competitive conditions in local markets. Satellite radio content is uniform nationally, and there is no evidence in the record that content decisions are made based on competitive conditions in local markets. Similarly, there is no evidence in the record that Internet radio stations and other Internet-delivered audio programming providers (excluding streams of local broadcast radio stations) modify their programming decisions to respond to competitive conditions in local markets. Ultimately, the Commission tentatively finds that only local broadcasters provide programming based on the unique characteristics of their respective local markets. As the Commission has stated previously, it is the competition between such rivals that most benefits listeners in a local market and serves the public interest—competition that is currently lacking from non-broadcast audio alternatives. Therefore, the Commission proposes to continue to limit the relevant market for the local radio ownership rule to broadcast radio stations in local radio listening markets, and it seeks comment on this proposal.

50. In addition, broadcast radio's consistently strong position in both local and national advertising markets appears to support the Commission's tentative finding that non-broadcast sources of audio programming are not significant competitors at this time. Broadcasters asserted that the Commission should expand the relevant market for review, in part, because of competition for advertising revenue from non-broadcast audio sources; however, recent advertising data do not support this contention. From 2008 through 2011, broadcast radio's local advertising revenue market share increased each year, reaching 16.6 percent in 2011. In the national advertising market during that same time period, broadcast radio's market share remained stable (between 1.8 and 2.0 percent). By contrast, satellite radio's advertising revenue market share in both the local and national markets did not exceed 0.1 percent. And while ''Internet advertising'' has seen significant gains in advertising revenue market share both locally and nationally, evidence suggests that the revenue is not attributable in any significant portion to providers of Internet-delivered audio programming. For example, in 2011, online-only audio programming providers were estimated to have earned approximately $295 million in advertising revenue. By contrast, in 2011, the total broadcast radio advertising revenue market was projected at approximately $17.8 billion. The Commission notes that NAB conceded that local radio broadcasting revenues have improved in recent years, but it argued that there has been a ''structural change in the audio marketplace'' because overall revenues were below levels earned in 2005 and 2006 and are not expected to reach those levels until 2015. While total advertising revenue for local radio stations did decline from 2006–2009, with the most significant declines in 2008 and 2009, the evidence does not support the conclusion that this was a result of a unique change in the audio marketplace; instead, the total advertising market for all media experienced a significant contraction that was most likely the result of the global financial crisis that impacted nearly all markets. Moreover, overall advertising revenues for the broadcast radio industry have steadily improved since 2010 and are predicted to grow through 2020. However, the Commission seeks comment on whether any structural changes have occurred in the audio marketplace and, if so, whether to adjust the 2014 Quadrennial Review analysis to account for such changes. The Commission seeks comment on whether there have been any significant changes since these figures became available.

51. *Market Size Tiers.* The *NPRM* proposed to retain the current approach of setting numerical limits based on market size tiers and determining the market size based on the number of commercial and noncommercial radio stations in the local market. The Commission tentatively concludes that it should adopt these proposals and seek comment on this approach.

52. The Commission tentatively declines to modify the current rule's method of calculating the number of stations a licensee owns. The Commission seeks comment on Mid-West Family's assessment that the *Prometheus I* decision mandates an adjustment, in light of the court's *Prometheus II* decision upholding the existing rule's methodology. The Commission's preliminary view is that adopting Mid-West Family's approach would permit potentially significant consolidation in local radio markets, which would be inconsistent with the rationale for the Commission's proposal, discussed in greater detail below, to

retain the existing numerical ownership limits. Finally, the Commission proposes to reject Mt. Wilson's proposal. As discussed in greater detail below in the context of the AM/FM subcaps, digital radio is still a growing technology; there is no mandate requiring its adoption; and it has not yet achieved widespread deployment or consumer acceptance. Therefore, the Commission tentatively finds that it is premature to amend its local radio ownership rule as a result of digital technology, and it seeks comment on this approach.

53. *Numerical Limits.* The *NPRM* proposed to retain the existing numerical limits. In addition, the *NPRM* sought comment on Clear Channel's proposal to allow increased ownership in larger markets by creating additional tiers. Clear Channel suggested an increase from eight to ten in the number of stations a single entity may own in markets with between 55 and 64 stations and from eight to twelve in the number of stations that a single entity may own in markets with 65 or more stations. No party provided comments on this proposal and, as discussed below, the Commission tentatively finds that the record supports retaining the existing numerical limits (*i.e.,* the existing number of tiers and the numerical limits associated with each); therefore, it tentatively declines to adopt the new ownership tiers proposed by Clear Channel. As discussed above, many commenters in the 2010 Quadrennial Review proceeding supported the Commission's proposal to retain its existing limits, while other commenters argued in favor of loosening or tightening the existing limits. However, no commenters proposed specific numerical limits to replace the existing limits. For the reasons discussed below, the Commission proposes to adopt the tentative conclusion in the *NPRM* to retain the existing numerical ownership limits for each existing market size tier.

54. In the *2006 Quadrennial Review Order,* the Commission rejected calls to relax the numerical ownership limits, finding instead that retaining the existing limits was necessary to protect against excessive market concentration. The Commission noted that, following the relaxation of the local radio ownership limits by Congress in the 1996 Act, there had been substantial consolidation of radio ownership both nationally and locally. Evidence in the record demonstrated that, in local markets, the largest firms often dominated the market in terms of audience and revenue share. The Commission ultimately concluded not only that the existing limits were not unduly restrictive, but also that permitting additional consolidation would not be in the public interest. The *Prometheus II* court upheld the Commission's decision.

55. The Commission determined also in the *2006 Quadrennial Review Order* that tightening the radio ownership limits was not justified based on the record. The Commission held that tightening the ownership limits would be inconsistent with Congress's decision to relax the limits in the 1996 Act and would ignore the financial stability that consolidation brought to the radio industry. In addition, the Commission determined that tightening the rule would require significant divestitures that would disrupt the radio marketplace and could undermine the ability of local stations to provide quality programming to their local markets. While acknowledging that grandfathering was an option to avoid the disruptive impact of divestitures, the Commission determined that grandfathering in this instance would not be in the public interest.

56. Based on the 2010 Quadrennial Review record, the Commission tentatively finds that the competitive conditions in the radio marketplace that supported the Commission's decision to retain the existing numerical limits in the *2006 Quadrennial Review Order* are essentially unchanged. Evidence from 2012 shows that in local markets, the largest commercial firms continue to enjoy substantial advantages in revenue share—on average, the largest firm in each Arbitron Metro market has a 45 percent share of the market's total radio advertising revenue, with the largest two firms accounting for 73 percent of the revenue. In more than a third of all Arbitron Metro markets, the top two commercial station owners control at least 80 percent of the radio advertising revenue. With respect to ratings, the top-four firms continue to dominate audience share. Therefore, the Commission does not believe the public interest would be served by relaxing the existing numerical limits. The Commission seeks comment on whether there are any more recent data that point toward a different conclusion.

57. The Commission notes also that the record in the 2010 Quadrennial Review proceeding does not reflect changes in the marketplace that warrant reconsideration of the Commission's previous decision not to make the limits more restrictive, as some commenters recommended. The Commission believes that tightening the restrictions would disregard the previously identified benefits of consolidation in the radio industry and would be inconsistent with the 1996 Act. Further, tightening the rule would require divestitures that the Commission believes would be disruptive to the radio industry and would upset the settled expectations of individual owners. The Commission seeks comment on whether any benefits derived from tightening the limits would outweigh these countervailing considerations. In addition, the Commission seeks comment on its continued belief that, for the reasons stated in the *2006 Quadrennial Review Order,* tightening the limits while grandfathering existing combinations would not be in the public interest and should be avoided.

58. *Clarification of Application of Local Radio Ownership Rule.* In the *2002 Biennial Review Order,* the Commission adopted the current standard of using Arbitron Metro areas, where available, for the application of the numerical radio ownership limits. At that time, the Commission also adopted certain procedures and safeguards designed to guide the implementation of the revised local radio ownership rule and to deter parties from attempting to circumvent the rule through the manipulation of Arbitron market definitions. Years of experience applying the current approach suggest certain aspects of the current standard that the Commission believes merit clarification or further action to fulfill the intent of the *2002 Biennial Review Order.*

59. Multiple parties raised other issues in the 2010 Quadrennial Review proceeding that the Commission tentatively declines to address specifically herein. Mid-West Family requested changes to the grandfathering rules regarding transfers of control due to death or other departure of shareholders/partners of closely held businesses, asserting that such transfers of control should be treated the same as transfers that occur pursuant to a will or intestacy. In addition, UCC *et al.* argued that the Commission should consider reversing its decision in the *2002 Biennial Review Order* to grandfather certain radio station combinations, particularly in light of the elimination of the eligible entity exception, which they asserted could present ownership opportunities for minorities and women. By contrast, Frandsen argued that the Commission should permit the sale of grandfathered clusters to any party. The Commission tentatively declines at this time to address the issues raised by Mid-West Family, UCC *et al.,* and Frandsen. As the Commission has proposed to retain the existing

numerical limits, it sees no reason at this time to reverse or expand the grandfathering policies that apply to existing combinations. The Commission has previously found Mid-West Family's requested relief to be outside the scope of the quadrennial review proceeding. Moreover, as discussed herein, the Commission has proposed to reinstate the eligible entity exception.

60. The *2002 Biennial Review Order* prohibits a party from receiving the benefit of a change in Arbitron Metro boundaries or ''home'' market designation unless that change has been in place for at least two years (or, in the case of a ''home'' designation change, the station's community of license is within the Metro). The Commission does not apply the two-year waiting period to Arbitron Metro changes resulting from a Commission-approved change in community of license to an area outside the Metro's boundaries. The Commission proposes to clarify that the exception to the waiting period for Commission-approved changes applies only where the community of license change also involves the physical relocation of the station facilities to a site outside the relevant Arbitron Metro market boundaries. Otherwise, the licensee of a station currently located in an Arbitron Metro could use the exception to reduce the number of its stations listed as ''home'' to that Metro, without triggering the two-year waiting period and without any change in physical coverage or market competition, merely by specifying a new community of license located outside the Metro. Thus, this clarification safeguards the local radio ownership limits from manipulation based on Arbitron market definition. The Commission seeks comment on this proposed clarification.

61. Note 4 to § 73.3555 of the Commission's rules (Note 4) grandfathers existing station combinations that do not comply with the numerical ownership limits of § 73.3555(a). Certain circumstances, however, require applicants to come into compliance with the numerical ownership limits despite the fact that the relevant station may have been part of an existing grandfathered cluster. One such circumstance is a community of license change, which occasionally can lead to difficulty in the case where an applicant with a grandfathered cluster of stations seeks to move a station's community of license outside the relevant Arbitron Metro. Given that the Commission relies on BIA for market designations, such an applicant may be prevented from demonstrating compliance with the multiple ownership limits because the station proposing to change its community will continue to be listed by BIA as ''home'' to the Metro until the community of license change has taken place. To resolve this practical issue, the Commission tentatively proposes to allow a temporary waiver of the radio multiple ownership limits for three months in this limited instance to allow BIA sufficient time to change the affected station's ''home'' designation following a community of license relocation. The Commission also proposes to exempt from the requirements of Note 4 ''intra-Metro'' community of license changes—from one community to another within the same Arbitron Metro. The Commission tentatively finds that, in the majority of cases, such a move will have little or no impact on the state of competition within the local market. The Commission seeks comment on these proposed adjustments to the operation of Note 4.

62. In its comments in the 2010 Quadrennial Review proceeding, ARSO renewed its longstanding request that the Commission redefine local radio markets for Puerto Rico. ARSO argues that Arbitron's definition of the entire island of Puerto Rico as a single Arbitron Metro market does not accurately reflect market and geographic realities, which prevent stations from competing island-wide. ARSO requests that the Commission: (1) redefine the local radio markets in Puerto Rico using the eight Metropolitan Statistical Areas defined by the Office of Management and Budget (OMB); or (2) redefine the local radio markets using the three Combined Statistical Areas defined by OMB; or (3) treat Puerto Rico as a non-Arbitron Metro area and redefine its local markets using contour-overlap methodology. The Commission has consistently waived the Arbitron Metro definition for applicants in Puerto Rico and employed the contour-overlap methodology in the course of implementing the *2002 Biennial Review Order.* The Commission has previously stated that it would address ARSO's request for relief in a future proceeding. The Commission seeks comment on ARSO's suggestions and on the effectiveness of the Commission's prior waivers of the definition in this context.

63. *AM/FM Subcaps.* The *NPRM* proposed to retain the existing AM/FM subcaps, finding that the rationales for doing so set forth in the *2006 Quadrennial Review Order* were still valid, namely to promote new entry and to account for the technological and marketplace differences between AM and FM stations and thereby promote competition. In addition, the *NPRM* sought comment on the impact of the digital radio transition on the AM/FM subcaps, as well as issues regarding the aggregation of multiple AM stations to provide signal coverage in large geographic areas or in areas with mountainous terrain. Consistent with the proposal in the *NPRM,* the Commission tentatively finds that there have not been significant changes in the broadcast radio marketplace with respect to the rationale for maintaining the AM/FM subcaps since the conclusion of the 2006 Quadrennial Review proceeding, and it proposes to retain the existing AM/FM subcaps for the reasons set forth in the *2006 Quadrennial Review Order.* The Commission seeks comment on this approach.

64. The Commission tentatively agrees with the commenters in the 2010 Quadrennial Review proceeding that supported retention of the AM subcaps in order to promote new entry. Consistent with Commission precedent, the Commission believes that broadcast radio, in general, continues to be a more likely avenue for new entry in the media marketplace—including entry by small businesses and entities seeking to serve niche audiences—as a result of radio's ability to more easily reach certain demographic groups and the relative affordability of radio stations compared to other mass media. AM stations are generally the least expensive option for entry into the radio market, often by a significant margin, and therefore permit new entry for far less capital investment than is required to purchase an FM station. While some commenters suggested that eliminating the subcaps could result in divestiture of properties that could be acquired by new entrants, the Commission tentatively finds that this speculative rationale is not persuasive. Therefore, consistent with Commission precedent, it believes that the public interest is best served by retaining the existing AM subcaps, which would continue to further competition, and possibly also viewpoint diversity, by promoting new entry. The Commission seeks comment on this issue and invites commenters to provide any new relevant information that has become available since the *NPRM.*

65. In addition, the Commission tentatively finds that there continue to be technical and marketplace differences between AM and FM stations that justify retention of both the AM and FM subcaps in order to promote competition in local radio markets. As the Commission has noted previously, FM stations enjoy unique

technical advantages over AM stations, such as increased bandwidth and superior audio signal fidelity. In addition, AM signal propagation varies with the time of day (*i.e.,* AM signals travel much farther at night than during the day), and many AM stations are required to cease operation at sunset. These technological differences often, but not always, result in greater listenership and revenues for FM stations.

66. While the Commission has previously stated that digital radio technology may help AM stations to level the playing field with FM stations, it tentatively finds that this is not yet the case. Deployment of digital radio technology for both AM and FM stations is limited and has not changed significantly in recent years. In addition, the Commission believes it is important to consider consumer adoption when evaluating the impact of digital radio on the technological and marketplace differences between AM and FM stations. AM stations will not be able to realize the potential competitive benefits of transitioning to digital if listeners are largely unable to receive the digital broadcasts. Recent digital radio deployment data suggest that FM stations may actually be increasing the technological divide through greater adoption rates of digital radio technology. Furthermore, consumers have been slow to adopt radios capable of receiving digital signals, though consumer awareness of the technology is relatively high and there are efforts to increase the availability of such radios, particularly as standard or optional equipment in many new car models. The Commission proposes to continue to monitor the impact of the digital radio transition in future media ownership proceedings. It seeks comment on this approach.

67. Furthermore, the Commission tentatively finds that the recent changes to the FM translator rules, ''to allow AM stations to use currently authorized FM translator stations to retransmit their AM service within their AM stations' current coverage areas'' have not yet significantly impacted the technological and marketplace differences between AM and FM stations. While this change has been beneficial for many AM stations, many more AM stations have not availed themselves of the opportunity and/or lack the ability to do so. Consequently, the Commission believes that FM stations generally continue to enjoy significant advantages over AM stations. The Commission proposes to continue to monitor the impact of this change in future media ownership proceedings, and it seeks comment on this approach. The Commission has recently initiated a proceeding to explore ways to revitalize the AM band. Similarly, the Commission proposes to monitor that proceeding for any future impact on the AM marketplace that may warrant consideration in its media ownership proceedings. The Commission seeks comment on any present implications of these revitalization efforts for the 2014 Quadrennial Review.

68. Finally, while the technological and marketplace differences between AM and FM stations generally benefit FM stations, and thus support retention of the FM subcaps, there continue to be many markets in which AM stations are ''significant radio voices.'' For example, a study provided by Clear Channel found that throughout the 300 Arbitron Metro markets, there are 187 a.m. stations ranked in the top five in terms of all-day audience share. And according to NAB, AM stations are among the top revenue earners in some of the largest radio markets (*e.g.,* New York, Chicago, and Los Angeles). Therefore, the Commission tentatively finds that retention of the existing AM subcaps is necessary to prevent a single station owner from acquiring excessive market power through concentration of ownership of AM stations in markets in which AM stations are significant radio voices.

69. In addition, as discussed above, the Commission tentatively concludes that it is not in the public interest to tighten the numerical ownership limits; therefore, the Commission sees no need to reassess the subcaps associated with each numerical tier, as proposed by Mt. Wilson. Indeed, tightening the subcaps absent a concurrent tightening of the numerical ownership limits would result in an internal inconsistency in the rule, as an entity would be unable to own all the stations otherwise permitted under certain numerical tiers. For example, in markets with 30–44 stations, an entity currently may own up to seven stations, provided that no more than four of the stations are in the same service. If the subcap was tightened to three stations in the same service, an entity could then only own up to six stations, even though the rule's premise is that the public interest is best served by permitting ownership of up to seven stations in this particular market. The Commission seeks comment on whether there is any reason the Commission should adopt different subcaps despite this potential inconsistency.

70. *Market Size Waivers.* Though the *NPRM* sought comment on whether to adopt a specific waiver standard, no commenter proposed such a standard in the 2010 Quadrennial Review proceeding. The Commission tentatively declines to adopt a specific waiver standard for the local radio ownership rule. The Commission seeks comment on whether it is sufficient that, consistent with Commission precedent, parties that wish to seek a waiver of the local radio ownership rule may do so pursuant to the general waiver standard under Section 1.3 of the Commission's rules.

71. *Minority and Female Ownership.* The Commission sought comment on how the radio rule affects minority and female ownership opportunities, including specific comment on the results of Media Ownership Study 7, which analyzes the relationship between ownership structure and the provision of radio programming targeted to African-American and Hispanic audiences. The Commission tentatively finds that the radio ownership rule proposed in this *Further Notice of Proposed Rulemaking* is consistent with the goal to promote minority and female ownership of broadcast radio stations. The Commission seeks comment on this tentative conclusion.

72. As noted above, the Commission tentatively finds that retaining the existing competition-based numerical limits would indirectly promote its viewpoint diversity goal, in part by preserving ownership opportunities for new entrants, including minority- and female-owned businesses. Moreover, part of the rationale for the proposal to retain the AM/FM subcaps is to promote new entry, particularly in the AM band, which has historically provided low-cost ownership opportunities for new entrants, including minorities and women.

73. The Commission tentatively declines to tighten the local radio rule's ownership limits in order to promote increased minority and female ownership, as some recommend. While the Commission remains committed to promoting minority and female ownership, it is one of many—sometimes competing—goals that the Commission must balance when setting the numerical ownership limits. As discussed above, the Commission believes that tightening the local radio rule's ownership limits would ignore the benefits of consolidation in the radio industry and therefore be inconsistent with the 1996 Act. Furthermore, it believes that tightening the local radio rule would require divestitures that would be disruptive to the radio industry. In addition, while the Commission does not propose to retain the rule specifically to preserve the current levels of minority and female

ownership, it tentatively finds that retaining the existing rule effectively would address the concerns of those commenters who suggest that additional consolidation would have a negative impact on minority and female ownership of broadcast radio stations. Ultimately, the Commission tentatively finds that, based on the record in the 2010 Quadrennial Review proceeding, the current competition-based limits reflect an appropriate balance of its policy goals and that retaining these limits would serve the public interest and simultaneously promote viewpoint diversity. The Commission seeks comment on these tentative conclusions and invites commenters to provide any evidence bearing on this issue that has become available since the *NPRM.*

3. Newspaper/Broadcast Cross-Ownership Rule

a. Introduction

74. Since 1975, the newspaper/broadcast cross-ownership rule (NBCO rule) has prohibited common ownership of a daily newspaper and a full-power broadcast station (AM, FM, or TV) if the station's service contour encompasses the newspaper's city of publication. This absolute ban on newspaper/broadcast cross-ownership remains in effect today despite the Commission's attempts over the last decade to modify the restriction. Most recently, in the *2006 Quadrennial Review Order,* the Commission adopted a revised standard whereby waiver requests for certain mergers in the top 20 Nielsen DMAs were granted a favorable presumption. The Third Circuit, however, vacated and remanded the revisions on procedural grounds, finding that the Commission had failed to provide adequate public notice of its proposed rule pursuant to the APA. Although the Court in *Prometheus I* affirmed the Commission's conclusion that an absolute ban is not necessary, the Court in *Prometheus II* did not reach the Commission's substantive modifications to the NBCO rule.

75. The Commission continues to believe that some restriction on newspaper/broadcast cross-ownership is necessary to protect and promote viewpoint diversity in local markets. The Commission seeks comment on that tentative conclusion. This view is consistent with the Commission's longstanding rationale for the NBCO rule. As the Commission recognized in the *2002 Biennial Review Order,* ''[a] diverse and robust marketplace of ideas is the foundation of our democracy.'' The Supreme Court has recognized the importance of the Commission's role in promoting viewpoint diversity, calling it a ''basic tenet of national communications policy.''

76. As discussed below, daily newspapers and local television stations (and their affiliated Web sites) continue to be the dominant providers of local news and information to which consumers turn. Evidence in the 2010 Quadrennial Review proceeding does not suggest that the Internet, for all its ability to make infinite sources of information immediately and globally accessible, has yet tilted that balance. Thus, the ''diverse and antagonistic sources'' that the NBCO rule historically has protected—daily newspapers and local television stations—are still the primary outlets of local news and information that consumers use. Comments in the current record touting the localism benefits of newspaper/broadcast cross-ownership or claiming a competitive need for traditional media to achieve economies of scale in today's marketplace, while providing a fuller understanding of the newsgathering efficiencies of cross-owned properties and the current financial challenges facing traditional media, were not substantially different from those made in previous reviews, and the Commission does not believe they diminish the viewpoint diversity rationale for the rule. Moreover, the efficiencies that may be gained from newspaper/broadcast combinations do not necessarily lead to gains in localism. As explained below, the Commission seeks comment on the extent to which this dominance of daily newspapers and local televisions stations in the provision of local news and information persists today.

77. However, the Commission found in previous reviews that the nearly 40-year-old blanket prohibition on newspaper/broadcast cross-ownership is overly broad, and the Third Circuit upheld those findings. It is possible that some newspaper/broadcast combinations could be allowed without unduly harming viewpoint diversity. To that end, the Commission seeks comment on whether the prohibition on newspaper/radio combinations should be lifted. The Commission asks what impact such a modification would have on viewpoint diversity in local markets. Research shows that most radio stations do not produce significant amounts of local news and that most consumers do not rely on radio stations as their primary source of local news. Given that the newspaper/television restriction has always been the crux of the NBCO rule, the Commission seeks comment regarding the added value of the rule's newspaper/radio component. The Commission seeks comment, therefore, on whether there is sufficient justification under the legal standards of Section 202(h) for continuing to restrict newspaper/radio combinations. The Commission seeks comment also on the costs and benefits associated with retaining or eliminating the restriction on newspaper/radio combinations. To the greatest extent possible, commenters should quantify the expected costs or benefits of the rule and any alternatives and provide detailed support for any actual or estimated values provided, including the source of such data and/or the method used to calculate reported values.

78. The Commission invites comment also on whether and in what way it should modify the newspaper/television cross-ownership restriction. Although further comment is welcome, the Commission is disinclined to impose a bright-line rule permitting combinations in certain circumstances. Instead the Commission seeks comment on approaches that would maintain the ban on newspaper/television combinations in all markets but that would allow applicants the opportunity to seek approval of particular transactions. The Commission could consider any waiver requests on a purely case-by-case basis, assessing each request independently and considering the totality of the circumstances each proposed transaction presents, including all asserted and potential likely public interest implications of the specific proposed combination. The Commission seeks comment on this approach, including the costs and benefits associated with a pure case-by-case review of waiver applications. To the greatest extent possible, commenters should quantify the expected costs or benefits of this proposal and any alternatives and provide detailed support for any actual or estimated values provided, including the source of such data and/or the method used to calculate reported values.

79. The Commission also invites further comment on a case-by-case waiver approach that would include presumptions that favor or disfavor the grant of waiver requests in accordance with certain prescribed guidelines. This approach would build on proposals in the *NPRM* to modify the vacated 2006 rule. Under this approach, a request for waiver of the newspaper/television cross-ownership prohibition would be entitled to a presumption that it is consistent with the public interest, convenience, and necessity to allow an entity to own, operate, or control one daily newspaper and one full-power television station in a top-20 Nielsen

DMA provided that: (1) The television station is not ranked among the top-four television stations in the DMA, based on the most recent all-day (9 a.m.–midnight) audience share, as measured by Nielsen or by any comparable professional, accepted audience ratings service, and (2) at least eight independently owned and operating major media voices will remain in the DMA. Major media voices would include full-power television broadcast stations and newspapers that are published at least four days a week within the DMA in the dominant language of the market and have a circulation exceeding 5 percent of the households in the DMA. In all other cases and in any DMA below the top-20 there would be a presumption that granting a waiver to permit a newspaper/television combination is inconsistent with the public interest, convenience, and necessity. A party seeking to overcome a presumption would carry the burden of proof that the proposed combination will or will not unduly harm viewpoint diversity within the DMA. As provided below, the Commission seeks comment on all aspects of this framework, including the costs and benefits of each of the elements discussed herein. To the greatest extent possible, commenters should quantify the expected costs or benefits of this approach and any alternatives and provide detailed support for any actual or estimated values provided, including the source of such data and/or the method used to calculate reported values.

80. As described in more detail below, the Commission seeks comment on various other issues regarding a newspaper/television cross-ownership restriction. First, any restriction would be modified to replace the obsolete analog Grade A contour with an approach that approximates the outdated contour as closely as possible. The Commission proposes to prohibit common ownership of a full-power television station and a daily newspaper when: (1) The television station's community of license and the newspaper's community of publication are in the same Nielsen DMA, and (2) the principal community contour (PCC) of the television station, as defined in § 73.625 of the Commission's rules, encompasses the entire community in which the newspaper is published. Second, the restriction would not include the four-factor test that all waiver applicants, even those entitled to a favorable presumption, were required to satisfy under the 2006 rule. As discussed below, the Commission believes that the factors are for the most part vague, subjective, difficult to prove and enforce, and/or not directly linked to viewpoint diversity. Third, the restriction would not include a local news exception, such as the one permitted by the 2006 rule under which the Commission reversed the negative presumption against a waiver when the proposed combination involved a broadcast station that had not been offering local newscasts and the applicants committed to airing at least seven hours of local news per week after the transaction. As described below, the Commission believes that the potential difficulties in monitoring and enforcing the exception would render it meaningless. Fourth, the Commission proposes to include in any restriction an exception for merger applicants that demonstrate that either the television station or the newspaper has failed or is failing.

81. Finally, the Commission tentatively agrees with DCS that the NBCO rule does not have a significant impact on minority ownership, and the Commission believes that these modest revisions the Commission put forth for comment would be unlikely to have a disproportionate effect on either minority or female owners. The Commission seeks comment on whether the benefits of the revisions it describes here in the interest of protecting viewpoint diversity would outweigh any burdens that could result from such revisions, which the Commission would minimize by grandfathering any combinations that would become newly non-compliant because of the revisions.

b. Background

82. As discussed below, the *NPRM* inquired about detailed scenarios in connection with proposed rule modifications.

c. Discussion

(i) Policy Goals

83. *Background.* In the *NPRM,* the Commission tentatively affirmed the Commission's past determinations that the NBCO rule promotes viewpoint diversity but is not necessary to advance its localism and competition goals. Consistent with previous Commission findings, the Commission tentatively concluded that, although an absolute ban is overly broad, some newspaper/broadcast cross-ownership restrictions continue to be necessary to protect and promote viewpoint diversity. The Commission's reasoning centered on evidence that newspapers and local television stations, and their affiliated Web sites, are the primary sources that consumers rely on for local news and information. The Commission recognized that newspaper/broadcast cross-ownership may provide certain benefits that promote its localism goal. Thus, it tentatively affirmed the Commission's earlier findings that the opportunity to share newsgathering resources and to realize other efficiencies derived from economies of scale and scope may improve the ability of commonly owned media outlets to provide local news and information. It tentatively concluded, as the Commission found in previous ownership reviews, that newspapers and broadcast stations do not compete in the same product market and, therefore, that the rule is not necessary to promote its competition goal.

84. *Discussion.* The Commission seeks comment on the current validity of the Commission's tentative conclusion in the *NPRM* that newspapers and local television stations, and their affiliated Web sites, are the dominant sources consumers rely on for local news and therefore that cross-ownership restrictions continue to be necessary under Section 202(h) to promote viewpoint diversity in local markets. The Commission proposes to adopt the *NPRM's* tentative findings that the NBCO rule is not necessary to foster its localism and competition goals. While the Commission recognizes that the rule may hinder the realization of certain efficiencies that could result in the production of more local news, it anticipates that modifications of the rule, such as those outlined below, could enable such efficiencies, and thereby potentially promote localism, in situations where viewpoint diversity would not be unduly sacrificed.

(i) Viewpoint Diversity

85. In the 2010 Quadrennial Review proceeding, newspaper and media owners proffered two principal arguments to support their position that the Commission's diversity goal no longer justifies a prohibition on newspaper/broadcast cross-ownership. They argued, first, that ownership does not necessarily influence viewpoint and, second, that an array of diverse viewpoints is widely available from an abundance of outlets, particularly via the Internet. Both of these arguments were addressed by the Commission in the 2002 and 2006 media ownership reviews and by the Third Circuit in *Prometheus I.* The Third Circuit agreed with the Commission that, although these arguments provide an appropriate basis for relaxing the absolute ban on newspaper/broadcast cross-ownership, they do not mandate the removal of all

restrictions on such combinations. The Commission seeks comment on the tentative conclusion that neither of these arguments presents a reason for eliminating the NBCO rule in the 2014 Quadrennial Review proceeding.

86. The Commission does not believe that the 2010 Quadrennial Review record compels it to alter the earlier conclusion that cross-ownership can diminish viewpoint diversity. For example, the authors of Media Ownership Study 9 find that ownership concentration may adversely affect viewpoint diversity and the quality of local news. The Commission finds that the results of Media Ownership Studies 8A and 8B, suggesting that ownership structure does not have a marked impact on viewpoint diversity, cannot serve as a basis for assessing the impact of the NBCO rule. The analysis in Media Ownership Study 8B did not include any variables pertaining to newspaper/broadcast cross-ownership, and Media Ownership Study 8A examined only newspaper/television cross-ownership, for which its data was particularly limited. The 2008 Pritchard Study cited by Cox supports the proposition that cross-ownership does not diminish viewpoint diversity; however, its analysis includes only three cross-ownership situations. The editorial restraint exhibited by media owners in the three markets Pritchard studied does not negate what Pritchard calls the ''theoretical power'' of media owners to control viewpoint. Even if cross-media owners do not exercise that power frequently, the Commission believes it is important to restrict cross-ownership of the dominant local news providers in markets where viewpoint diversity is insufficiently robust to withstand the potential loss of an independently owned voice. The Commission seeks comment on this view.

87. With respect to the second argument, opponents asserted that the rule cannot be justified on diversity grounds because consumers today have nearly ubiquitous access to a multitude of voices. The Commission believes that the media environment has changed dramatically since 1975 when the average American read one local print newspaper and watched one of three evening newscasts in real time. Without question, the Internet, MVPD services, and other technological developments have profoundly changed the ways in which people access, consume, and share news and information. In its 2002 and 2006 ownership decisions, the Commission described the rapid advancements in the media industry at great length. Since then, those changes have been compounded as both providers and consumers of news use the Internet even more intensely. As the Commission concluded in its 2002 and 2006 proceedings, the Commission believes the proliferation of media outlets since 1975 may well render the absolute ban on newspaper/broadcast cross-ownership obsolete.

88. While the extent to which Americans turn to news Web sites unaffiliated with traditional media may be increasing, it appears that such sources have not supplanted print newspapers and local television stations, and their affiliated Web sites, as the dominant providers of local news. As a threshold matter, online services and information are not available or not enjoyed at full capacity by many Americans due to disparities in broadband availability and adoption rates. Furthermore, according to a recent Pew Report on the State of the News Media, ''local TV remains America's most popular source of local news and information.'' Commission staff reported in the Information Needs of Communities Report that, on a typical day, 78 percent of Americans obtain news from their local television station. A recent trade association analysis reportedly concluded that viewership of local evening news broadcasts in the 10 largest markets exceeded the five highest rated cable news programs combined by more than 430 percent. Although more consumers now turn to the Internet than to print newspapers for news and information, newspapers (both the print and online versions) are relied upon for the widest range of local news topics, and newspaper Web sites are the primary traditional source of local news for online consumers in the vast majority of large markets. In addition, many local television stations have become ''major online sources of news,'' even surpassing the popularity of newspaper Web sites in a number of local markets. The author of Media Ownership Study 6 concludes that ''[n]ewspapers and television stations dominate what local news can be found online.'' The author found that only 17 of the 1,074 local news Web sites he examined were unaffiliated with traditional print or broadcast media. As the Commission described in the *NPRM,* the results of Media Ownership Study 6 are supported by data from other studies demonstrating a consumer preference for Web sites affiliated with legacy media. The Commission seeks comment on its assessment of the current record and it invite commenters to provide any updated information or evidence regarding consumer reliance on unaffiliated online sources for local news and information.

89. Even Web sites unaffiliated with newspapers and television stations often contain local news content that originates from those traditional sources. The results of the Pew Baltimore Study revealed new media's ''limited role'' in providing original reporting. The Information Needs of Communities Report points to a number of studies demonstrating that ''the growing number of web outlets relies on a relatively fixed, or declining, pool of original reporting provided by traditional media.'' In addition, Media Ownership Study 6 finds a dearth of independent Web sites with original local news content. Commenters in the 2010 Quadrennial Review proceeding tended to agree that most independent online sources, particularly news aggregator Web sites, currently do not provide a substitute for the original reporting by professional journalists associated with traditional local media. Media Ownership Study 6 cautions that even the independent local Web sites that produce high-quality content are not necessarily substitutes for traditional media outlets. The Commission invites commenters to submit updated information or evidence regarding the prevalence of original local news content on Web sites unaffiliated with traditional media outlets.

90. At the current time and based on the record before the Commission, it tentatively finds that the record does not support the conclusion that the impact of the Internet has obviated the need for cross-ownership restrictions. The NBCO rule is intended to preserve access to a variety of viewpoints on substantive matters of local concern. The Commission tentatively finds that the diversity of local news coverage is not enhanced by the fact that newspapers from around the world are only a click away. Remote access to hometown sports scores and local weather reports expands the availability, but not the diversity, of information. While the Commission tentatively agrees with Tribune that the presence of local and specialized Web sites ''enriches the conversation,'' the record in the 2010 Quadrennial Review proceeding does not appear to demonstrate that most local, hyperlocal, and niche Web sites fill the role of local television stations or daily newspapers. In addition, the studies that Tribune cited in support of its assertion that Americans increasingly use the Internet to obtain election information concluded that television remains the primary source for such information among all Americans.

Although the 2010 Quadrennial Review record does not appear to provide convincing evidence that the Internet eliminates entirely the need for cross-ownership restrictions, the Commission seeks comment on its tentative assessment of the record. The Commission also seeks comment on whether there have been any changes in the Internet's role in the current marketplace for local news and information that the Commission should consider in its 2014 Quadrennial Review.

(ii) Localism

91. The evidence in the 2010 Quadrennial Review record does not appear to negate the basic proposition that newspaper/broadcast cross-ownership may enable commonly owned properties to produce and disseminate more and sometimes better local news. As acknowledged in the *NPRM,* the Commission has found that cross-ownership may produce such benefits to localism. The Commission recognizes that localism benefits are not guaranteed, however. The Commission sought comment in the *NPRM* not only on the benefits of cross-ownership generally, but also specifically on how to weigh the finding in Media Ownership Study 4 that an increased amount of local news on a cross-owned television station does not necessarily translate into more local news at the market level. The author of the study theorized that cross-owned stations may tend to ''crowd out'' the news production of other stations.

92. The author of Media Ownership Study 4 cautions that the result showing less local news in markets with newspaper/broadcast cross-ownership is ''imprecisely measured and not statistically different from zero.'' Given that disclaimer, and the disputed evidence in the 2010 Quadrennial Review record, the Commission proposes not to accord much weight to the study's finding that the amount of local news at the market level may be negatively correlated with newspaper/broadcast cross-ownership. Despite the criticisms of the methodology used in Media Ownership Study 4, the Commission thinks it reasonable to accept the premise that such cross-ownership may result in a greater amount of local news production by the cross-owned properties based on other record evidence. The Commission is aware, however, that such an outcome is not assured and depends in part on the owner's commitment to disseminate local news.

93. The Commission believes the nation's interest in maintaining a robust democracy through a ''multiplicity of voices'' justifies maintaining certain NBCO restrictions even if doing so prevents some combinations that might create cost-savings and efficiencies in news production. Moreover, the Commission does not believe that the elimination of the NBCO rule would necessarily result in benefits to localism. The Commission seeks comment on whether a continued restriction, with the modifications described below, would minimize any potential effects on localism while preserving and promoting viewpoint diversity.

(iii) Competition

94. Traditionally, the Commission does not evaluate the NBCO rule in terms of its competition goal because it has found that newspapers and broadcast stations do not compete in the same product market. However, some commenters in the 2010 Quadrennial Review proceeding expressed concerns about the impact of the NBCO rule on competition more generally. Other commenters disputed these concerns.

95. Although the Commission shares the concerns of many Americans about the future of the newspaper industry, the Commission agrees with certain commenters that it would be inappropriate to relax the NBCO rule on the ground that newspapers are struggling to reinvent a successful business model. The Commission maintains that the pertinent issue for this part of its analysis is whether the NBCO rule is necessary to promote competition between newspapers and broadcast stations. The Commission already has determined that it is not. The Commission does not believe it could justify jeopardizing viewpoint diversity in local markets based on assertions that the rule limits opportunities for traditional media owners to increase revenue. Nonetheless, given that the revisions to the NBCO rule considered below would narrow its application, the Commission seeks comment on the extent to which such revisions would mitigate any unintended harms.

96. Despite the bleak outlook for newspapers' print revenues, there have been some encouraging signs that traditional media are finding new ways to monetize their content. The Commission recognizes that the adjustments needed to survive this transition period may pose insurmountable challenges for some owners. Accordingly, as discussed below, the Commission proposes to include an exception to the cross-ownership restriction when either the newspaper or the television station involved in a proposed merger is failed or failing. The Commission believes the risk that a common owner will influence the viewpoint of a newly acquired outlet is preferable to the greater diversity harm of losing the outlet altogether.

97. The Commission seeks comment, for purposes of the 2014 Quadrennial Review proceeding, on its tentative view, as described above and consistent with Commission precedent, that the NBCO rule is not necessary to promote localism and competition goals but that some form of cross-ownership restriction remains necessary to preserve and promote viewpoint diversity in local markets.

(ii) Newspaper/Radio Cross-Ownership

98. *Background.* In the *NPRM,* the Commission sought comment on whether it should eliminate the part of the NBCO rule that applies to newspaper/radio combinations. The Commission tentatively concluded that radio stations are not the primary outlets that contribute to viewpoint diversity in local markets and that a substantial amount of news and talk show programming on radio stations is nationally syndicated, rather than locally produced. The Commission's preliminary view was that radio stations are not a primary source that consumers turn to for local news and information and that, rather, consumers in markets of all sizes rely most heavily on other types of news outlets for local news and information. The Commission asked whether newspaper/radio cross-ownership would promote localism and provide financially struggling newspapers and radio stations the opportunity to become vital participants in the news and information marketplace. In addition, the Commission asked whether it should substitute Arbitron market definitions for radio contours to determine when the NBCO rule is triggered for newspaper/radio combinations and whether existing combinations implicated by a rule change should be grandfathered. The Commission invites further comment also on these issues.

99. *Discussion.* The Commission seeks further comment on whether the restriction on newspaper/radio cross-ownership should be eliminated from the NBCO rule. The Commission seeks comment on the Commission's tentative conclusions that radio stations are not the primary outlets that contribute to viewpoint diversity in local markets and that consumers rely predominantly on other outlets for local news and information. Several commenters in the

2010 Quadrennial Review proceeding referenced the fact that promoting viewpoint diversity has been the Commission's lone justification for retaining the restriction. As discussed above, the Commission has found repeatedly that the restriction does not promote its localism or competition goals, and the Commission tentatively reaffirms those findings. Therefore, the Commission tentatively agrees with several commenters that if the rule were no longer necessary to support the Commission's viewpoint diversity policy, then the newspaper/radio cross-ownership restriction would be left without a public interest rationale. Under Section 202(h) of the 1996 Act, the Commission must repeal or modify any media ownership regulations that no longer serve the public interest. Accordingly, it seeks comment on whether the newspaper/radio cross-ownership restriction advances its interest in promoting viewpoint diversity or whether the Commission should eliminate the restriction and permit common ownership of newspapers and radio stations in all markets, within the prescribed limits of the local radio ownership rule.

100. Evidence from the Information Needs of Communities Report shows that consumers' reliance on radio news has declined steadily over the past two decades. From 1991 to 2010, the number of people reporting that they listened to some news on the radio dropped from 54 percent to 34 percent. Of the approximately 11,000 commercial radio stations in the country, only 30 are all-news radio stations, a reduction from the mid-1980s when there were 50 such stations. Although a small number of commercial all-news radio stations in the nation's largest markets are very successful, radio stations in most cities do not provide much local journalism. One finding showed that in 2007 more than 40 percent of radio stations carried news programming produced remotely by a commonly owned station outside the local market. Typically, only one employee is involved in news output at a median-sized radio station. Although the news-talk radio format has exploded in popularity, it has done little for traditional local radio news. Eighty-six percent of programming on news-talk stations is nationally syndicated, rather than locally produced. The Commission invites commenters to provide any new data on these subjects that would be useful for the 2014 Quadrennial Review.

101. In seeking comment on the elimination of the newspaper/radio cross-ownership restriction, the Commission notes that it has recognized since at least 1970 that radio does not play a dominant role in promoting viewpoint diversity. That year, while seeking comment on proposals that led to the adoption of the NBCO rule, the Commission identified as its foremost concern the common control of television stations and newspapers and noted the significant decline in the number of people relying primarily on radio for local news. Even as it adopted the NBCO rule in 1975, the Commission recognized that ''a radio station cannot be considered the equal of either the paper or the television station in any sense, least of all in terms of being a source for news or for being the medium turned to for discussion of matters of local concern.'' The Commission, nevertheless, included newspaper/radio combinations within the NBCO prohibition ''to encourage still greater diversity'' because ''even a smaller gain is worth pursuing.'' Since 1975, the Commission repeatedly has acknowledged radio's lesser contributions to viewpoint diversity. For example, the Commission stated in its 2002 media ownership review that ''broadcast radio generally has less of an impact on local diversity than broadcast television.'' In its 2006 review, it observed that ''radio is a significantly less important source of news and information than newspapers or television.'' The Commission seeks comment on whether in today's marketplace the link between the newspaper/radio cross-ownership restriction and the Commission's goal of promoting viewpoint diversity has become too tenuous to support the rule under Section 202(h).

102. The Commission invites commenters to augment the record with any information or evidence regarding any impact on diversity in the local radio markets. The Commission notes that Media Ownership Study 5 suggests that eliminating the restriction would be unlikely to affect either radio news variety or listening, given its finding that newspaper/radio cross-ownership is not correlated with either of those metrics. The Commission seeks comment on this finding. Moreover, several commenters claimed that lifting the newspaper/radio cross-ownership restriction would revitalize local news on radio stations and would provide struggling newspapers with a broader base of financial support and an increased ability to reach audiences. Although the Commission would not decide to eliminate the restriction based on those projected outcomes, it would welcome the accrual of any such incidental benefits and it seeks comment on such commenters' assertions. Further, the Commission seeks comment on to what extent, if any, its decisions regarding the newspaper/radio cross-ownership rule and radio/television cross-ownership rule, discussed below, should align given that the basis of its analysis for both rules may rest primarily on the contributions of radio to viewpoint diversity.

103. Finally, the Commission notes that earlier this year MMTC submitted a study examining the issue of cross-owned media properties in a market. According to MMTC, the study indicated that cross-ownership does not have a disparate impact on minority and female broadcast owners. As discussed further below, the Commission asks commenters to provide any demonstrable evidence of such a link that may have become available since the MMTC Cross-Ownership Study.

(iii) Newspaper/Television Cross-Ownership Rule

(i) Case-by-Case Waiver Approach

104. *Background.* In the *NPRM,* the Commission tentatively concluded that it should reinstate a simplified version of the 2006 rule's framework generally prohibiting newspaper/broadcast cross-ownership but granting waiver requests on a case-by-case basis, using presumptive guidelines, when the proposed merger would not unduly harm viewpoint diversity in the local market. The Commission sought comment on whether, alternatively, it should adopt a bright-line rule allowing mergers for newspaper/broadcast combinations in the top 20 DMAs in those situations where a waiver request would have been given a favorable presumption under a case-by-case approach. The Commission noted that a bright-line rule for such newspaper/broadcast combinations would conserve resources and promote certainty but that a case-by-case approach would afford greater flexibility to account for the specific circumstances of a proposed merger.

105. *Discussion.* Although further comment on the issue is welcome, the Commission does not propose to adopt a bright-line rule allowing newspaper/television combinations, even under narrowly prescribed circumstances. The Commission noted in the *NPRM* that a bright-line rule permitting certain newspaper/broadcast combinations in the top 20 DMAs might promote consistency and certainty in the marketplace and reduce the need for a potentially costly waiver process. The Commission recognizes that, under certain conditions, the largest markets

may be able to accommodate a limited amount of consolidation without impairing viewpoint diversity. The Commission also is aware that bright-line rules are more likely to produce predictable and consistent outcomes in an expeditious and less costly manner than rules that incorporate a waiver process, which is inherently more uncertain. The Commission is concerned, however, that a bright-line rule is too blunt an instrument to be used for allowing newspaper/television cross-ownership, no matter how limited. For example, allowing certain combinations only in the top-20 DMAs could foreclose merger opportunities in smaller markets where viewpoint diversity is sufficiently robust. Conversely, such a bright-line rule might permit a combination in a top-20 DMA that would harm the public interest.

106. The Commission tentatively concludes, therefore, that a general prohibition on newspaper/television combinations in all markets is the appropriate starting point when considering the impact of newspaper/television cross-ownership on viewpoint diversity. It believes the 2010 Quadrennial Review record supports this view. The Commission recognizes, however, that particular combinations might be shown to be consistent with its diversity goal, and so it proposes to entertain waiver requests. A waiver process would enable the Commission to examine proposed mergers on a case-by-case basis to determine the likely effects on the affected market. Because the Commission would have the flexibility to evaluate the particular circumstances of a newspaper/television combination, it could tailor its decision accordingly.

107. The Commission believes that a case-by-case waiver approach would produce sensible outcomes and also improve transparency and public participation in the process. Such an approach would afford interested parties the opportunity to comment on a proposed newspaper/television combination because the parties to the transaction would be required to seek a waiver of the Commission's rules regardless of whether the transaction involved the transfer of a broadcast license. A newspaper owner seeking to obtain a television station license would need to seek a waiver of a newspaper/television cross-ownership rule as part of its application for assignment of license or transfer of control. In considering a bright-line rule approach, the *NPRM* indicated that an opponent of a transaction permitted under a bright-line rule would continue to have the option to file a petition to deny a broadcast license transfer and assignment application involving an NBCO combination. However, with respect to any newspaper purchases by broadcast owners that would be permitted under a bright-line rule, would-be petitioners would not have an opportunity to oppose the newspaper purchase because there would be no transfer application involved. A case-by-case waiver approach would resolve that issue as every proposed newspaper/television combination would require Commission approval. To that end, the Commission seeks comment on whether, to enable a timely public response to a merger involving a newspaper purchase by a television licensee, it should require the station to file its waiver request prior to a newspaper acquisition, rather than at the time of the station's license renewal, and should require Commission staff to place such waiver requests on public notice. Under the Commission's current practice, if a television licensee purchases a newspaper that triggers the NBCO rule, then, absent a waiver, it must dispose of its station within one year or by the time of its next renewal date, whichever is longer. Alternatively, it can seek a waiver of the rule in conjunction with its license renewal, at which point interested parties are free to comment on the waiver request. As a result, the opportunity to comment on a television station's acquisition of a newspaper may not occur until many years after consummation of the purchase. The Commission therefore seeks comment on requiring television licensees to file waiver requests prior to a newspaper acquisition in order to facilitate the public's timely participation. What are the benefits of this approach and what burdens, if any, would it impose on the applicants? Would the potential benefits outweigh any burdens?

108. *Pure Case-by-Case Approach.* The Commission also request comment on what type of waiver process would enable it to identify any acceptable newspaper/television combinations most accurately and effectively. The Commission could implement a pure case-by-case approach that evaluates the totality of the circumstances for each individual transaction, considering each waiver request anew without measuring it against a set of defined criteria or awarding the applicant an automatic presumption based on a *prima facie* showing of particular elements. The Commission would not require any particular type of evidence to support a waiver applicant's showing that the proposed merger would not diminish viewpoint diversity, and thus would be in the public interest. Similarly, opponents of a transaction could offer a range of arguments and evidence concerning the unique characteristics of a transaction that weigh against the grant of that particular application. This approach could offer the Commission maximum flexibility and discretion in each case to decide whether a waiver would serve the public interest. Such a potentially broad inquiry would avoid a formulaic approach, which may not always adequately measure an imprecise quality like viewpoint diversity. On the other hand, a pure case-by-case approach might not promote consistency and certainty in the marketplace and could impose additional burdens or costs on the applicants, petitioners, or Commission. The Commission seeks comment on the pros and cons, costs and benefits of evaluating waiver requests on the individualized merits of each particular case without relying on presumptive guidelines or established criteria.

109. If the Commission were to adopt a case-by-case approach to waiver applications, it seeks comment on whether, and if so how, the approach should differ from the Commission's traditional waiver standard under Commission rules. Further, it seeks comment on whether a case-by-case approach should incorporate, or disavow, the criteria for waiver set forth when the NBCO rule was adopted in 1975, and which are currently in effect. At the time of adoption, the Commission ''contemplated waivers in four situations: (1) Where there is an inability to dispose of an interest to conform to the rules; (2) where the only possible sale is at an artificially depressed price; (3) where separate ownership of the newspaper and station cannot be supported in the locality; and (4) where the purposes of the rule would not be served by divestiture.'' Has the application of these criteria historically been useful to the industry, the public, or the Commission in evaluating transactions? Have they tended to create an insurmountable bar to the grant of applications or inhibited industry participants from considering transactions? Or do the conditions provide a loophole to the existing ban? Do the specific criteria add value to the standard included in the Commission's rules? Should different criteria be enunciated, for instance including any or all of the elements that are described as possible presumptions as described below? The Commission seeks comment on these issues.

110. *Case-by-Case Approach with Presumptions.* In addition, the Commission seeks comment on an approach whereby the Commission would ascribe a favorable presumption to certain waiver applicants in the top-20 DMAs and a negative presumption to all other waiver applicants. As described below, the Commission seeks comment on requiring as conditions for a favorable presumption that: (1) The proposed merger does not involve a television station ranked among the top-four television stations in the DMA and (2) at least eight major media voices remain in the DMA following the transaction. In the 2010 Quadrennial Review proceeding, NAA warned that opportunities for acquisition and investment are stifled by the regulatory uncertainty and delay associated with even a straightforward waiver request entitled to a favorable presumption. CRT called the NBCO waiver provision ''convoluted,'' and Tribune claimed that the use of presumptions creates ''uncertainty, additional cost and prejudice.'' Nevertheless, presumptive guidelines would provide waiver applicants a greater degree of predictability than under a pure case-by-case approach while still affording the Commission some flexibility to take into account the particular circumstances of a proposed merger. Newspaper and television station owners could make more informed decisions about whether to expend the time and resources to pursue a merger. Presumptive guidelines would not prevent a waiver applicant from submitting whatever evidence it deemed useful and would not constrain the Commission's decision-making discretion. However, by providing direction regarding what showings to make, presumptive guidelines could save a waiver applicant time and money and improve its chances for a successful outcome in warranted circumstances. On the other hand, the presumptions could lead to unintended consequences in specific situations, such as recommending denial of an application that could benefit the public interest as a result of the specific characteristics of the transaction and local market or the grant of an application that would not. The Commission seeks comment on the pros and cons, costs and benefits of adopting a case-by-case approach that includes presumptions and the trade-offs involved as compared to the pure case-by-case approach.

(ii) The Scope of the Rule

111. *Background.* The current rule prohibits common ownership of a daily newspaper and a television station when the Grade A contour of the station encompasses the entire community in which the newspaper is published. The Commission tentatively concludes that the rule should be updated to reflect the fact that, since the transition to digital television service, full-power television stations no longer have analog Grade A contours. In the *NPRM,* the Commission sought comment on whether it should modify the rule so that the cross-ownership prohibition is triggered when a daily newspaper and a television station are located in the same Nielsen DMA. It asked what the impact of the change would be, and in particular whether many more newspaper/television combinations would be implicated under a DMA-based approach than under a contour-based approach. The Commission's preliminary view was that DMA market definitions would reflect newspaper circulation and television viewing areas more accurately than the current approach.

112. The Commission proposed to grandfather ownership of existing newspaper/television combinations that would be in violation of the NBCO rule as a result of shifting to a DMA-based approach. It tentatively concluded that requiring divestiture would be disruptive to the industry and a hardship for the individual owners. In addition, it sought comment on whether grandfathered combinations should be freely transferable in perpetuity.

113. *Discussion.* Based on the 2010 Quadrennial Review record, including the responses of many newspaper and broadcast owners, the Commission proposes to adopt an approach that uses both DMAs and contours. Newspaper and broadcast owners argued that, because DMAs can be much larger in size than the former Grade A contour areas, the *NPRM's* proposed DMA-based approach would expand the reach of the rule too broadly. Several commenters asserted that the approach proposed in the *NPRM* could prohibit cross-ownership when there is no overlap between the community in which a newspaper is published and the primary service area of a broadcast station. To avoid that possibility, the Commission proposes to prohibit cross-ownership of a full-power television station and a daily newspaper when: (1) The community of license of the television station and the community of publication of the newspaper are in the same Nielsen DMA, and (2) the PCC of the television station, as defined in Section 73.625 of the Commission's rules, encompasses the entire community in which the newspaper is published. Both conditions would need to be met in order for the cross-ownership prohibition to be triggered. The DMA requirement would ensure that the newspaper and television station both serve the same economic market, while the contour requirement would ensure that they actually reach the same communities and consumers within that larger geographic market. Further, if a newspaper's community of publication is located in a different DMA than the television station, then the station likely does not primarily serve the community of publication, despite the fact that the over-the-air signal reaches that community. The Commission notes further, that a television station is not entitled to carriage on cable or satellite television systems outside its DMA, and thus would not be entitled to carriage in the newspaper's out-of-market community of publication. The Commission acknowledges that such an approach could permit combinations that would be prohibited under a contour-only approach; however, it believes that the number of instances where a station's PCC encompasses a newspaper's community of publication not located in the same DMA would be limited. The Commission seeks comment on this approach and notes that, if adopted, it would apply irrespective of how the Commission decides to evaluate requests for waiver of the prohibition.

114. The PCC is a digital contour that ensures reliable service for the community of license. Commission rules already define the PCC, and it can be verified in a straightforward manner if a dispute arose concerning the reach of the NBCO rule.

115. In the *Notice of Inquiry* (75 FR 33227, June 11, 2010, FCC 10–92, rel. May 25, 2010) (*NOI*), the Commission explained that it has defined one other digital television service contour, the digital NLSC. However, the NLSC is roughly equivalent to the former analog Grade B service contour and approximates the same probability of service as that contour, which reaches a broader geographic area than the Grade A service contour. For that reason, the Commission does not believe the NLSC would be an appropriate contour to use in conjunction with the NBCO rule. When the Commission initially adopted the NBCO rule, it deliberately chose the smaller Grade A contour to define the rule's boundaries. The Commission seeks comment on its preference not to adopt the NLSC.

116. The Commission recognized in the *NOI* that because the PCC is larger than the Grade A contour, its use could result in a more restrictive NBCO rule. The Commission's proposed approach,

however, would be less restrictive than its initial proposal to rely solely on the DMA market definition to trigger the cross-ownership prohibition. In addition, the Commission has examined size differentials between the PCC and the former Grade A contour for various categories of television stations, specifically, high-VHF, low-VHF, and UHF stations. While the PCC is slightly larger than the Grade A contour, the Commission seeks comment on its belief that the size differentials are not so great as to have a meaningful impact in terms of the proposed rule's applicability.

117. Furthermore, the Commission believes the PCC would be preferable to the other suggestions commenters offered. NAA proposed that the Commission simulate a digital Grade A contour by applying to a station's NLSC the propagation and implementation margin factor it established for cable carriage of digital broadcast stations (*i.e.,* 20dB). NAA asserted that the resulting simulated contour would be appropriate because the Commission developed the 20dB measurement using ''Grade A-type signal quality factors.'' The Commission believes that using a measurement based on the signal quality required for cable carriage would impose too strict a standard for purposes of the NBCO rule because it would exclude parts of the coverage area that reliably receive the television signal. A.H. Belo and CRT suggested that the Commission add a mileage qualifier to the DMA measurement. A.H. Belo and CRT, however, did not specify what mileage the qualifier should be or explain how the Commission could develop a mileage qualifier that would be meaningful. The Commission seeks comment on its view that using the PCC would be the superior approach.

118. The Commission is not inclined to adopt the suggestion of A.H. Belo and CRT to limit the application of the NBCO rule to ''major'' daily newspapers having a circulation exceeding 5 percent of the DMA's households. Cox similarly argued that the NBCO rule should not be triggered unless the newspaper's circulation exceeds 5 percent of the households in the television station's community of license. The Commission seeks comment on whether there are any reasons to change the current definition, which states that ''a daily newspaper is one which is published four or more days per week, which is in the dominant language in the market, and which is circulated generally in the community of publication.'' The Commission notes that the newspaper definition suggested by A.H. Belo and CRT could fail to trigger the rule when a newspaper is not widely circulated in the larger DMA despite its influence in its own community of publication. In addition, the Commission is not inclined to adopt Cox's suggestion to impose a minimum circulation requirement within the television station's community of license. Under the vacated 2006 rule, a newspaper was not deemed a ''major media voice'' for purposes of the rule's eight voices test unless it had a circulation exceeding five percent of the households within the DMA. Different definitions may serve different purposes, however, and the Commission seeks comment on whether the current requirement that a daily newspaper be published at least four days a week, in the dominant language in the market, and circulated generally in its community of publication is sufficient to ensure the significance of the newspaper for purposes of triggering the rule, thereby obviating specification of a minimum circulation amount or modification of the area of consideration. The Commission previously has determined that newspapers with these characteristics are significant enough to come within the scope of the NBCO rule, and commenters in the 2010 Quadrennial Review record proceeding have not provided evidence that a less restrictive definition would be sufficient to protect viewpoint diversity.

119. The Commission seeks comment on the tentative conclusion that, to the extent that an existing newspaper/television combination would become newly non-compliant as a result of its proposed modification of the NBCO rule, the Commission should grandfather such combinations in order to avoid market disruption and to avoid penalizing licensees for the switch from an analog contour to a digital contour. The Commission believes that incorporating the PCC into the rule would limit the number of existing newspaper/television combinations that would fall in this category. Consistent with existing precedent, the Commission does not believe grandfathered combinations should be transferrable. The Commission seeks comment on its view that any future transfer of a grandfathered combination should comply with the applicable ownership rules, including the NBCO rule, in place at the time the transfer of control or assignment application is filed. The Commission does not intend to upset any filing deadlines it has previously imposed on specific parties related to cross-ownership proceedings. In addition, consistent with the Commission's decision in the *2006 Quadrennial Review Order,* the Commission would allow all grandfathered combinations or permanent waivers from the prior rule that previously have been granted to continue in effect under the rule ultimately adopted, to the extent that such grandfathering/permanent waivers would still be necessary to permit common ownership.

(iii) Market Tiers

120. *Background.* In the *NPRM,* the Commission proposed to differentiate between markets ranked among the top 20 DMAs and markets below the top 20 DMAs for purposes of determining whether a waiver request is entitled to a favorable presumption under the approach discussed in the *NPRM.* The Commission proposed a top-20 demarcation point for newspaper combinations involving either television or radio stations. The Commission's proposal to lift the restriction on newspaper/radio cross-ownership would render moot the delineation of market tiers for such combinations. The Commission seeks comment, however, on whether a top-20 demarcation point should apply to newspaper/radio combinations in the event it retains a restriction on such combinations. Consistent with its findings in the *2006 Quadrennial Review Order,* the Commission's preliminary view was that the top 20 DMAs are notably different from other markets, both in terms of voices and in terms of television and radio households. The Commission tentatively concluded that, based on the range of media outlets available in the top 20 DMAs, viewpoint diversity in those largest markets is healthy and vibrant in comparison to other DMAs. It sought comment on its tentative conclusion that the viewpoint diversity level in the 20 largest DMAs is sufficient to consider adopting a regulatory framework that would accommodate a limited amount of newspaper/broadcast cross-ownership in those markets. It also sought comment on its continued belief that markets below the top 20 DMAs generally cannot accommodate such cross-ownership absent particular circumstances warranting a waiver. In addition, it asked whether a different demarcation point would more effectively protect and promote its goals.

121. *Discussion.* In the event it were to adopt a waiver standard with presumptive guidelines, the Commission seeks further comment on whether to grant a favorable presumption to waiver requests seeking approval for a merger in a top-20 DMA where certain conditions are met and to

ascribe a negative presumption to waiver requests involving mergers in the remaining DMAs. As described below, the Commission also seeks comment on whether waiver requests for proposed newspaper/television combinations within the top-20 DMAs should be entitled to a favorable presumption only if the television station were not ranked among the top-four television stations within the DMA and there would be at least eight independently owned and operated major media voices remaining in the DMA post-transaction. It seeks comment on the impact of such an approach on viewpoint diversity, particularly in the 20 largest DMAs, and on how any such presumptive waiver standard would work. The Commission tentatively concludes that any such rule should create a favorable presumption for waiver requests only in cases where the proposed combination consists of a single television station and single daily newspaper, as described above, and not in cases where the common ownership is proposed to include a television duopoly, regardless of whether a duopoly is permitted under the local television ownership rule. The Commission seeks comment on this tentative conclusion. For each element it proposes to include in a presumptive waiver standard, it seeks comment on its usefulness and the costs and benefits of its inclusion.

122. Some commenters in the 2010 Quadrennial Review proceeding asserted that differentiating the 20 largest DMAs from smaller markets would be arbitrary and capricious. On the other hand, there is evidence supporting such a distinction. The greater demographic diversity found more frequently within larger populations is more likely to generate demand for a wider range of viewpoints. The larger populations of the top-20 DMAs may also be better able to provide the economic base to support a greater number of media outlets. Indeed, evidence demonstrates a greater level of media diversity in the 20 largest DMAs that distinguishes those markets from the remaining DMAs. Data show that, while there are at least 10 independently owned, commercial television stations in 14 of the top 20 DMAs, none of the DMAs ranked 21 through 25 has more than seven independently owned, commercial television stations. Additionally, while 10 of the top 20 DMAs have at least two newspapers with a circulation of at least 5 percent of the households in that DMA, four of the five DMAs ranked 21 through 25 have only one such newspaper. Moreover, the top 20 markets, on average, have 15 independently owned television stations and major newspapers and approximately 2.6 million television households. By comparison, DMAs 21 through 30 have on average nine major media voices and fewer than 1.2 million television households, representing drops of 37 percent and 56 percent from the top 20 markets, respectively. DMAs 31 through 50 have average numbers of voices for each category similar to markets 21 through 30, but a lower number of television households averaging 795,000. DMAs 51 through 210 show even more dramatic drops, with, on average, fewer than seven major media voices and approximately 240,000 television households, representing drops of 54 percent and 91 percent from the top 20 DMAs, respectively.

123. Several commenters in the 2010 Quadrennial Review proceeding contended that many lower-ranked DMAs are abundantly diverse. The Commission emphasizes that any presumptions would provide merely a starting point for the analysis of the likely impact of a proposed merger on a particular market. A presumption could be overcome if the weight of the evidence favors the party with the burden of proof. Waiver applicants in smaller markets would not be precluded from demonstrating that a proposed merger would create efficiencies that would serve the public interest without harming viewpoint diversity in the local market.

124. None of the commenters specified an alternative demarcation point, but a few commenters argued that the same standard should apply to all, or the majority of, markets. For example, Cox proposed a two-part test that it argued should apply to NBCO waiver requests in all markets. The first part of the test, Cox claimed, would protect viewpoint diversity by requiring that 20 independent media voices remain in the market following a proposed combination, which could include a newspaper and any broadcast properties that would be permitted under the local ownership rules. Cox proposed that independent media voices include independently owned daily newspapers, full-power television stations, full-power radio stations, cable and satellite television services (counted as one voice), and the Internet (counted as one voice). As Cox stated, the diversity prong of its proposed test was patterned in part after the radio/television cross-ownership rule. The second part of Cox's test, intended to preserve localism, would require that at least three independent media voices that produce and distribute local news and information programming, other than the combining properties, remain in the market post-transaction. The Commission seeks comment on Cox's suggestion. For the reasons explained below in connection with the eight-voices restriction, the Commission believes that the first part of Cox's proposed test would define independent media voices too broadly. As to the second part of Cox's proposed test, the Commission believes it would be difficult to apply and enforce an objective, content-neutral standard of what constitutes an independent media voice that produces and distributes local news and information programming. Moreover, nothing in the Cox proposal provided specific evidentiary support that relates the standard specifically to newspaper/television combinations.

(iv) Top-Four Restriction

125. *Background.* Consistent with the 2006 NBCO rule, the Commission proposed in the *NPRM* that newspaper/television combinations involving a television station ranked among the top-four television stations in the DMA would not be entitled to a favorable presumption. The Commission proposed that television rankings be based on the most recent all-day (*i.e.,* 9:00 a.m. to midnight) audience share, as measured by Nielsen or another comparable professional, accepted audience ratings service.

126. The Commission's preliminary view was that ''allowing a top-four station to merge with a daily newspaper would create the greatest risk of losing an independent voice in that market.'' Based on the Commission's data analysis, the amount of local news drops significantly between the fourth- and fifth-ranked stations. The most dramatic difference occurs in larger markets, where the fifth-ranked station generally provides no more than half the amount of local news aired on the fourth-ranked station. The Commission sought comment on whether a different limit would be more appropriate, such as a top-five or top-six restriction. It also asked if the restriction should depend on whether the station is affiliated with one of the four major broadcast networks, given evidence that such stations tend to air more local news.

127. *Discussion.* If the Commission were to adopt a waiver standard with presumptive guidelines, it would not provide a favorable presumption for newspaper/television combinations involving a television station ranked among the top-four television stations in the DMA. The Commission would continue to determine a television

station's ranking in accordance with Section 73.3555(d)(3)(i) of the Commission's rules. As stated in the *NPRM,* evidence shows that the top-four television stations in a DMA generally air more local news and information than the other television stations in the market, particularly in the larger DMAs. The Commission seeks comment on its tentative conclusion that viewpoint diversity in even the largest markets could be harmed if a top-ranked television station merged with a daily newspaper within the same DMA. Therefore, regardless of the DMA's size, the Commission believes that a proposed combination involving a top-four television station would be inconsistent with the public interest. The Commission invites commenters to provide any new information or evidence that the Commission should take into consideration regarding this issue.

128. The Commission disagrees with those commenters who contend that the rationale for allowing cross-ownership in the top 20 markets would also support not having a top-four restriction. The Commission's analysis of this rule hinges not on whether it should be relaxed to enhance efficiencies that could promote localism, but on whether some form of the rule remains necessary to promote viewpoint diversity. Although the Commission would hope that any permitted combinations under a revised rule would generate localism benefits, the NBCO rule is designed to protect viewpoint diversity. Under the presumptive waiver standard the Commission seeks comment on today, waiver applicants in the top-20 DMAs would be entitled to a favorable presumption on the theory that permitting certain newspaper/television combinations in those markets would not likely harm viewpoint diversity. Allowing the combination of a newspaper and a top-four station, however, could potentially harm viewpoint diversity precisely because the top-four television stations typically provide the most local news among television stations. A combination with one of those stations thus could result in a diminution of viewpoint diversity, and therefore the Commission believes that a waiver request involving such a station should not be entitled to a favorable presumption. The Commission seeks comment on this proposition.

129. Other arguments also sidestep the diversity rationale. Tribune contended that combining with one of the market's weaker television stations may not provide the lifeline that many struggling newspapers need. It further asserted that the rationale for the top-four restriction within the context of the local television rule—to preserve competition among the strongest television stations—is inapplicable to the NBCO rule. The Commission's primary intent, however, in considering whether to retain the top-four component of the NBCO rule, if amended, is to protect viewpoint diversity, not to save struggling newspapers or to promote competition. The Commission seeks comment on its position with respect to these assertions.

130. Finally, Fox claimed that a top-four restriction would violate the First Amendment because it would preclude a speaker from acquiring additional outlets based on the popularity of the speaker's content. The Commission disagrees. As the U.S. Supreme Court stated, assuring ''access to a multiplicity of information sources . . . promotes values central to the First Amendment.'' The Commission also disagrees with Fox's assertion that such a restriction would be content-based. Rather, the Commission believes the top-four restriction would operate on the content-neutral basis of market ranking. It notes that, within the context of the local television rule, the Third Circuit upheld the top-four restriction as a reasonable limit on market power.

(v) Eight Major Media Voices Restriction

131. *Background.* The Commission proposed that transactions that would leave fewer than eight independently owned and operating ''major media voices'' in the DMA would not be entitled to a favorable presumption under a presumptive waiver standard. Major media voices were defined in the *2006 Quadrennial Review Order* as full-power commercial and noncommercial television stations and major newspapers. The Commission sought comment on the potential impact of eliminating this voices test given its analysis that eight major media voices would remain in each of the top-20 DMAs even if all daily newspapers in those markets combined with television stations. The Commission also asked whether requiring a different number of voices would protect its diversity goal more effectively.

132. *Discussion.* Were the Commission to adopt the presumptive waiver standard on which it seeks comment, the Commission proposes to ascribe a negative presumption to waiver requests for newspaper/television combinations in the top-20 DMAs if fewer than eight major media voices would remain in the DMA following the proposed merger. The Commission believes it should continue to define major media voices as full-power television broadcast stations and newspapers that are published at least four days a week within the DMA in the dominant language of the market and have a circulation exceeding 5 percent of the households in the DMA. None of the commenters in the 2010 Quadrennial Review proceeding addressed the impact of removing the eight-voices test from a presumptive waiver standard or recommended an alternative voices test for the top-20 DMAs. Notwithstanding the supposition in the *NPRM* that the eight-voices test may not have an impact in the top-20 DMAs currently, if the Commission decides to adopt a presumptive waiver standard, then it proposes to retain the test as the more cautious approach and to protect viewpoint diversity in the event that media diversity in a top-20 DMA drops to the point where the test would become a critical factor in promoting that goal. The Commission included the eight-voices test in the 2006 waiver standard to prevent ''a significant decrease in the number of independently owned major media voices'' in the top-20 DMAs, and it seeks comment on whether it should incorporate the test for the same reason if it adopts a presumptive waiver standard.

133. Some commenters recommended that the Commission expand the definition of major media voices beyond full-power commercial and noncommercial television stations and major newspapers. For example, Cox urged the Commission to include in the definition full-power radio stations, cable and satellite television services (counted as one voice), and the Internet (counted as one voice). Cox argued that its approach would resemble the definition used for the radio/television cross-ownership rule. Referencing the local television rule, Tribune asserted that a voices test should include radio stations, cable and satellite news channels, weekly newspapers, and independent Web sites with news and local information. The Commission's view is that neither of these comparisons should persuade it to expand its definition: This *Further Notice of Proposed Rulemaking* seeks comment on repealing the radio/television cross-ownership rule, and only television stations count toward the minimum number of remaining media outlets required under the local television rule. In addition, the Commission is disinclined to agree with NAA that the definition should include any media outlet that ''contribute[s]

meaningfully to local news diversity,'' the determination of which would depend on the type of media outlet under consideration. For practical and legal reasons, the Commission believes it unwise to engage in the kind of subjective, content-based assessment that such a standard likely would entail. The Commission seeks comment on these views.

134. The Commission tentatively concludes that, for purposes of any newspaper/television cross-ownership rule that the Commission may adopt, full-power television stations and major newspapers are the relevant voices that should be included in the definition of major media voices. As noted in the *2006 Quadrennial Review Order* and discussed above, television stations and major newspapers are the predominant sources consumers rely on for news and information. In addition, evidence demonstrates that radio stations and independent Web sites generally do not originate significant amounts of local news. Evidence also suggests that viewership of local broadcast television news far outstrips that of cable news programming. Therefore, the Commission believes that counting the full-power television stations and the major newspapers within a local market provides a reasonable proxy for the level of viewpoint diversity that is meaningful for purposes of its proposed rule, and the Commission seeks comment on this belief.

(vi) Four-Factor Test

135. *Background.* Under the NBCO rule as revised in the *2006 Quadrennial Review Order,* the Commission considered four factors in evaluating a request for a rule waiver. All waiver applicants, regardless of whether they were entitled to a favorable presumption, were required to show: (1) That the combined entity would significantly increase the amount of local news in the market; (2) that the newspaper and the broadcast outlets each would continue to employ its own staff and exercise its own independent news judgment; (3) the level of concentration in the Nielsen DMA; and (4) the financial condition of the newspaper or broadcast station, and if the newspaper or broadcast station was in financial distress, the proposed owner's commitment to invest significantly in newsroom operations.

136. In the *NPRM,* the Commission sought comment on whether to retain these four factors. The Commission asked if the factors benefitted the waiver applicants or the Commission staff responsible for reviewing waiver requests. It sought comment on whether the factors were overly subjective or likely to create unnecessary delay. The Commission also asked whether, if the four-factor test were excluded from the rule, the presumptions in favor of or against a transaction should create a *prima facie* case, which would shift the burden of proof to the party seeking to overcome the presumption.

137. *Discussion.* The Commission proposes not to include the four-factor test in any newspaper/television cross-ownership rule that it ultimately may adopt. None of the commenters in the 2010 Quadrennial Review proceeding supported retaining the test. The Commission tentatively concludes that the factors are not well-suited as standards required of every waiver applicant because they are vague, subjective, difficult to verify, and costly to enforce. The Commission would not discourage waiver applicants, particularly those in smaller markets, from attempting to strengthen their requests by presenting evidence in support of considerations like those reflected in the four factors. Rather, the ill-defined nature of these factors leads the Commission to believe that they should not be imposed automatically on every waiver applicant. The Commission seeks comment on this approach.

138. In the event the Commission adopts a presumptive waiver standard, it seeks further comment on whether, instead of a four-factor test, it should treat a presumption either in favor of or against a waiver request as establishing a *prima facie* case. The party seeking to overcome the presumption would have the burden to show that the proposed newspaper/television combination would or would not unduly harm viewpoint diversity within the DMA. To meet this burden, parties could present evidence, for instance, regarding the quantity and strength of existing local news providers within the DMA including, for example, their availability, accessibility, and focus on local news and information; the level and pervasiveness of their presence or influence within the DMA, particularly in those portions of the DMA that potentially would be most affected by the proposed merger; and the strength of the applicant's proposed local news and other local program offerings. The impact on viewpoint diversity in the local market would be the focal point of the Commission's review. Evidence related to other variables could shade the Commission's analysis but would not be necessary or sufficient. The Commission believes this type of narrowed approach would be consistent with its objective to rationalize the NBCO rule by linking its requirements to its purpose.

(vii) Overcoming the Negative Presumption

139. *Background.* In the *NPRM,* the Commission sought comment on whether to retain the criteria required by the *2006 Quadrennial Review Order* to overcome a negative presumption. Under the 2006 rule, a waiver applicant could overcome a negative presumption by demonstrating, with clear and convincing evidence, that the merged entity would increase the diversity of independent news outlets and the level of competition among independent news sources in the relevant market. The rule adopted in the *2006 Quadrennial Review Order* further stated that the Commission would reverse a negative presumption in two limited circumstances: (1) When the proposed combination involved a failed/failing station or newspaper, or (2) when the proposed combination was with a broadcast station that was not offering local newscasts prior to the combination, and the station would initiate at least seven hours per week of local news after the combination. The *NPRM* asked whether these standards were sufficiently objective and quantifiable. It asked also whether special consideration should be given to a transaction involving a station or newspaper that is failed or failing, and if so, what type of showing should be required. Finally, the *NPRM* sought comment on whether the Commission should adopt any other criteria, particularly given that licensees could seek waivers under Section 1.3 of the Commission's rules.

140. *Discussion.* The Commission believes it should not adopt the criteria required by the *2006 Quadrennial Review Order* to overcome a negative presumption in any presumptive waiver standard that the Commission may adopt, other than the failed/failing station or newspaper criterion. In the preceding discussion of the four-factor test, the Commission sought comment on whether it should enable merger applicants to overcome any negative presumption by demonstrating that the proposed transaction would not unduly harm viewpoint diversity within the DMA. The Commission seeks comment on whether that standard also should replace the 2006 criteria requiring clear and convincing evidence that diversity and competition would increase. The Commission believes that the clear and convincing measure imposed an overly burdensome evidentiary standard, unnecessarily included a competition showing, and failed to identify relevant

evidence that would support the diversity showing. The Commission is inclined to agree with Free Press that the exception for waiver applicants that commit to initiating weekly local news programming on a television station that has not been offering any local news would be too difficult to enforce. Not only does the Commission think it would be impractical for the Commission to monitor the station's subsequent local news output, but it does not wish to engage in making content-based judgments regarding what constitutes local news. For this reason and for the reasons stated above for proposing to reject the four-factor test, the Commission is not inclined to adopt NAA's recommendation that any NBCO rule the Commission adopts include an exception when: (1) The merger applicants commit to retaining, protecting, and exercising their respective editorial independence or (2) the merger applicants commit to adding news or public affairs programming to a broadcast station that previously had not been airing news. The Commission seeks comment on this approach.

141. The Commission proposes to adopt a failed/failing entity exception, which would allow merger applicants to overcome a negative presumption under a presumptive waiver standard when a proposed combination involved a failed/failing television station or newspaper. In addition, it similarly proposes to consider an exception for failed/failing entities if it adopts a waiver standard that does not include presumptive guidelines. As explained above in the discussion of its policy goals, the Commission believes the continued operation of a local news outlet under common ownership would cause less harm to viewpoint diversity than would its complete disappearance from the market. Noting that no alternative definitions were suggested in the 2010 Quadrennial Review proceeding, the Commission seeks comment on whether to incorporate the criteria adopted in the *2006 Quadrennial Review Order* to determine if a television station or newspaper is failed or failing. Specifically, in order to qualify as failed, the newspaper or television station would have to show that it had stopped circulating or had been dark due to financial distress for at least four months immediately prior to the filing of the assignment or transfer of control application, or that it was involved in court-supervised involuntary bankruptcy or involuntary insolvency proceedings. To qualify as failing, the applicant would have to show that: (1) If the television station was the failing entity, that it had a low all-day audience share (*i.e.,* 4 percent or lower); (2) the financial condition of the newspaper or television station was poor (*i.e.,* a negative cash flow for the previous three years); and (3) the combination would produce public interest benefits. An applicant seeking a waiver of a newspaper/television cross-ownership prohibition on the basis that either the television station or the newspaper was failed or failing would be required to show that the tangible and verifiable public interest benefits of the combination outweighed any harms. Further, as is already the case with failed and failing station waivers of the local television rule, in seeking subsequent renewals of the television station's license, the owner of the combined entities would be required to certify to the Commission that the public interest benefits of the combination were being fulfilled, including a specific, factual showing of the program-related benefits that had accrued to the public. Cost savings or other efficiencies, standing alone, would not constitute a sufficient showing. The Commission seeks comment on the implications of requiring such a showing. In addition, the applicant would have to show that the in-market buyer was the only reasonably available candidate willing and able to acquire and operate the failed or failing newspaper or station and that selling the newspaper or station to any out-of-market buyer would result in an artificially depressed price. One way to satisfy this criterion would be to provide an affidavit from an independent broker affirming that active and serious efforts had been made to sell the newspaper or television station, and that no reasonable offer from an entity outside the market had been received. The Commission seeks comment on whether to adopt such a criterion. It seeks comment on whether to adopt such an exception for failed/failing entities regardless of the waiver standard it adopts.

(iv) Minority and Female Ownership

142. *Background.* The Commission has provided several opportunities for public input on issues pertaining to minority and female ownership. It sought comment in the *NPRM* on how the proposed revisions to the NBCO rule could affect minority and female ownership opportunities. Further, it asked how promotion of diverse ownership promotes viewpoint diversity. The Commission also sought comment on the minority and female ownership data contained in the *2012 323 Report.* In addition, the Commission invited comment on the MMTC Cross-Ownership Study which seeks to examine ''whether, and to what extent, cross-ownership might have a material adverse impact on minority and women ownership.'' To inform the 2014 Quadrennial Review, the Commission seeks further comment below on the relationship of the NBCO rule to minority and female ownership.

143. *Discussion.* Some commenters criticized the Commission for proposing to relax the NBCO rule without first determining that there would be no negative impact on levels of minority and female ownership. The Commission recognizes that the Third Circuit directed the Commission to address certain portions of the *Diversity Order* in the context of its quadrennial review. The Commission has considered carefully whether there is evidence in the current record that modifications to the NBCO rule, such as those the Commission seeks comment on above, would likely adversely affect minority and female ownership, and it tentatively concludes, as discussed below, that the current record does not establish that such harm is likely. The Commission tentatively finds that the information in the current record asserting a potential impact would not change its underlying analysis regarding the possible rule modifications set forth above. Moreover, the Commission rejects the argument that the *Prometheus II* decision requires the Commission to take no action unless it can show definitively that a rule change would have no negative impact on minority ownership levels. In any case, considering the low levels of minority and female ownership reflected in the *2012 323 Report,* the Commission does not believe the record evidence shows that the cross-ownership ban has protected or promoted minority or female ownership of broadcast stations in the past 35 years, or that it could be expected to do so in the future. The Commission seeks comment on these views.

144. The Commission notes that commenters in the 2010 Quadrennial Review record did not focus on the impact of newspaper/radio cross-ownership in particular. None of these commenters seriously contended or provided any data showing that newspaper mergers with minority/female-owned radio stations would harm viewpoint diversity in local markets. As discussed above, the Commission does not believe that the vast majority of radio stations contribute significantly to viewpoint diversity. Moreover, the Commission has no evidence in the current record suggesting that minority/female-owned

radio stations contribute more significantly to viewpoint diversity or broadcast greater amounts of local news on which consumers rely as a primary source of information than other radio stations. Even if they did, the Commission could not conclude that it would therefore be reasonable to restrain the ability of owners of all commercial radio stations to make business decisions to exit the market or to combine with a newspaper should the record otherwise support allowing such combinations. The Commission invites commenters to provide any new relevant information, data, or evidence that should inform the 2014 Quadrennial Review.

145. With respect to newspaper/television combinations, the current record reflects varying opinions concerning the impact of a rule modification on minority and female ownership. While the Commission agrees with the commenters that current levels of minority and female ownership are discouragingly low, the Commission is not persuaded by evidence in the current record that the NBCO modifications it seeks comment on above would adversely affect minority and female ownership levels. Even assuming that some minority-owned stations would become acquisition targets if the rule were loosened, the Commission does not believe that such a possibility necessarily would preclude rule modifications that are otherwise consistent with its statutory mandate. To the extent that governmental action to boost ownership diversity is appropriate and in accordance with the law, the Commission does not believe that any such action should be in the form of indirect measures that have no demonstrable effect on minority ownership and yet constrain all broadcast licensees. The Commission seeks comment on this tentative conclusion and its impact on any decision to modify its cross-ownership rules. Several commenters argued that promoting access to capital would advance minority ownership more effectively than either limiting the number of potential buyers for minority broadcast owners interested in selling or preventing minority broadcast owners from experimenting with print publication. The Commission addresses related proposals below.

146. At this time, the Commission is not convinced that a top-four restriction, if adopted as part of a presumptive waiver standard, would decrease minority ownership. Commenters predicted that minority-owned television stations, the majority of which are stand-alone stations unaffiliated with a network, would be likely targets for acquisition if top-four television stations were excluded from cross-ownership. However, a newspaper publisher that is foreclosed from buying a top-ranked television station may not necessarily seek to purchase a lower-ranked station. In any event, station owners would not be compelled to sell their stations as a result of a modification to the NBCO rule. Moreover, a station owner that wishes to exit the market is not prevented from selling its station under the current NBCO ban, which merely eliminates newspaper owners as potential buyers. The Commission notes that the commenters' concern is in tension with the more frequent complaint that the Commission has not been aggressive enough in encouraging investment in minority broadcasters. The changes the Commission seeks comment on today could permit stand-alone stations without a network affiliation to compete better in the market and to improve their local news offerings by combining resources with an in-market daily newspaper, if they so desired and such an opportunity were available. The Commission seeks comment on the likelihood of such an effect.

147. In addition, commenters arguing that minority-owned broadcasters are competitively disadvantaged in the presence of large media conglomerates pointed to alleged effects of multiple station ownership, not cross-ownership of newspapers and broadcast stations. As the Commission has found, newspapers and broadcast stations generally do not compete in the same product markets, and it does not believe that an owner of a newspaper/television combination would possess any greater ability to impede local competition among local television stations than the well-capitalized owner of a single media property. Free Press pointed to various financial pressures that it claims have forced a number of minority owners to exit the market. To the extent that Free Press alleged that these financial difficulties stemmed from or were exacerbated by media consolidation, the consolidation to which Free Press refers is not related to the NBCO rule. Given that an NBCO restriction did not prevent the minority owners Free Press identified from leaving the market and in light of the Commission's finding that newspapers and broadcast stations generally do not compete in the same product market, the Commission seeks further comment specifically on the relationship between the NBCO rule and minority and female ownership.

148. The MMTC Cross-Ownership Study stated that ''the impact of cross-media ownership on minority and women broadcast ownership is probably negligible.'' MMTC indicated that the study surveyed both minority- and/or female-owned broadcast stations in markets with cross-owned media, along with non-minority/non-female-owned broadcast stations in the same markets, to explore whether there was a difference in the responses of the two groups regarding the importance of local cross-owned media. According to MMTC, the study's findings showed a lack of concern by almost all of the respondents about the presence of cross-owned media in the market. MMTC acknowledged, however, that the study was ''not intended as a comprehensive random sample survey'' and cautioned that the limited number of responses warrants ''great care'' in reaching any conclusions.

149. A number of commenters argued that the MMTC Cross-Ownership Study was critically flawed in its methodology and analysis and that the Commission cannot rely on the study as a basis for policy making. In response, MMTC recognized that the MMTC Cross-Ownership Study is not dispositive but argued that it provides useful evidence about the impact of cross-ownership, noting the record was previously devoid of any such data.

150. Given the limitations of the study that even MMTC acknowledges, the Commission does not believe it can draw definitive conclusions about the impact of cross-ownership on minority and female ownership from the MMTC Cross-Ownership Study alone. The Commission invites commenters to provide additional evidence that bears on this issue, especially any evidence arising since MMTC's filing of the study.

151. Furthermore, the Commission notes that any attempt to conduct an empirical study of the relationship between cross-ownership restrictions and minority and female ownership would face obstacles that likely would make such study impractical and unreliable. A rigorous econometric analysis would require that the Commission observe a sufficient number of markets in which cross-ownership and/or minority and female ownership levels recently have shown variation. Due to the Commission's cross-ownership restrictions having been in place for such a long period of time and to low levels of minority and female ownership, however, both cross-ownership and minority and female ownership levels show very little variation, making empirical study of the relationship between these multiple variables extremely difficult. In

addition, any study necessarily would be based on a very small dataset for the same reasons. As a result of these limitations, any estimation of the relationship between cross-ownership restrictions and minority and female ownership is likely to be imprecise. Given such imprecision, the Commission does not believe that a study could extrapolate with any degree of confidence the effect that changing the Commission's cross-ownership rules would have on minority and female ownership levels, and any attempt to do so would be misleading. Variation in ownership structure over time, resulting from additional cross-owned entities, could provide additional data points to study in the future. The Commission seeks comment on these views concerning the inherent challenges to conducting comprehensive research on these issues.

152. Finally, the Commission emphasizes that, as proposed above, no newspaper/television combination would be permitted without a Commission waiver of a general rule prohibiting such combinations. Even a waiver request that would be granted a favorable presumption under a presumptive waiver standard would be subject to denial if the Commission found that the proposed transaction was likely to harm viewpoint diversity in the local market. A case-by-case waiver approach under either option the Commission offers for comment would allow for close Commission examination of the particular circumstances of a proposed combination. Where the newspaper purchase of a television station, minority/female-owned or otherwise, would disserve the public interest, the Commission would deny the request for a rule waiver. The Commission seeks comment on whether a waiver requirement would provide adequate protection when the particular circumstances of a proposed merger run counter to its diversity goals.

4. Radio/Television Cross-Ownership Rule

a. Introduction

153. The Commission seeks comment on whether the radio/television cross-ownership rule, which limits the combined number of commercial radio and television stations a single entity may own in the same market, is still necessary in the public interest or whether it should be repealed. It seeks comment on whether the current media marketplace and the evidence adduced in the 2010 Quadrennial Review proceeding support a conclusion that the local television ownership rule and the local radio ownership rule, which the Commission proposes to retain with limited modification elsewhere in this *Further Notice of Proposed Rulemaking,* adequately serve the goals the radio/television cross-ownership rule was intended to promote, namely, competition and diversity in local markets. The Commission seeks comment on whether the benefits of eliminating this regulation would outweigh any potential costs and whether simplifying its rules in this way would have only a minimal effect in most markets. Moreover, the Commission seeks comment on whether repeal of this rule would be consistent with its goal of promoting minority and female ownership of broadcast stations. The Commission invites commenters to discuss any relevant evidence in the 2010 Quadrennial Review record and submit any new evidence that bears on its review of this rule. In addition, the Commission seeks comment on the costs and benefits of retaining or eliminating the radio/television cross-ownership rule. To the greatest extent possible, commenters should quantify the expected costs or benefits of the rule and any alternatives and provide detailed support for any actual or estimated values provided, including the source of such data and/or the method used to calculate reported values.

b. Background

154. In the *NPRM,* the Commission tentatively concluded that the radio/television cross-ownership rule is not currently necessary to promote the public interest. The Commission sought comment on a range of issues, including whether radio and television stations constitute different markets, whether repeal of the rule would encourage more and better competition in local media markets, whether repeal of the rule would result in additional broadcast consolidation, and what impact, if any, repeal would have on small, independent broadcasters, including those stations owned by minorities and women. The Commission indicated that changes in the marketplace and evidence from the media ownership studies specifically supported the tentative conclusion that the rule is not necessary to promote viewpoint diversity in local media markets.

155. The Commission invites commenters to augment the 2010 Quadrennial Review record with any new or different evidence, data, or information relevant to its consideration of the radio/television cross-ownership rule in this consolidated docket.

c. Discussion

156. Considering the record in the 2010 Quadrennial Review proceeding and consistent with the tentative conclusion in the *NPRM,* the Commission seeks comment on whether the radio/television cross-ownership rule is still necessary to promote the public interest or whether the rule should be repealed. The Commission notes that the record suggests that, unlike local television stations and daily newspapers, radio stations are not a dominant source of local news and information, and thus, the Commission seeks comment on whether retention of this rule is necessary to promote and preserve viewpoint diversity in local markets. Moreover, the Commission seeks comment on whether the existing rule offers substantial benefits in addition to its other rules. The Commission tentatively finds, as the Commission consistently has in past proceedings, that this rule is not necessary to support its goals of competition or localism.

157. *Viewpoint Diversity.* Limiting the combined number of commercial radio and television stations that a single entity may own in a market was previously found necessary to promote a diversity of viewpoints. The Commission seeks comment on the continued necessity of such a restriction. It notes that, despite its specific request in the *NPRM,* no studies were submitted in the 2010 Quadrennial Review record to demonstrate that this rule supports viewpoint diversity or that repeal of the rule would cause a decrease in viewpoint diversity. The Commission seeks comment on whether the local radio and local television ownership rules, which it proposes to retain, as well as its proposed newspaper/television cross-ownership rule, would be sufficient to protect viewpoint diversity such that retaining the radio/television cross-ownership rule is unnecessary.

158. The Commission seeks comment on evidence in the 2010 Quadrennial Review record suggesting that radio stations are not currently a dominant source of local news and information. Consistent with the tentative conclusions in the *NPRM,* the record in the 2010 Quadrennial Review proceeding demonstrates that consumers rely primarily on local television stations and daily newspapers (and their affiliated Web sites) for their local news, and not on radio stations. If the record demonstrates that radio stations are not the primary outlets that contribute to local viewpoint diversity, what harm to viewpoint diversity would

result from repealing the radio/television cross-ownership restriction? To the extent that noncommercial radio stations contribute to local news and information, the Commission notes that, because its ownership rules do not apply to noncommercial radio stations, the repeal of this rule would not impact their contribution to viewpoint diversity. The Commission seeks comment on how this fact should affect its analysis.

159. The Commission has previously acknowledged that radio is a distant third behind newspapers and television stations in terms of being an important provider of news and information. Indeed, the Commission has long recognized that ''a radio station cannot be considered the equal of either the newspaper or the television station in any sense, least of all in terms of being a source for news or for being the medium turned to for discussion of matters of local concern.'' In the *2006 Quadrennial Review Order* the Commission decided to retain the radio/television cross-ownership rule on the basis that the public relied on both radio and television for news and information. Information in the record in the 2010 Quadrennial Review proceeding, as well as the Information Needs of Communities Report and the most recent media ownership studies, suggest that local radio stations do not contribute to local viewpoint diversity to the same degree as local television stations and daily newspapers.

160. As discussed in the context of the NBCO rule above, recent evidence demonstrates that consumers regard local television stations and daily newspapers as the principal sources of local news and information. According to a recent Pew study, this popularity has, in turn, encouraged many television stations to produce more local morning and mid-day news programming, further establishing television stations as the main providers of local news and information in local markets. Independent television stations, particularly in those markets where they air local news, showed bigger audience or ratings gains in 2011 when compared to any of the stations affiliated with Big Four broadcast networks, which may provide more national programming content during those day parts.

161. As described in detail above, the Information Needs of Communities Report records a steady decline over the past two decades in consumer reliance on commercial radio news. The number of people who listen to some news on the radio dropped from 54 percent to 34 percent during that period. Only 30 commercial radio stations out of over 11,000 are all-news radio stations, a reduction from 50 in the mid-1980s. Although the Commission acknowledges that a small number of commercial all-news radio stations in the nation's largest markets are very successful, radio stations in most cities do not provide local journalism. Eighty-six percent of programming on news-talk stations is nationally syndicated, rather than locally produced. The Commission seeks comment on whether there is any more recent countervailing evidence refuting these trends.

162. Additionally, the Commission seeks comment on whether the existing radio/television cross-ownership rule provides meaningful additional restriction on consolidation, given that the local television and radio rules separately impose limitations on the amount of broadcast ownership permitted in local markets. Would the repeal of the rule have more than a minimal impact on broadcast consolidation in most local markets, as parties would continue to be constrained by the applicable local radio and local television ownership rules? As discussed in the *NPRM,* absent the radio/television cross-ownership rule, an entity approaching the limits of the existing cap, if constrained only by the local radio rule, would be permitted to acquire one or two additional radio stations in large markets, at most. Under the local radio rule, an entity owning six or seven radio stations can own as many as eight radio stations in the largest radio markets in the absence of the cross-ownership rule. The Commission seeks comment on whether the local radio rule is sufficient to protect competition in local radio markets. It believes the elimination of the radio/television cross-ownership rule would have no effect on the number of television stations an entity may own as the existing cross-ownership rule references the local television rule to determine how many television stations an entity may own. The Commission seeks comment on this conclusion and on whether the radio/television cross-ownership rule has independent effects, aside from those provided by the other local ownership rules, on consolidation in most local markets.

163. The Commission also seeks comment on the implications of the cross-ownership rule's two-tiered voice count restriction on broadcast consolidation in local markets. The restrictions appear to be readily met in many markets. In many large markets, the requirement that at least 20 independently owned and operating media voices remain in order to own television stations and as many as six or seven radio stations is met or exceeded and therefore appears to have little effect. Similarly, in many small markets the requirement that at least 10 independently owned media voices remain in order to own a television station and as many as four radio stations is met, so that element of the rule presumably has a limited impact on the potential for consolidation in those markets. The Commission seeks comment on these findings and on markets where this element of the rule may have an impact on television/radio consolidation. What is the significance of any such impact? The Commission seeks comment on whether the record from the 2010 Quadrennial Review proceeding or any more recent evidence establishes any particular or measurable potential harm that would likely result from repeal of this cross-ownership rule.

164. *Competition.* Consistent with prior holdings, the Commission tentatively finds that the radio/television cross-ownership rule is not necessary to promote competition. The Commission has found previously that most advertisers do not consider radio and television to be good substitutes for one another, and that ''television and radio stations neither compete in the same product market nor do they bear any vertical relation to one another.'' This position is consistent with the long-standing conclusion of the Department of Justice, which considers radio advertising as a separate antitrust market for purposes of its competition analysis. Similarly, the Commission tentatively finds that most consumers do not consider radio and television stations to be substitutes for one another and do not switch between television viewing and radio listening based on program content. Nothing in the current record undermines the Commission's previous conclusion that a television-radio combination, therefore, cannot adversely affect competition in any relevant product market. Given that radio and television stations do not appear to compete in the same market and that the local television and radio rules would prevent significant additional consolidation even in the absence of this rule, the 2010 Quadrennial Review record does not suggest that repeal of the radio/television cross-ownership rule would harm competition. The Commission seeks comment on whether any data or evidence made available since the *NPRM* warrants a renewed analysis of the competitive effect of the radio/television cross-ownership.

165. *Localism.* Consistent with the tentative conclusion in the *NPRM* and

previous Commission holdings, the Commission tentatively finds that the radio/television cross-ownership rule is not necessary to promote localism. The Commission seeks comment on this tentative conclusion. Furthermore, it seeks comment on whether elimination of this rule is likely to result in benefits to localism in the form of improved or expanded programming.

166. The Commission sought comment in the *NPRM* on the relevance of the media ownership studies to its analysis of whether the radio/television cross-ownership rule promotes its localism goals. The Commission specifically highlighted the findings in Media Ownership Study 1 and Media Ownership Study 4 about the correlation between the level of radio/television cross-ownership in a market and the amount of local television programming provided. The Commission stated in the *NPRM* that Media Ownership Study 1 examines how cross-ownership is associated with localism, as measured by the amount of local news provided in the market, and that the study finds that cross-ownership decreases local television news hours but raises ratings, which leads to ambiguous results. Additionally, the Commission observed the finding in Media Ownership Study 4 that, at the station level, radio/television cross-owned stations appear to air more local news on average, though the impact is marginal. The study showed that for every additional in-market radio station a parent owned, the television station aired 3.7 more minutes of local news. Some commenters in the 2010 Quadrennial Review proceeding maintained that these media ownership studies support the conclusion that the cross-ownership rule cannot be justified based on localism concerns. NAB stated that the record is clear that repeal of the radio/television cross-ownership rule would benefit both localism and diversity.

167. The Commission agrees with industry commenters who maintained that some limited cross-ownership could create efficiencies that could benefit the public should broadcasters choose to invest additional resources in the production of local news and information programming. When broadcasters engage in joint operations, whether those operations are focused on programming and news gathering or back office matters, the Commission believes it likely that financial efficiencies result. Such efficiencies could lead ultimately to consumer benefits in the form of additional station investments in equipment for radio or television newsrooms, an increase in staffing for news and informational programs, or additional local news coverage on radio stations. The Commission recognizes the potential for such benefits and seeks comment on the likely extent of such gains if the rule were repealed.

168. *Minority and Female Ownership.* The Commission also sought comment in the *NPRM* on the effect that eliminating the radio/television cross-ownership rule would have on efforts to foster ownership diversity among minorities and females. Further, the Commission sought comment on the minority and female ownership data contained in the *2012 323 Report.* In addition, interested parties had the opportunity to comment on the MMTC Cross-Ownership Study, as discussed in the context of the NBCO rule above. In response, several commenters criticized the Commission for proposing to relax any of its rules, including the radio/television cross-ownership rule, without first determining that there will be no negative impact on minority and female ownership. The Commission has considered carefully whether there is evidence in the current record that elimination of the radio/television cross-ownership rule would likely adversely affect minority and female ownership, and it believes, as discussed below, that the current record does not establish that such harm is likely. Furthermore, the Commission does not believe that record evidence shows that the cross-ownership ban has protected or promoted minority or female ownership of broadcast stations, or that it could be expected to do so in the future. Nevertheless, the Commission invites commenters to submit further data on the connection, if any, between the radio/television cross-ownership rule and minority and female ownership.

169. Notably, radio/television cross-ownership combinations were not the focus of commenters' concerns raised in response to the *NPRM.* In fact, no commenter to the *NPRM* presented empirical data or other analyses that established that repeal of this rule would harm competition, localism, or viewpoint diversity in local markets. As discussed above, the Commission tentatively concludes that the rule is not necessary to promote competition or localism, and the record reflects that most radio commercial stations do not broadcast significant amounts of local news and information. The current record does not suggest that minority/female-owned radio stations contribute more significantly to viewpoint diversity than other radio stations or broadcast more meaningful amounts of local news on which consumers rely as a primary source of information. The Commission seeks comment on these views. As discussed further in the Diversity section below, several of the media ownership studies in this proceeding concluded that there is a positive relationship between minority station ownership and the provision of certain types of minority-oriented content or the consumption of broadcast content by minority audiences. Several commenters also raised this issue. This observation, however, does not alter the Commission's view that radio stations—be they minority-owned or not—do not contribute significantly to local news. The Commission seeks comment on whether recent evidence shows otherwise. Recognizing that repeal of the rule would potentially allow for the acquisition of a limited number of additional radio stations in some markets by incumbent television broadcasters, the Commission seeks comment on the impact that elimination of the rule would have on media consolidation and thus on small broadcast owners, including minority and women owners. As noted above, the current radio/television rule already allows for a significant degree of cross-ownership of radio and television stations in a market. Second, the cross-ownership rule has always been accompanied by the ownership limitations contained in the local television and local radio rules, which the Commission proposes to retain substantively unchanged in order to protect competition in local markets. The Commission seeks comment on whether the local ownership rules are sufficient to protect minority and female broadcast owners from the competitive effects of media consolidation.

170. Moreover, while the Commission acknowledges the concerns raised by NABOB and others advocating for additional minority ownership opportunities, it agrees with commenters, including NAB, that the low level of minority and female broadcast ownership cannot be attributed solely or primarily to consolidation. Nor has any commenter shown that these low levels of ownership are a result of the existing radio/television cross-ownership rule. The Commission recognizes the presence of many disparate factors, including, most significantly, access to capital, as longstanding, persistent impediments to ownership diversity in broadcasting. As discussed below, such factors require further study and consideration.

171. In this *Further Notice of Proposed Rulemaking,* the Commission

reaffirms its commitment to broadcast ownership diversity as an important goal. The 2010 Quadrennial Review record, however, does not appear to establish that elimination of the radio/television cross-ownership rule would adversely affect ownership diversity. The Commission asks commenters to provide any demonstrable evidence of such a link that may have become available since the 2010 Quadrennial Review.

5. Dual Network Rule

a. Introduction

172. The Commission tentatively finds that the dual network rule, which permits common ownership of multiple broadcast networks, but prohibits a merger between or among the ''top-four'' networks (ABC, CBS, Fox, and NBC), continues to be necessary to promote competition and localism and should be retained without modification. In particular, the Commission tentatively finds that the top-four broadcast networks have a distinctive ability to attract, on a regular basis, larger primetime audiences than other broadcast and cable networks, which enables them to earn higher rates from those advertisers willing to pay a premium for such audiences. Thus, the Commission believes that a combination between top-four broadcast networks would reduce the choices available to advertisers seeking large, national audiences, which could substantially lessen competition and lead the networks to pay less attention to viewer demand for innovative, high quality programming. The Commission also tentatively find that the rule remains necessary to preserve the balance of bargaining power between the top-four networks and their affiliates, thus improving the ability of affiliates to exert influence on network programming decisions in a manner that best serves the interests of their local communities. The Commission tentatively concludes that the benefits of retaining the rule outweigh any potential burdens. The Commission seeks comment on these tentative findings, particularly with respect to any relevant developments that may have occurred since the *NPRM.* The Commission seeks comment also on the costs and benefits of its proposal to retain the existing dual network rule. To the greatest extent possible, commenters should quantify the expected costs or benefits of the rule and provide detailed support for any actual or estimated values provided, including the source of such data and/or the method used to calculate reported values.

b. Background

173. In the *NPRM,* the Commission sought comment on its tentative conclusion that the existing dual network rule should be retained without modification in order to promote competition. The Commission also sought comment on the potential impact of top-four network mergers on localism. The Commission invites commenters to augment the 2010 Quadrennial Review record with any new or different evidence, data, or information relevant to its consideration of the dual network rule in this consolidated docket.

c. Discussion

174. *Competition.* Consistent with the Commission's tentative conclusion in the *NPRM,* the Commission tentatively finds that the dual network rule remains necessary in the public interest to foster competition in the provision of primetime entertainment programming and the sale of national advertising time. Specifically, as discussed in more detail below, the Commission tentatively finds that the primetime entertainment programming supplied by the top-four broadcast networks is a distinct product, the provision of which could be restricted if two of the four major networks were to merge. The Commission also tentatively finds that, consistent with past Commission findings, the top-four broadcast networks comprise a ''strategic group'' in the national advertising market and compete largely among themselves for advertisers that seek to reach large, national mass audiences. Accordingly, the Commission continues to believe that a top-four network merger would substantially lessen competition for advertising dollars in the national advertising market, which would, in turn, reduce incentives for the networks to compete with each other for viewers by providing innovative, high quality programming. Based on their distinctive characteristics relative to other broadcast and cable networks, the Commission tentatively finds that the top-four broadcast networks serve a unique role in the provision of primetime entertainment programming and the sale of national advertising time that justifies retaining a rule specific to them. The Commission seeks comment on these tentative findings.

175. As noted in the *NPRM,* in comparison to other broadcast and cable networks, the top-four broadcast networks achieve substantially larger primetime audiences, as measured both by the audience size for individual programs and by the audience size for each network as a whole. Primetime broadcast network programming is generally designed to attract a mass audience, and financing such programming, in turn, requires the substantial revenue that only a mass audience can provide. The top-four broadcast networks supply their affiliated local stations with primetime entertainment programming intended to attract both mass audiences and the advertisers that want to reach such large, national audiences. By contrast, other broadcast networks, and many cable networks, tend to target more specialized, niche audiences. As CBS noted, in recent years, some cable networks have moved away from serving niche audiences and have modified their primetime programming lineups to more closely resemble those of broadcast networks. Nonetheless, with the exception of certain individual sports events or mini-series, even the highest rated primetime entertainment programs on cable networks achieve substantially smaller audiences than their broadcast network counterparts. For instance, during 2011, the highest rated primetime entertainment programs on cable networks attracted, at most, between 8 and 9 million viewers. By contrast, in any given week during the 2010–2011 television season, there were typically a dozen or more primetime entertainment programs on the top-four broadcast networks that attracted more than 10 million viewers, with the highest rated broadcast programs frequently attracting more than 20 million viewers, based on Nielsen data. Thus, the audience size for individual primetime entertainment programs provided by each of the top-four broadcast networks remains unmatched by that of any other broadcast or cable network.

176. Furthermore, as measured at the network level, the average primetime audience size for each of the top-four broadcast networks remains significantly larger than the audience size for even the most popular cable networks. The Commission recognizes that consumers generally substitute between broadcast and cable networks and that the gap in size between broadcast and cable audiences has narrowed over time, such that the aggregate audience for cable networks is now larger. Nevertheless, as stated in the *NPRM,* in 2009–2010 the average primetime audience for a top-four broadcast network remained substantially larger than the average primetime audience for other broadcast and cable networks. The Commission finds that this gap in audience size

continued in 2011. In 2011, the average primetime audience for a top-four broadcast network was nearly three times larger than the average primetime audience for the highest rated cable networks, based on SNL Kagan data. In addition, the average primetime audience for the top-four broadcast networks was more than twice as large as that of the fifth highest-rated broadcast network, and more than five times larger than that of the next highest-rated English-language broadcast network. As a result, based on the 2010 Quadrennial Review record, the Commission tentatively finds that, despite the ability of certain primetime cable network programs to achieve large audiences on occasion, in general, primetime entertainment programming provided by the top-four broadcast networks remains a distinct product capable of attracting large audiences, the size of which individual cable networks cannot consistently replicate. The Commission seeks comment on whether this audience gap has narrowed significantly since the *NPRM.*

177. Another indicator that the top-four broadcast networks are distinct from cable networks is the wide disparity in advertising prices between them. Using data for 2009, the Commission found in the *NPRM* that the top-four broadcast networks generally earn higher advertising rates than cable networks. In 2011, based on SNL Kagan data, the average advertising rate among the top-four broadcast networks, as measured in cost per thousand views (referred to as cost per mille or CPM), was $19.19. By contrast, the four highest CPMs among non-sports cable networks were for MTV, Bravo, Discovery Channel, and TBS, which had an average CPM of $10.95, or approximately 43 percent less than that of the top-four broadcast networks. The appeal of the top-four broadcast networks to advertisers seeking large, national audiences is also reflected in data on net advertising revenues. In 2011, the top-four broadcast networks averaged $3.17 billion in net advertising revenues, based on SNL Kagan data. By contrast, the four non-sports cable networks with the highest net advertising revenue totals (Nickelodeon, USA Network, TNT, and MTV) averaged just under 1 billion dollars in net advertising revenues, or less than one-third of the average amount that the top-four broadcast networks received. The Commission invites commenters to provide any relevant data that has become available more recently.

178. The Commission tentatively concludes that it should adopt the proposal in the *NPRM* to retain the existing dual network rule without modification in order to promote competition. The Commission finds force in WGAW's view that the rule remains necessary to promote competition in the market for primetime programming. Specifically, the Commission believes that the top-four broadcast networks have a distinctive ability to attract, on a regular basis, larger primetime audiences than other broadcast and cable networks, which enables them to earn higher rates from those advertisers that are willing to pay a premium for such audiences. Thus, the Commission believes that a combination between top-four broadcast networks would reduce the choices available to advertisers seeking large, national audiences, which could substantially lessen competition and lead the networks to pay less attention to viewer demand for innovative, high quality programming. The Commission therefore tentatively concludes that the primetime entertainment programming provided by the top-four broadcast networks and national television advertising time are each distinct products, the availability, price, and quality of which could be restricted, to the detriment of consumers, if two of the top-four networks were to merge. Accordingly, the Commission tentatively concludes that the dual network rule remains necessary to foster competition in the provision of primetime entertainment programming and the sale of national television advertising time. The Commission seeks comment on these tentative conclusions.

179. *Localism.* In addition to promoting its competition goal, the Commission tentatively finds that, consistent with past Commission findings, the dual network rule remains necessary to promote its localism goal. Specifically, the Commission tentatively finds that the rule remains necessary to preserve the balance of bargaining power between the top-four networks and their affiliates, thus improving the ability of affiliates to exert influence on network programming decisions in a manner that best serves the interests of their local communities. Typically, a critical role of a broadcast network is to provide its local affiliates with high quality programming. Because this programming is distributed across the country, broadcast networks have an economic incentive to ensure that the programming both appeals to a mass, nationwide audience and is widely shown by affiliates. A network's local affiliates serve a complementary role by providing local input in network programming decisions and airing programming that serves the specific needs and interests of that specific local community. As a result, the economic incentives of the networks are not always aligned with the interests of the local affiliates or the communities they serve.

180. In the context of this complementary network-affiliate relationship, the Commission believes that the dual network rule is, as the Affiliates Associations asserted, ''an important structural principle'' that helps to maintain equilibrium. Specifically, the Commission tentatively finds that a top-four network merger would reduce the ability of a network affiliate to use the availability of other top, independently owned networks as a bargaining tool to influence programming decisions of its network, including the affiliate's ability to engage in a dialogue with its network over the suitability for local audiences of either the content or scheduling of network programming. The Commission seeks comment on its tentative conclusion that the dual network rule remains necessary to foster localism.

181. The *NPRM* also sought comment on whether antitrust laws and the Commission's public interest standard are sufficient to address any harms to competition or localism that would result from a top-four network merger. As discussed above, the Commission is concerned here that a top-four network merger would restrict the availability, price, and quality of primetime entertainment programming to the detriment of consumers. The Commission is also concerned that the bargaining power and influence of affiliates would be reduced. As the Commission has previously noted, it does not think antitrust enforcement would adequately protect against these harms. The Commission seeks comment on these concerns.

182. *Dual Affiliation.* Some commenters urged the Commission to prohibit a TV station from affiliating with two or more top-four broadcast networks in a single market, because they contended that the practice allows stations to circumvent the intent of the dual network rule. Specifically, commenters claimed that dual affiliation allows a broadcaster to ''do locally what the networks are forbidden from doing nationally,'' which is to consolidate the bargaining power of multiple top-four network signals under the control of a single entity. The Commission notes, however, that the dual network rule addresses harms to competition and localism that would result from the consolidation of top-four

network ownership at the national level. In particular, as discussed above, the Commission tentatively finds that a combination between top-four broadcast networks would reduce the number of networks competing for national advertisers and would reduce the ability of a local affiliate to use the availability of other top, independently owned networks as a bargaining tool to influence network programming decisions. By contrast, the Commission believes that dual affiliation does not give rise to either of these harms because it does not reduce the number of network owners. Although commenters are invited to offer opposing views, the Commission does not perceive arguments related to dual affiliation as relevant to consideration of the dual network rule. Instead, it believe that issues related to dual affiliation, including the potential consolidation of market power by a single station owner in a local market, are more relevant to the local television ownership rule, and the Commission discusses them above in that context.

D. Diversity Order Remand

1. Introduction

183. In addition to assessing each of the broadcast ownership rules, the Commission is considering in this proceeding the Third Circuit's remand of certain aspects of the Commission's 2008 *Diversity Order*. In *Prometheus II,* the Third Circuit concluded that the decision in the *Diversity Order* to adopt a revenue-based eligible entity definition as a race-neutral means of facilitating ownership diversity was arbitrary and capricious, because the Commission did not show how such a definition specifically would assist minorities and women, who were among the intended beneficiaries of this action. In light of this conclusion, the Third Circuit remanded each of the measures adopted in the *Diversity Order* that relied on the revenue-based definition.

184. Based on its analysis of the preexisting eligible entity standard as well as the measures to which it applied, the Third Circuit's remand instructions, and the record thus far in this proceeding, the Commission tentatively concludes that the revenue-based eligible entity standard should be reinstated and applied to the regulatory policies set forth in the *Diversity Order*. The Commission believes that small businesses benefit from flexible licensing policies and that making it easier for small business applicants to participate in the broadcast industry will encourage innovation and enhance viewpoint diversity.

185. For the reasons explained below, the Commission tentatively concludes that the Commission is not in a position at this time to adopt a socially disadvantaged business (SDB) eligibility standard, which expressly would recognize the race and ethnicity of applicants, or any other race- or gender-targeted measures. The Commission invites further input on ways to expand the participation of minorities and women in the broadcast industry. It also seeks comment on specific measures, in addition to those that that the Commission tentatively concludes should be reinstated, that may provide further opportunities for minorities and women to own and operate broadcast outlets.

186. The Commission discusses below the actions that it currently believes are appropriate in response to the Third Circuit remand of the *Diversity Order*.

2. Background

a. Commission Diversity Initiatives

187. In addition to promoting viewpoint diversity generally through the broadcast ownership rules, the Commission has a long history of promulgating rules and regulations intended to foster diversity in terms of minority and female ownership. Although the Commission and Congress previously made available race- and gender-conscious measures intended specifically to assist minorities and women in their efforts to acquire broadcast properties, such as tax certificates and distress sale policies, those policies and programs were discontinued following the Supreme Court's 1995 decision in *Adarand Constructors, Inc.* v. *Peña*. The Supreme Court held in *Adarand* that any federal program in which the ''government treats any person unequally because of his or her race'' must satisfy the ''strict scrutiny'' constitutional standard of judicial review. Under strict scrutiny, racial classifications are constitutional only if they are narrowly tailored measures that further a compelling governmental interest. As a result, the Commission currently does not use race or ethnic origin as a factor in its ownership diversification policies. In addition, Congress repealed the tax certificate policy in 1995 as part of its budget approval process.

188. The Commission announced in October 2013 that it is conducting a study of Hispanic television viewing. The study is the Commission's first systematic examination of the Hispanic television market, a market that implicates an important and growing segment of the nation's population. It incorporates comprehensive data from the improved Form 323 biennial ownership reports, described below. Specifically, the study will consider: (1) The impact of Hispanic-owned television stations on Hispanic-oriented programming and Hispanic viewership in selected local television markets; (2) the extent of Hispanic-oriented programming on U.S. broadcast television; and (3) the role of digital multicasting in increasing the amount of Hispanic-oriented programming.

b. Data Collection Concerning Minority and Female Ownership

189. *Collection of Biennial Ownership Data.* As explained in detail in the *NPRM,* the Commission actively has sought in recent years to improve its collection and analysis of broadcast ownership information. Among other initiatives, the Commission has implemented major changes to its Form 323 biennial ownership reports to improve the reliability and utility of the data reported in the form, including data regarding minority and female broadcast ownership.

3. Discussion

a. Remand Review of the Revenue-Based Eligible Entity Standard

190. *Background.* The Commission solicited comment in the *NPRM* on whether the Commission should reinstate the pre-existing revenue-based eligible entity definition to support the measures the Third Circuit vacated and remanded as well as other measures the Commission may implement in the future. In light of the Third Circuit's conclusion that the Commission previously had failed to demonstrate a nexus between this definition and its stated goal of promoting female and minority ownership, the Commission asked commenters to supply any available evidence demonstrating that a revenue-based definition would support this specific policy objective. In addition, the Commission sought comment on whether re-adoption of the revenue-based standard would support its traditional diversity, localism, and competition goals in other ways, particularly by enhancing ownership opportunities for small businesses and other new entrants.

191. The Commission adopted its revenue-based eligible entity definition in the *2002 Biennial Review Order* as an exception to the prohibition on the transfer of grandfathered station combinations that violated then newly adopted local radio ownership limits.

The Commission ruled that licensees would be allowed to transfer control of or assign a grandfathered combination to an eligible entity, which was defined as any entity that would qualify as a small business consistent with SBA standards for its industry grouping, based on revenue. In addition, the Commission ruled that eligible entities would be permitted, with limited restrictions, to sell existing grandfathered combinations intact to new owners. The Commission adopted this transfer policy as a means to promote diversity of ownership and observed more generally that policies supporting the entry of new participants into the broadcasting industry also may promote innovation in the field.

192. Thereafter, in the *Diversity Order,* the Commission concluded that additional uses of the eligible entity definition would advance its objectives of promoting diversity of ownership in the broadcast industry by making it easier for small businesses and new entrants to acquire licenses and attract the capital necessary to compete in the marketplace with larger and better financed companies. In this regard, the Commission stated that the adoption of new measures relying on this definition would ''be effective in creating new opportunities for broadcast ownership by a variety of small businesses and new entrants, including those owned by women and minorities.'' The Commission further observed that facilitating market entry by new entrants into the broadcast industry would promote new programming services, particularly those that are responsive to local needs, interests, and audiences currently underserved. Thus, between 2002 and the Third Circuit's remand of the measures relying on the eligible entity definition in 2011, the Commission used the revenue-based standard to support a range of measures intended to encourage ownership diversity.

193. Several commenters, including AWM and NAB, supported reinstatement of a revenue-based eligible entity definition and the measures to which it previously applied as a means to diversify broadcast ownership. UCC *et al.* recommended that, instead of abandoning or repurposing the current eligibility definition, the Commission should assess whether it has had any measurable effect on the ownership of broadcast stations by minorities and women. As discussed in more detail below, DCS believed that the Commission should adopt a revised eligible entity definition that incorporates the Overcoming Disadvantage Preference (ODP) standard proposed by the Commission's Diversity Advisory Committee in 2010. According to DCS, no meaningful impact on minority ownership will be achieved by relying on a definition based solely upon the SBA's revenue limits for small businesses.

194. *Discussion.* The Commission tentatively concludes that a revenue-based eligible entity standard is an appropriate and worthwhile approach for expanding ownership diversity whether or not the standard is effective in promoting ownership of broadcast stations by women and minorities. The Commission concedes that it does not have an evidentiary record demonstrating that this standard specifically increases minority and female broadcast ownership. The Commission invites commenters to supplement the record with any new data or analysis that may bear on this issue. Nonetheless, even in the absence of such evidence, the Commission believes that reinstatement of the revenue-based standard would serve the public interest by promoting small-business participation in the broadcast industry. The Commission believes that small-business applicants and licensees benefit from flexible licensing, auction, transactions, and construction policies. Often, small-business applicants have financing and operational needs distinct from those of larger broadcasters. By easing certain regulations for small broadcasters, the Commission believes that it will promote its public interest goal of making access to broadcast spectrum available to a broad range of applicants. The Commission also believes that enabling more small businesses to participate in the broadcast industry will encourage innovation and expand ownership and viewpoint diversity.

195. The Commission seeks comment on these tentative conclusions. The Commission also seeks input on other potential public interest benefits or detriments that could result from reinstating the eligible entity standard. It is interested in hearing from eligible entity broadcasters that have used one or more of the measures adopted in the *Diversity Order.* What measures were used? Did the eligible entity definition facilitate entry into broadcast ownership? Was increased financing and investment available to eligible entity broadcasters as a result of the existence of the eligible entity standard or any of the measures? The experiences of such broadcasters could aid the Commission's assessment of this standard and the measures that utilize the definition.

196. The Commission's records indicate that a large number of Commission permittees and licensees previously have availed themselves of policies based on the revenue-based eligible entity standard. In particular, the *Diversity Order* afforded eligible entities that acquire broadcast construction permits through an assignment from another permittee additional time to construct their facilities under certain circumstances, and many small businesses made use of this measure. FCC Form 314 requires that assignees in broadcast transactions indicate whether the assignee is an eligible entity as that term is defined in the *Diversity Order.* Between the implementation of the eligible entity definition and the suspension of the definition following the *Prometheus II* decision, Commission staff processed approximately 247 Form 314 construction permit assignment applications in which the assignee self-identified as an eligible entity. Of those 247 applications, approximately 132 (53.4 percent) of the eligible entities have constructed their broadcast facilities and are now on the air. The data also reveal that the largest group of broadcasters that availed themselves of the eligible entity definition are noncommercial educational broadcasters. Of the 247 total eligible entities, 160 (64.7 percent) are NCE permittees or licensees.

197. On the whole, the Commission believes that these data indicate that the revenue-based eligible entity standard has been used successfully by small firms and has aided their entry into, as well as sustained their presence in, broadcasting in furtherance of the Commission's public interest goals. While these data may not include the total number of applicants and permittees that have availed themselves of one or more of the measures to which the eligible entity standard applied, this information nonetheless suggests that providing additional time to construct broadcast facilities and other measures have assisted market entry by small broadcasters.

198. The Commission also tentatively concludes that, if the Commission reinstates the eligible entity definition, it would be appropriate to readopt each measure relying on this definition that was remanded in *Prometheus II.* These measures include: (1) Revision of Rules Regarding Construction Permit Deadlines (The Commission proposes that this exception to its strict broadcast station construction policy, if reinstated by the Commission, would be limited to one 18-month extension based on one assignment to an eligible entity.

Moreover, to ensure realization of its policy goals, in reviewing the permit sale to the eligible entity, the Commission proposes to assess the *bona fides* of both the arms-length structure of the transaction and the assignee's status as an eligible entity.); (2) Modification of Attribution Rule (In addition, pursuant to the new entrant bidding credits available under the Commission's broadcast auction rules, the modified EDP attribution standard was available to interest holders in eligible entities that are the winning bidders in broadcast auctions. The Commission proposes to reinstate this application of the modified EDP standard.); (3) Distress Sale Policy; (4) Duopoly Priority for Companies that Finance or Incubate an Eligible Entity; (5) Extension of Divestiture Deadline in Certain Mergers; and (6) Assignment or Transfer of Grandfathered Radio Station Combinations.

199. The Commission proposes to define an eligible entity as any entity, commercial or noncommercial, that would qualify as a small business consistent with SBA standards for its industry grouping, based on revenue. The Commission proposes to include both commercial and noncommercial entities within the scope of the term ''eligible entity'' to the extent that they otherwise meet the criteria of this standard. The Commission previously applied the SBA standards to define eligible entities, and the Commission seeks comment on whether those standards should apply if it re-adopts the eligible entity standard. The Commission requests comment on whether there is any reason to use different eligible entity definitions for commercial and noncommercial entities. For all SBA programs, a radio or television station with no more than $35.5 million dollars in annual revenue currently is considered a small business. To determine qualification as a small business, the SBA considers the revenues of the parent corporation and affiliates of the parent corporation, not just the revenues of individual broadcast stations. The Commission proposes to do the same. In addition, in order to ensure that ultimate control rests in an eligible entity that satisfies the revenue criteria, the Commission proposes that the entity must satisfy one of several control tests. Specifically, the eligible entity would have to hold: (1) 30 percent or more of the stock/partnership shares and more than 50 percent voting power of the corporation or partnership that will hold the broadcast license; (2) 15 percent or more of the stock/partnership shares and more than 50 percent voting power of the corporation or partnership that will hold the broadcast licenses, provided that no other person or entity owns or controls more than 25 percent of the outstanding stock or partnership interest; or (3) more than 50 percent of the voting power of the corporation if the corporation that holds the broadcast licenses is a publicly traded company.

200. The Commission seeks comment on the costs and benefits of the proposal to adopt a revenue-based eligible entity definition and the measures relying on this definition as proposed herein. To the greatest extent possible, commenters should quantify the expected costs or benefits of the proposals and provide detailed support for any actual or estimated values provided, including the source of such data and/or the method used to calculate reported values.

b. Remand Review of a Race- or Gender-Conscious Eligible Entity Standard

(i) Background

201. The Third Circuit in *Prometheus II* instructed the Commission to address on remand the other eligible entity definitions it had considered when the revenue-based definition was adopted. Specifically, in the *Diversity Third FNPRM,* the Commission sought comment on the possibility of replacing the revenue-based standard with a standard based on the SBA's definition of SDBs used for purposes of its Business Development Program. Pursuant to the SBA's program, persons of certain racial or ethnic backgrounds are presumed to be disadvantaged; all other individuals may qualify for the program if they can show by a preponderance of the evidence that they are disadvantaged. In response to the court's directive, the Commission sought comment in the *NPRM* on the benefits and risks of adopting an SDB standard to support the various ownership diversity measures remanded by the court. The Commission also solicited input on other proposals that were included in the *Diversity Third FNPRM* as well as any other race- or gender-conscious standards the Commission should consider.

202. Under the SBA's 8(a) Business Development Program, certain individuals are presumed to be socially disadvantaged: African-Americans, Hispanic Americans, Asian Pacific Americans, Native Americans (American Indians, Eskimos, Aleuts, or Native Hawaiians), and Subcontinent Asian Americans. Additionally, the SBA permits the applicant to show through a ''preponderance of the evidence'' social disadvantage due to gender, physical handicap, long-term residence in an environment isolated from the mainstream of American society, or other similar causes.

203. To the extent an SDB standard includes race-specific criteria, it would be subject to strict constitutional scrutiny. As explained in the *NPRM,* rules and policies that operate based on race, ethnic origin, or gender are subject to an exacting constitutional analysis. All race-based classifications imposed by the government '''must be analyzed by a reviewing court under strict scrutiny' . . . [and] are constitutional only if they are narrowly tailored to further compelling governmental interests.'' The U.S. Supreme Court to date has accepted only two justifications for race-based action as compelling for purposes of strict scrutiny: student body diversity in higher education and remedying past discrimination. Gender-based classifications are evaluated under an intermediate standard of review and will be upheld as constitutional if the government's actions are deemed substantially related to the achievement of an important objective. In the *NPRM,* commenters were asked to explain in detail, based on relevant case law, whether and how the Commission could overcome the application of strict or intermediate constitutional scrutiny to any race- or gender-based standard. The Commission sought data and explanation for whether and how proposals could be supported and applied in a consistent and rational manner. In particular, the Commission solicited input on whether the Commission could demonstrate a compelling governmental interest in fostering viewpoint diversity, redressing past discrimination, or some other interest and, if so, whether policies based on a race-conscious standard would be a narrowly tailored means of addressing any such interest.

204. The Commission acknowledged in the *NPRM* that its ownership data and other empirical evidence in the record at that time likely were insufficient to support the adoption of a race- or gender-based standard. In recognition of the fact that such data are not by themselves sufficient to satisfy the constitutional hurdle that has been established for race- and gender-based measures, the Commission asked in the *NPRM* that commenters supply any relevant evidence, including peer-reviewed studies, which could assist in supporting a race-conscious approach. With respect to any proposals for a gender-conscious standard, commenters similarly were asked to address the

relevant constitutional standards and to provide any available empirical support.

205. A number of commenters supported the adoption of a race- or gender-conscious standard as a means to increase minority and female ownership. Based on the Third Circuit's instructions in *Prometheus II,* commenters asserted that the Commission must fully consider the feasibility of adopting an SDB standard in this proceeding and that the Commission is not permitted to defer consideration of race- or gender-based action until a future proceeding. Some commenters also asserted that, prior to the conclusion of this proceeding, the Commission must provide any further data and complete any additional empirical studies that may be necessary to evaluate or justify the adoption of an SDB standard. Similarly, several commenters asked the Commission not to make any changes to any of the media ownership rules until it collects and analyzes data on broadcast ownership by women and minorities in a manner that they view as consistent with the court's remand of the eligible entity standard.

206. Several commenters further asserted that *Prometheus II* not only obligates the Commission to consider fully the feasibility of implementing a race-conscious eligible entity standard in this proceeding, but also requires the Commission to adopt such a standard. NABOB maintained that in this proceeding the Commission ''must establish policies, similar to those it had prior to the *Adarand* decision, which were designed to specifically increase minority ownership of broadcast stations.'' NABOB also stated that ''[f]ailure to adopt a policy to promote minority ownership in this proceeding is contrary to the mandate of the Third Circuit in the *Prometheus II* case.'' NABOB argued that ''the Commission is obligated by the *Prometheus II* decision to continue this proceeding until it has completed the studies required and adopted a policy to promote minority ownership.'' In addition, NABOB asserted that if the Commission does not take these actions in the instant proceeding, then it must, at a minimum, provide a specific timetable for developing a policy to promote minority ownership.

207. Advocates of a race- or gender-conscious standard cited the Supreme Court's rulings in *Grutter* v. *Bollinger* and *Metro Broadcasting* v. *FCC* as precedent for establishing a compelling interest in facilitating broadcast ownership diversity

208. Some commenters suggested that the Commission currently lacks evidence sufficient to implement a race- or gender-targeted standard. In light of this perceived deficiency, DCS suggested that the Commission promptly implement an ODP standard, which it described as race- and gender-neutral, while the Commission develops the record necessary to adopt a constitutionally sustainable race-conscious definition. Similarly, UCC *et al.* argued that ''there are problems with the Commission's data collection and analysis that need to be fixed'' prior to the adoption of race- or gender-conscious measures. UCC *et al.* further argued that, because ''the Commission will have to show that it tried race-neutral solutions and found them insufficient'' in order to ''defend against a constitutional challenge to any future policy that uses race as a factor,'' the Commission should move forward in this proceeding to ''evaluat[e] whether its current race- and gender-neutral policies designed to promote opportunities for minorities and women are in fact working as intended.'' NHMC *et al.* opined that ''any consideration of [SDBs] is premature'' until the Commission resolves the existing problems with its data and analysis and that any SDB proposal ''would lack requisite supporting data and analysis necessary to withstand scrutiny from the court based on the current record.''

(ii) Discussion

209. The Commission tentatively concludes that it does not have sufficient evidence at this time to satisfy the constitutional standards necessary to adopt race- or gender-conscious measures. In evaluating the possibility of adopting an SDB standard, or any other race-conscious standard, the first question the Commission must consider is whether the standard could be justified by a ''compelling governmental interest.'' Assuming that such an interest could be established, the Commission then would have to be able to demonstrate that the application of the race-conscious standard to specific measures or programs would be ''narrowly tailored'' to further that interest. The Commission discusses below its preliminary approach to this analysis. While the Commission tentatively finds that a reviewing court could deem the Commission's interest in promoting a diversity of viewpoints compelling, the Commission believes that it does not have sufficient evidence at this time to demonstrate that adoption of race-conscious measures would be narrowly tailored to further that interest. The Commission also discusses the constitutional analysis that would apply if it sought to adopt gender-conscious measures based on that interest. Further, the Commission tentatively finds that it does not have sufficient evidence to establish a compelling interest in remedying past discrimination. The Commission seeks comment on both its preliminary analysis and its tentative findings.

210. As a threshold matter, the Commission rejects commenters' arguments that the Commission is required to adopt an SDB standard or another race-conscious eligible entity standard in this proceeding in light of the court's instructions in *Prometheus II.* The Commission also disagrees with arguments that the Commission is not permitted to conclude this proceeding until it has completed any and all studies or analyses that may enable it to take such action in the future consistent with current standards of constitutional law. The Commission intends to follow the Third Circuit's direction that the Commission consider adopting an SDB definition before completion of this proceeding and evaluate the feasibility of adopting a race-conscious eligibility standard based on an extensive analysis of the available evidence. The Commission does not believe that the Third Circuit intended to prejudge the outcome of the Commission's analysis of the evidence or the feasibility of implementing a race-conscious standard that would be consistent both with applicable legal standards and the Commission's practices and procedures.

(i) Constitutional Analysis of Commission Interest in Enhancing Viewpoint Diversity

211. *Compelling Governmental Interest Analysis.* In the *NPRM,* the Commission reaffirmed its longstanding commitment to advancing a diversity of viewpoints. The Commission noted that it ''has relied on its media ownership rules to ensure that diverse viewpoints and perspectives are available to the American people in the content they receive over the broadcast airwaves,'' and stated that ''media ownership limits are necessary to preserve and promote viewpoint diversity.'' In this regard, the Commission further explained that it has ''regulated media ownership as a means of enhancing viewpoint diversity on the premise that diffuse ownership among media outlets promotes the presentation of a larger number of viewpoints in broadcast content'' than otherwise would be available. The *NPRM* also noted that, in addition to viewpoint diversity, the Commission has considered the impact of its rules on program, outlet, source, and minority and female ownership diversity.

212. As the Third Circuit observed in *Prometheus II,* the Supreme Court long has recognized the Commission's interest in broadcast diversity. In *Metro Broadcasting,* the Supreme Court held, based on the application of intermediate constitutional scrutiny, that ''the interest in enhancing broadcast diversity is, at the very least, an important governmental objective.'' In reaching this determination, the Court stated that ''[s]afeguarding the public's right to receive a diversity of views and information over the airwaves is . . . an integral component of the FCC's mission'' and that the Commission's '''public interest' standard necessarily invites reference to First Amendment principles.'' That opinion was issued prior to *Adarand,* however, which overruled the application of intermediate scrutiny in *Metro Broadcasting*. Notably, *Adarand* did not disturb other aspects of *Metro Broadcasting,* including the recognition of an important governmental interest in broadcast diversity. Nonetheless, in the aftermath of *Adarand,* it is clear that the Commission would have to establish that its interest in promoting diversity is not only important, but compelling, in order to adopt a race-conscious standard. In addition, the Supreme Court held in 2003 in *Grutter* v. *Bollinger* that diversity is a compelling governmental interest in the realm of higher education. That finding was based on the Court's determination that ''universities occupy a special niche in our constitutional tradition'' and on substantial evidence, including numerous expert studies and reports, regarding the educational benefits that flow from student body diversity.

213. The Commission believes that its interest in promoting a diversity of viewpoints could be deemed sufficiently compelling to survive strict scrutiny analysis. In a different context, the Supreme Court has recognized viewpoint diversity as an interest ''of the highest order.'' In addition, the Supreme Court in *Metro Broadcasting* recognized similarities between broadcast diversity and the interest in promoting student body diversity the Court later recognized as compelling in *Grutter:* ''Just as a 'diverse student body' contributing to a '''robust exchange of ideas''' is a 'constitutionally permissible goal' on which a race-conscious university admissions program may be predicated, the diversity of views and information on the airwaves serves important First Amendment values.'' Other similarities between *Metro Broadcasting* and *Grutter* further strengthen the conclusion that viewpoint diversity may qualify as a compelling interest. In both cases, the Supreme Court recognized that there were important First Amendment interests at stake and acknowledged that diversity was central to the relevant institution's mission. In addition, just as the *Grutter* Court acknowledged the longstanding recognition of education's ''fundamental role'' in American society, the Court long has recognized that broadcasting is ''an essential part of the national discourse on subjects across the whole broad spectrum of speech, thought, and expression.''

214. The Commission notes, however, that some decisions applying strict scrutiny have cast doubt on the likelihood that courts would accept the Commission's interest in viewpoint diversity as the basis for race-conscious action. In 2007, the Supreme Court declined to recognize a compelling interest in diversity outside of ''the context of higher education.'' Moreover, the DC Circuit held in *Lutheran Church-Missouri Synod* v. *FCC* that broadcast diversity does not rise to the level of a compelling governmental interest. The DC Circuit reasoned that ''even the majority'' of the Supreme Court ''who thought the government's interest 'important' [in *Metro Broadcasting*] must have concluded implicitly that it was not 'compelling'; otherwise, it is unlikely that the majority would have adopted a wholly new equal protection standard to decide the case as it did.'' That reading is not compelled, however. The *Metro Broadcasting* Court actually stated that ''enhancing broadcast diversity is, *at the very least,* an important governmental objective,'' thereby leaving open the possibility that broadcast diversity might be a compelling interest.

215. The Commission seeks comment on this preliminary analysis, including any other factors or relevant precedent that it should consider. The Commission also seeks comment on other relevant interests that a reviewing court might recognize as compelling and the analysis of such interests under applicable judicial precedent.

216. *Narrow Tailoring Analysis.* Even assuming that the Commission were able to establish a compelling interest in diversity, it still would be required to demonstrate that the adoption of a race-conscious SDB standard, as well as the programs to which it would apply, would be ''narrowly tailored'' to further that interest. As the Supreme Court has stated, ''[e]ven in the limited circumstance when drawing racial distinctions is permissible to further a compelling state interest, government is still 'constrained in how it may pursue that end: [T]he means chosen to accomplish the [government's] asserted purpose must be specifically and narrowly framed to accomplish that purpose.'' The Commission tentatively concludes that the evidence in the record at this time does not satisfy this requirement for two reasons. First, the Commission tentatively finds that it does not demonstrate that the connection between minority ownership and viewpoint diversity is direct and substantial enough to satisfy strict scrutiny. Second, it believes that the record does not reveal a feasible means of carrying out the type of individualized consideration the Supreme Court has held is required for a diversity-based program to pass constitutional muster.

217. The Commission disagrees with commenters who argued that a nexus between minority ownership and viewpoint diversity sufficient to satisfy strict scrutiny already has been established and accepted by the Supreme Court in *Metro Broadcasting*. The Commission believes that empirical evidence of a stronger nexus between minority ownership and broadcast diversity than was demonstrated in *Metro Broadcasting* would be required for a race-conscious SDB standard to withstand strict scrutiny. In finding that the Commission's minority ownership policies were substantially related to achieving broadcast diversity, the Supreme Court in *Metro Broadcasting* deferred to the judgment of Congress and the Commission, as corroborated by various social science studies. As stated above, however, the Supreme Court since has repudiated *Metro Broadcasting's* application of intermediate scrutiny, and under strict scrutiny, the Commission's judgment regarding the relationship between minority ownership and broadcast diversity is unlikely to receive the same deference. In her dissent in *Metro Broadcasting,* Justice O'Connor argued that the Court should have applied strict scrutiny and that, under such scrutiny, the available evidence fell far short of the requisite direct and substantial connection, establishing at best ''the existence of some rational nexus.'' Subsequent developments in constitutional jurisprudence further suggest that empirical evidence of a stronger nexus between broadcast diversity and minority ownership than was shown in *Metro Broadcasting* would be required to withstand strict scrutiny.

218. As explained below, there is a significant amount of evidence in this proceeding regarding the role and status of minorities in the broadcast industry.

Although this evidence contributes valuable information to the record in this proceeding and informs the Commission's broader review of the broadcast ownership rules, it tentatively concludes that the evidence in the record would not satisfy strict scrutiny. Commenters are invited to address the Commission's tentative conclusions and evaluations of this evidence. In addition, the Commission invites commenters to provide any additional evidence that may be relevant to this analysis. With regard to any such evidence, commenters should explain whether and, if so, how the evidence would bolster the Commission's ability to satisfy the requisite narrow tailoring standard.

219. The two recent studies in the record that directly address the impact of minority ownership on viewpoint diversity are Media Ownership Studies 8A and 8B. Media Ownership Study 8A focuses on the relationship between local media ownership and viewpoint diversity in local television news. The authors calculate a measure of viewpoint diversity based on program audience data and then analyze the relationship of this measure to certain aspects of the Commission's broadcast ownership rules, finding either that the relationship is not statistically distinguishable from zero or very small in absolute magnitude. In particular, this study finds that the relationship between minority ownership and viewpoint diversity is not statistically distinguishable from zero. As a result, this study does not appear to provide evidence that the Commission could rely upon to justify race-conscious action.

220. Media Ownership Study 8B examines viewpoint diversity in local television news through an analysis of television news transcripts. In general, the authors find very little evidence of a robust relationship between available measures of market structure and viewpoint diversity, perhaps due to the fact that the measures of market structure are, in the words of the authors, ''rather blunt.'' With respect to minority ownership in particular, the authors find almost no statistically significant relationship between such ownership and their measure of viewpoint diversity. Notably, the study does find a positive relationship between minority ownership and coverage of minority politicians, which suggests that minority-owned stations may focus on certain types of minority-oriented content more than other stations and which could be viewed as a measure of one form of viewpoint diversity. Despite this finding, the Commission tentatively concludes that Media Ownership Study 8B does not provide sufficient evidence to satisfy the requirements of strict scrutiny. First, the effects of minority ownership revealed in the study are quite limited overall, and minority ownership does not have an effect on most variables and disparity measures analyzed. Second, in the vast majority of cases the authors study, the relationship between minority ownership and viewpoint diversity is not statistically different from zero.

221. Other studies in the record examine the relationship between minority ownership of broadcast outlets and other aspects of the Commission's diversity goal, such as programming or format diversity. The Commission does not believe that evidence regarding program or other forms of diversity is as relevant as evidence regarding viewpoint diversity for the purpose of establishing narrow tailoring to a compelling interest. The Commission tentatively concludes that, of any diversity-related interest that the Commission has authority to advance, viewpoint diversity currently is most likely to be accepted as a compelling governmental interest under strict scrutiny. Although the *Metro Broadcasting* Court did not define broadcast diversity with this level of precision, a court applying strict scrutiny is likely to require such precision, and the Supreme Court's prior recognition of broadcast diversity as an interest ''of the highest order'' seems to pertain to viewpoint diversity. Media Ownership Study 7 assesses the relationship between ownership structure and the provision of radio programming, as measured by program formats, to minority (African-American and Hispanic) audiences between 2005 and 2009. The study finds that minority audiences have different format tastes than white audiences and that minority-owned stations disproportionately cater to these tastes. In addition, the regression analyses included in Media Ownership Study 7 show that, on a market-wide basis, the presence of minority-owned stations increases the amount of minority-targeted programming and that the availability of minority-targeted formats attracts more minorities to listening. The study also concludes that most stations with minority-targeted formats are not minority-owned and that group ownership, including particularly ownership by non-minority owners, within a local market allows for greater format diversification. Because this study is focused on format diversity and shows that non-minority stations provide a significant amount of minority-targeted programming, the Commission tentatively finds that it would have limited value as a justification for adopting race-conscious measures.

222. In addition to the Media Ownership Studies commissioned for this proceeding, commenters have submitted a number of studies into the record that analyze issues related to minority broadcast ownership. The Commission discusses those studies that appear to relate most closely to the impact of minority ownership on its diversity goals. Commenters are invited to supplement this discussion with additional views of the relevance of these studies and to submit additional evidence that may be pertinent to the Commission's analysis. For example, ''Media Ownership Matters: Localism, the Ethnic Minority News Audience and Community Participation,'' a 2006 study commissioned by the Benton Foundation, finds that there is a ''nexus'' between minority ownership and service to underserved communities. This study used ethnographic and survey research to discern patterns in news consumption among minorities in the Washington, DC, metropolitan area. It finds that of the 18 percent of minority listeners who reported that they prefer to obtain news programming from radio, a majority of those listeners preferred minority-owned stations. While this finding is informative, the Commission tentatively finds that the evidentiary value of this study in the context of a strict scrutiny analysis would be limited because it covered only three neighborhoods in one metropolitan area. In addition, the study does not provide any statistical analysis of or adjust for factors aside from minority ownership that may explain this result. Additionally, this finding represents only a small percentage of the individuals the authors surveyed (*i.e.,* a majority of 18 percent of the listeners surveyed). Furthermore, the study does not analyze the news content on minority-owned radio stations or provide analysis comparing such content to the news content on other stations.

223. In sum, the Commission believes that the body of evidence contained in the recent Media Ownership Studies and the studies submitted in the record by commenters do not demonstrate the ''nearly complete'' or ''tightly bound'' nexus between diversity of viewpoint and minority ownership that would be required to justify a race-based eligibility entity definition. Nevertheless, the Commission believes that the studies strengthen the evidence

of a link between broadcast diversity and minority ownership. They also begin to answer questions raised by Justice O'Connor's *Metro Broadcasting* dissent, such as how to define minority programming and whether such programming is underrepresented, that the Supreme Court found it unnecessary to address under intermediate scrutiny. In particular, existing studies show that minority groups have distinct preferences, and that expanding minority ownership increases the amount of programming targeted to such preferences. As stated above, however, the evidence largely concerns program or format diversity rather than the viewpoint diversity that the Supreme Court has recognized as an interest ''of the highest order'' and that the Commission believes is most central to First Amendment values. Many of the studies also support only limited conclusions and reflect a need for further analysis. Given the Commission's tentative assessments of these studies and other data, it cannot conclude at this time that the evidence demonstrates a sufficient nexus between minority ownership of broadcast stations and viewpoint diversity to withstand strict scrutiny.

224. In response to NABOB's request that the Commission provide a specific timetable for completing future studies necessary to adopt a policy to promote minority ownership, the Commission has identified in detail in this *Further Notice of Proposed Rulemaking* the studies in the current record that it have found establish useful information regarding the relationship between viewpoint diversity and minority and female ownership of broadcast stations. In addition, the Commission has outlined ongoing and additional efforts to achieve important further analysis of the status and impact of minority ownership, including, but not limited to, the studies being conducted by OCBO and the Hispanic television viewing study discussed above. In addition, as indicated in the *NPRM,* Form 323 ownership data will continue to be collected and analyzed and considered in connection with future media ownership reviews. The process for doing so will continue to be refined and improved. The Commission cannot firmly establish herein a timetable for release of future biennial ownership data or the completion of studies, examinations, or assessments. Commenters may submit additional studies that the Commission should consider in its analysis.

225. In addition, the Commission tentatively finds that the record in this proceeding does not reveal a feasible means of carrying out the type of individualized consideration the Supreme Court has held is required to pass constitutional muster under strict scrutiny. Where race-conscious governmental action is concerned, the Supreme Court previously has found that narrow tailoring requires individualized review, serious, good-faith consideration of race-neutral alternatives, minimal adverse impact on third parties, and temporal limits. In particular, the Court found in *Grutter* that narrow tailoring demands that race be considered ''in a flexible, non-mechanical way'' alongside other factors that may contribute to diversity and that consideration of race was permissible only as one among many disparate factors in order to evaluate individual applicants for admission to an educational institution. The manner in which the Commission allocates broadcast licenses is different in many important respects from university admissions, and the Commission believes that implementing a program for awarding or affording preferences related to broadcast licenses based on the ''individualized review'' required in other contexts would pose a number of administrative and practical challenges for the Commission. The Supreme Court has held, however, that ''[t]he fact that the implementation of a program capable of providing individualized consideration might present administrative challenges does not render constitutional an otherwise problematic system.'' The Commission seeks comment on its tentative conclusion and potential ways in which an individualized review process feasibly, effectively, and efficiently could be incorporated into any race-conscious measures adopted by the Commission.

226. Commenters generally did not suggest criteria, other than race and ethnic origin, that could be considered in an individualized, holistic evaluation system like that approved in *Grutter*. DCS recommended that the Commission replace its revenue-based eligible entity definition with an ODP standard as a race-neutral means of advancing ownership diversity. The Commission notes that it is not entirely clear whether the proposed ODP standard would be subject to heightened constitutional scrutiny. Moreover, the Commission believes that it does not have a sufficient record at present on a number of issues that would need to be resolved prior to the implementation of an ODP standard. Among other issues, no commenter provided input on (1) what social or economic disadvantages should be cognizable under an ODP standard, (2) how the Commission could validate claims of eligibility for ODP status, (3) whether applicants should bear the burden of proving specifically that they would contribute to diversity as a result of having overcome certain disadvantages, (4) how the Commission could measure the overcoming of a disadvantage if an applicant is a widely held corporation rather than an entity with a single majority shareholder or a small number of control persons, and (5) how the Commission could evaluate the effectiveness of the use of an ODP standard. Even if the Commission could develop an adequate record on these issues, it is concerned that it may lack the resources to conduct such individualized reviews. Moreover, the Commission would have to walk a very fine line in order to fully evaluate the potential diversity contributions of individual applicants without running afoul of First Amendment values. The Commission is concerned that the type of individualized consideration that would be required under an ODP standard could prove to be administratively inefficient, unduly resource-intensive, and inconsistent with First Amendment values. The Commission seeks comment on these issues and its foregoing analysis regarding the feasibility of adopting an ODP standard.

227. *Analysis of Gender-Based Diversity Measures.* The Supreme Court has held that gender-based classifications must satisfy intermediate scrutiny and, as such, must be substantially related to the achievement of an important objective. As noted above, the Supreme Court found in *Metro Broadcasting,* based on the application of intermediate constitutional scrutiny, that ''the interest in enhancing broadcast diversity is, at the very least, an important governmental objective.'' Applying intermediate scrutiny, the DC Circuit overturned the Commission's former gender preference policy in *Lamprecht* v. *FCC.* Recognizing that *Metro Broadcasting* established broadcast diversity as an important government objective, the DC Circuit focused on its relationship to female ownership. The court stated that the existence of such a relationship rests on several assumptions, but chose to address only one: that women who own broadcast stations are more likely than white men to broadcast ''women's programming.'' The court concluded that the only available study failed to establish a statistically meaningful link between ownership by women and

programming of any particular kind. At this time, the Commission cannot conclude that the record evidence establishes a relationship between the Commission's interest in viewpoint diversity and the ownership of broadcast stations by women that would satisfy intermediate scrutiny. While the Commission acknowledges that the data show that women-owned stations are not represented in proportion to the presence of women in the overall population, the Commission does not believe that the evidence available at this time reveals that the content provided via women-owned broadcast stations substantially contributes to viewpoint diversity in a manner different from other stations or otherwise varies significantly from that provided by other stations. The only study included in the record of this proceeding that analyzes the relationship between female ownership and broadcast content is the Turner Radio Study, which finds that markets that contain radio stations with either female or minority ownership are more likely to broadcast certain progressive and conservative talk shows. This study does not appear to demonstrate a causal relationship between female or minority ownership and the diversity of viewpoints or content available, as it does not control for other factors that may explain both the presence of a greater diversity of talk shows and a higher percentage of female or minority ownership in certain markets. In any event, the Commission tentatively concludes that this study is too limited in scope to establish a substantial relationship between female ownership and viewpoint diversity. Other studies in the record establish that female ownership of broadcast stations is well below the proportion of women in the population, a fact that is not in dispute in this proceeding. Because these studies do not indicate that increased female ownership will increase viewpoint diversity, the Commission believes that they do not provide a rationale under the foregoing analysis for gender-based diversity measures. However, the Commission seeks comment on this preliminary determination as well as any relevant evidence regarding this issue.

(ii) Constitutional Analysis of the Commission's Interest in Remedying Past Discrimination

228. As an alternative to establishing a compelling interest in viewpoint diversity, race- or gender-based measures are permissible as a remedy to past or present discrimination. To justify race-based remedial measures, the Commission would have to establish a ''strong basis in evidence'' of discrimination, *i.e.,* evidence ''approaching a *prima facie* case of a constitutional or statutory violation.'' To substantiate this approach, the Commission would have to identify, with specificity, evidence of public discrimination within the broadcast industry or private discrimination in which the government acted as a ''passive participant.'' Less evidence is required for gender-based measures, although an ''exceedingly persuasive justification'' is still necessary. The Commission never has asserted a remedial interest in race- or gender-based broadcast regulation, and courts primarily have considered such measures in the context of public contracting decisions. Most commenters in this proceeding have not focused on establishing a case for remedial measures, although DCS argued that ''remedying the present effects of past discrimination provides a compelling interest.'' While some evidence supports a finding of discrimination in the broadcast industry, the Commission tentatively concludes that it is not of sufficient weight to satisfy constitutional standards. The Commission seeks comment on the preliminary analysis described below, including any other relevant precedent or data it should consider.

229. As the Commission concedes in this *Further Notice of Proposed Rulemaking,* the proportions of minorities and females that own broadcast stations are lower than their proportions in the general population. An inference of discrimination may arise ''when there is a significant statistical disparity between the number of qualified minority contractors willing and able to perform a particular service and the number of such contractors actually engaged.'' But ''[w]hen special qualifications are required to fill particular jobs, comparisons to the general population (rather than to the smaller group of individuals who possess the necessary qualifications) may have little probative value.'' Thus, the raw numbers reflecting existing levels of minority or female ownership by themselves are not sufficient to overcome the constitutional hurdle that has been established for race- and gender-based remedial measures. In *Croson,* the Supreme Court warns against the ''completely unrealistic assumption that minorities will choose a particular trade in lockstep proportion to their representation in the local population.'' There is no evidence in the current record demonstrating a statistically significant disparity between the number of minority- and women-owned broadcast stations and the number of qualified minority and women-owned firms. Commenters are asked to address whether evidence of such a disparity is ascertainable, particularly given the low number of minority and women-owned firms. Based on relevant precedent, the Commission tentatively concludes that it cannot demonstrate a compelling interest in remedying discrimination in the Commission's licensing process in the absence of such evidence. The Commission seeks comment on this tentative conclusion.

230. Anecdotal or historical evidence of discrimination also can establish that a strong basis in evidence exists for remedial measures, although such evidence generally is helpful only when it reinforces statistical evidence. DCS argued that a 2000 study comprising more than 100 interviews demonstrates that broadcast licensing procedures present challenges to minority and female access to spectrum and licenses. In the Historical Study, minorities and women repeatedly report encountering discrimination in their efforts to obtain capital to finance their broadcast and wireless businesses, secure advertising on their stations, gain exposure and experience to qualify for ownership through employment opportunities, and learn of ownership opportunities. The Historical Study reports no evidence, however, of actual discrimination by the Commission.

231. DCS also argued that another 2000 study establishes that barriers inhibiting minority and female access to capital amount to industry discrimination in which the government has passively participated. The Capital Markets Study found that both minority- and women-owned businesses were significantly less likely to obtain wireless licenses in auctions than were non-minority businesses and that among current broadcast licensees, minority (but not female) applications for debt financing were significantly less likely to be approved than non-minority applications, and minority applicants paid higher interest rates. The study also contains a literature survey of empirical studies using data over two decades, which is not specific to the broadcast industry, finding or suggesting that racial discrimination exists in U.S. capital markets in both denial rates and interest rates. However, the study indicates that its results are not fully conclusive and emphasizes the need for further analysis to control for potentially important variables. Also, the focus on wireless auctions and other

non-broadcast industry information makes it less probative of discrimination in the broadcast licensing process. Further, the study does not address the secondary market for licenses.

232. While the evidence offered is informative on these subjects, the Commission preliminarily finds that it is insufficient to satisfy the constitutional requirements to support a race- or gender-based remedial action. In this regard, comparison is instructive to *Adarand* v. *Slater,* a leading public contracting case in which the Tenth Circuit found the requisite strong basis in evidence. The court found ''significant'' evidence of public discrimination in that case: the record contained 39 studies revealing an aggregate 13 percent disparity between minority business availability and utilization in government contracting, a figure which the court found to be ''significant,'' if not overwhelming, evidence of discrimination. Nevertheless, the court relied principally on evidence of private discrimination. The evidence was similar in nature to that discussed above—denial of access to capital, as well as the existence of racially exclusionary ''old boy'' networks and union discrimination that prevented access to the skills and experience needed to form a business—but greater in extent and weight. The court had the benefit of a Department of Justice report, prepared in response to the Supreme Court's decision in *Adarand,* summarizing 30 congressional hearings and numerous outside studies providing both statistical and anecdotal evidence of such private discrimination. Here, in contrast, the only statistical evidence pertains to discriminatory access to capital. The rest of the evidence available at this time is anecdotal and, therefore, of more limited value. Thus, it tentatively appears that the existing evidence of past discrimination in this case is not nearly as substantial as that accepted by courts in other contexts.

c. Additional Proposals Related to Minority and Female Ownership

233. As explained above, the Commission tentatively concludes that, if it reinstate the revenue-based eligible entity standard, it also would be appropriate to readopt each of the regulatory policies the Third Circuit remanded in *Prometheus II* that rely on this standard. Several commenters asked the Commission to consider additional measures that they believed would foster ownership diversity. For example, DCS submitted 47 proposals that it claimed would ''address the barriers to diverse participation in media ownership and . . . increase minority and women participation in broadcasting.'' Although DCS advocated adoption of all of these proposed measures, it focused on four that it believed the Commission ''should immediately begin implementing.'' These recommendations include: (1) Relaxing the foreign ownership limitations under Section 310(b)(4) of the Communications Act; (2) encouraging Congress to reinstate and update tax certificate legislation; (3) granting waivers of the local radio ownership rule to parties that ''incubate'' qualified entities; and (4) migrating AM radio to VHF Channels 5 and 6. In addition, AWM asked the Commission to consider several actions to address the ''historic underrepresentation of women'' in ownership of broadcast stations and managerial positions in the broadcast industry.

234. As discussed below, the Commission has implemented some of these recommendations. Because the Commission believes that the remainder of these proposals would raise public interest concerns, may not provide meaningful assistance to the intended beneficiaries, or are outside of the proper scope of this broadcast ownership proceeding, the Commission tentatively concludes that it should not adopt them here. The Commission seeks comment on this tentative conclusion.

235. *Foreign Ownership Restrictions.* DCS recommended that the Commission relax its policies under Section 310(b)(4) of the Communications Act, which restricts foreign ownership and voting interests in entities that control Commission licensees. DCS claimed that this action would provide ''U.S. broadcasters, particularly minorities, who have difficulty access[ing] capital'' with ''access to new sources of capital that are not available to them under the current regulatory paradigm.'' Additionally, in a separate proceeding a broad coalition of broadcasters, public interest groups, and media brokers (Coalition for Broadcast Investment or CBI) sought clarification of the Commission's policies and procedures in reviewing applications or transactions that propose foreign broadcast ownership that would exceed the 25 percent benchmark contained in Section 310(b)(4). The Media Bureau issued a public notice inviting comment on the CBI Request. The majority of comments filed in response to the public notice supported CBI's position.

236. In November 2013, the Commission issued a *Declaratory Ruling* (78 FR 75563, Dec. 12, 2013, FCC 13–150, rel. Nov. 14, 2013) clarifying that the plain language of Section 310(b)(4) provides the Commission the authority to review applications for approval of foreign investment in the controlling U.S. parent of a broadcast licensee above the 25 percent benchmark on a case-by-case basis. The Commission stated that such applications may be granted unless it finds that a denial will serve the public interest. In issuing the *Declaratory Ruling,* the Commission observed the range of changes in the media landscape and marketplace since enactment of the foreign ownership restriction and noted that limited access to capital is a concern in the broadcast industry, particularly for small entities, including entities owned by minorities and women. The Commission further noted that a clear articulation of its ''approach to Section 310(b)(4) in the broadcast context has the potential to spur new and increased opportunities for capitalization for broadcasters, and particularly for minority, female, small business entities, and new entrants.''

237. *Tax Certificate Legislation.* DCS also urged the Commission to ''continue to support and encourage Congress to reinstate and expand'' the former tax certificate policy, which permitted firms to defer capital gains taxation on the sale of media properties to minorities. It also suggested that an updated tax certificate policy could address previous congressional concerns if it were race-neutral, encompassed both media and telecommunications entities, and included limits on the size of eligible transactions and programs. The Commission agrees that tax deferral legislation could prove an effective means to enhance broadcast ownership diversity. The Commission's most recent Section 257 Report to Congress addresses the benefits of tax certificate legislation to ownership diversity and includes a recommendation that Congress pass such legislation.

238. *Incubation.* DCS requested that the Commission provide waivers of the local radio ownership rule to broadcasters that finance or incubate an SDB or a ''valid eligible entity.'' Specifically, DCS proposed that an entity that engages in a specified list of ''qualifying incubating activities'' be granted, under certain conditions, a waiver of the local radio ownership cap ''by one station per incubating activity.''

239. The Commission shares concerns that proposals like DCS's incubation proposal that would allow blanket waivers of the local radio ownership rule could create a substantial loophole to the ownership caps without sufficient offsetting benefits. The Commission's local radio rules have been carefully calibrated to protect competition and

new entry. By allowing broadcasters to exceed these caps, DCS's proposal could result in more local radio consolidation than is presently permitted under the Commission's rules. Moreover, it is unclear based on the record in this proceeding what kind of entities should be eligible to benefit from incubation. Bonneville/Scranton suggested that the guidelines for determining entities that would be eligible to be incubated could be based on the diversity channel set-aside requirement adopted by the Commission as a condition to the approval of the merger of XM and Sirius. In that decision, the Commission ordered the combined new satellite radio entity to set aside channels to encourage new market entry, enhance viewpoint diversity, and promote the delivery of programming content to underserved audiences. Bonneville/Scranton suggested that a voluntary broadcast incubation program modeled on this condition could permit a currently licensed broadcaster to select a ''New Voice'' to incubate based on certain minimal Commission requirements and general selection considerations, such as small business size and independence from the broadcaster. NABOB cautioned, however, that ''[a]ny policies the Commission adopts which do not have the effect of making it desirable for industry insiders to seek out minorities for broadcast ownership opportunities will be ineffective in increasing minority ownership.'' The Commission is concerned that implementation of such proposals would pose substantial legal, administrative, and practical challenges. To the extent that the program were limited to SDBs, it would pose the Equal Protection concerns described in detail above. If it were instead extended in the manner suggested by Bonneville/Scranton, it would be difficult for the Commission to administer as a broad-based program and could potentially open a wide loophole in the ownership rules, while possibly having little or no significant effect on minority and female ownership.

240. In addition, the Commission is concerned that it would not be feasible for it to monitor adequately the activities that would qualify an entity for an incubation waiver. As proposed by DCS, qualifying activities would encompass a broad array of arrangements, including, among others, underwriting or financing the operations of eligible entities, providing loans or other financial assistance to eligible entities, and local marketing arrangements between independent programmers and commercial broadcasters. Given the challenges of monitoring over time the types of complex financing and other arrangements suggested under DCS's incubation proposal, there is a substantial risk that the Commission would not be able to ensure that such arrangements would be, or prospectively would remain, beneficial to eligible entities or other intended beneficiaries. Accordingly, the Commission tentatively declines to adopt this proposal in this proceeding.

241. *Migration of VHF Channels 5 and 6.* In addition, DCS recommended that the Commission migrate most AM service to VHF channels 5 and 6. Aside from DCS, it does not appear that any party to this proceeding has supported this proposal. The Commission tentatively concludes that this proposal, which would involve extensive changes to the Commission's current licensing rules and spectrum policies, exceeds the proper scope of this broadcast ownership proceeding. Moreover, the Commission notes that Congress has directed the Commission to conduct an incentive auction of television broadcast spectrum and to reassign the remaining broadcast channels in order to make more spectrum available for wireless use. Migrating AM services to VHF channels 5 and 6 has the potential to interfere with the Commission's implementation of Congress's directive.

242. *Additional DCS Proposals.* Many of DCS's remaining proposals recommend changes to a wide range of Commission licensing, service, and engineering rules and policies. Several of these recommendations propose modifications to the AM broadcast service. The Commission recently adopted a notice of proposed rulemaking which seeks to revitalize the AM band by identifying ways to enhance AM broadcast quality and proposing technical rules that would enable AM stations to improve their service. The *AM Revitalization NPRM* (78 FR 69629, Nov. 20, 2013, FCC 13–139, rel. Oct. 29, 2013) solicits comment on some of the technical issues DCS has raised in this proceeding, including modification of: (1) Daytime community coverage standard for existing AM stations; (2) nighttime community coverage standards for existing AM stations; and (3) AM antenna efficiency standards. The Commission anticipates that the *AM Revitalization NPRM* will lead to an examination of important issues regarding the viability of AM broadcast service, and thus, address many of the concerns of minority broadcasters regarding the technical aspects of their licensed services.

243. Some of DCS's proposals extend into areas that are beyond the Commission's authority, including proposals that ultimately would require legislative action or action by other federal entities aside from the Commission in order to create changes in rules or policies. Other proposals involve cable operators and other non-broadcast services that are outside the scope of the quadrennial review proceedings. Although these proposals are accompanied by detailed and thoughtful analysis, and some of them may warrant further consideration, the Commission believes that they are outside the scope of this proceeding. Thus, the Commission does not anticipate taking further action within this or successive quadrennial review dockets on these proposals because they extend beyond its statutory mandate under Section 202(h).

244. *AWM Proposals.* AWM's proposals include (1) preparing a primer on investment in broadcast ownership for smaller and regional lenders willing to provide loans to new broadcast entrants; (2) preparing a primer for new entrants that provides guidance on how to find financing; (3) establishing a link on the Commission's Web site to provide information on stations that may be available for sale to small businesses; and (4) allowing sellers to hold a reversionary interest in a Commission license in certain circumstances. Although several parties broadly stated that they support some of these proposals, there is little record on these subjects in the current proceeding. While the Commission agrees that primers on investment and financing could be useful to new entrants, the Commission notes that OCBO already engages in activities that provide similar resources to broadcasters and potential investors, including the regularly scheduled Capitalization Strategies Workshops noted above and in the *NPRM.* The Commission also believes that specific advice about investment and financing is more appropriately provided by private parties that are directly involved in the financial marketplace than by the Commission.

245. In response to AWM's proposal that the Commission create a public listing of stations that may be available for sale to small businesses, the Commission note that the Commission currently does not have at its disposal the information that would be necessary to create such a resource. In addition, the Commission believes that many licensees would object to any requirement that would obligate them to make publicly available information regarding their plans to sell specific

stations. Finally, the Commission tentatively finds that AWM's proposal to allow sellers to hold a reversionary interest in broadcast licensees as a means of financing sales of broadcast stations to women and minorities does not address the Commission's historical concerns about reversionary interests and is insufficiently developed to support departure from the Commission's longstanding policy against the holding of such interests. At this time, therefore, the Commission does not believe there is sufficient justification to adopt these proposed measures.

E. Disclosure of Shared Service Agreements

1. Introduction

246. In this *Further Notice of Proposed Rulemaking,* the Commission considers whether to require broadcast stations to disclose agreements for sharing services and/or resources with other broadcast stations that are not commonly owned, as discussed in greater detail below, to the extent that such agreements are not already separately defined and required to be filed and/or disclosed under the Commission's rules (*e.g.,* LMAs and JSAs). Commenters in a number of proceedings have expressed concern about the impact on competition, localism, and diversity of agreements whereby one station shares studio space, operational support, staff, programming, and/or other services or support with a separately owned station. Often these sharing agreements are executed in conjunction with an option, right of first refusal, put/call arrangement, or other similar contingent interest, or a loan guarantee. Because the Commission does not currently require the filing or disclosure of all such agreements, the Commission and the public lack information about the content or breadth of the agreements or the frequency of their use, inhibiting a thorough analysis of the impact of these arrangements on the Commission's rules and policy goals. Accordingly, in order to enable the Commission and the public to better understand the terms, operation, and prevalence of these agreements, the Commission proposes to define a class of sharing agreements that could impact its rules and policy goals and to require the disclosure of those agreements to enable a comprehensive assessment of their impact. Specifically, in this *Further Notice of Proposed Rulemaking* the Commission proposes to define a category of sharing agreements designated herein as Shared Service Agreements (SSAs), it proposes to require the disclosure of SSAs by commercial television stations, and it seeks comment on the appropriate method for achieving such disclosure. While considering whether to require the filing of SSAs and how the term SSA should be defined for this purpose in order to obtain information that will inform the Commission's decision about what, if any, general rules might be appropriate with respect to such agreements, the Commission will, of course, continue to consider such joint agreements, as relevant and appropriate, in deciding whether particular individual transactions serve the public interest. Once disclosure is achieved, the Commission will be able to study these agreements and to determine what further regulatory action, if any, it should take with respect to them.

2. Background

247. In the *Enhanced Disclosure FNPRM* (76 FR 71267, Nov. 17, 2011, FCC 11–162, rel. Oct. 27, 2011), the Commission sought comment on whether to require the disclosure of sharing agreements that were not already defined and required to be disclosed under the Commission's rules (as are, for example, LMAs and JSAs), and whether to require stations to include such agreements in their online public files. Commercial television stations (full-power and Class A) are required under Section 73.3526 of the Commission's rules to maintain a local public inspection file, the contents of which include, *inter alia,* the station's current authorization, citizen agreements, issues/programs lists, radio and television LMAs, and radio and television JSAs. Historically, the file was located at the station's main studio; however, in the Enhanced Disclosure proceeding, among other actions, the Commission modified Section 73.3526 for commercial television stations to require that most of the contents of the public file (*e.g.,* LMAs and JSAs) be included in an online public file hosted by the Commission. In the *Enhanced Disclosure Second R&O* (77 FR 27631, May 11, 2012, FCC 12–44, rel. Apr. 27, 2012), the Commission declined to adopt any new disclosure requirements for sharing agreements but indicated that it would continue to monitor the issue and revisit the disclosure requirement in the future.

248. Concurrent with the pendency of the Enhanced Disclosure proceeding, the Commission sought comment in the *NPRM* about various types of sharing agreements, noting that commenters to the *NOI* had specifically identified sharing agreements and a subcategory of agreements, local news sharing (LNS) agreements, as matters of concern, but acknowledging that these terms were not defined in Commission rules. The *NPRM* invited views on the potential impact of such agreements on the Commission's ownership rules and fundamental policy goals. It identified potential concerns about such agreements and potential benefits and invited submissions of further information about how to define such agreements and comment on whether they should be attributed or disclosed.

249. The records in the Enhanced Disclosure proceeding and in the 2010 Quadrennial Review proceeding do not contain comprehensive data or information about the breadth, content, or prevalence of sharing agreements between stations that are not commonly owned. The Commission is not aware of any public source for this information. Although some such agreements are filed with the Commission in connection with applications for assignment or transfer of control of broadcast licenses, the Commission has no way of knowing how many of these agreements exist or what they cover. The comments in the earlier proceedings make clear that there are various types of sharing agreements, including those that implicate local news production, that can involve differing levels of coordination—from those that involve back office functions or leases of property or equipment, to the sharing of raw video footage, to rebroadcasts of another station's entire newscast, to near-total outsourcing of a station's day-to-day operations. Accordingly, any impact on viewers or markets could vary depending on the substance of the agreement and the level of coordination. In the absence of greater information about the number of agreements that exist in the market and their content, the Commission and the public cannot fully evaluate the potential public interest harms and benefits of various arrangements, which is necessary for the Commission to formulate sound public policy.

3. Discussion

250. The Commission believes that commenters have raised important issues about how and to what extent sharing agreements implicate the Commission's competition, localism, and diversity policy objectives. Consideration of these issues is impeded because so little is known about the content, scope, and prevalence of sharing agreements. In order to assess these issues, however, the Commission must first define the agreements between stations that are

relevant to its improved understanding of how stations share services and resources and then create a mechanism for making such arrangements transparent to the public and the Commission. Accordingly, the Commission seeks comment on a proposed definition of SSAs and a requirement that commercial television stations be required to disclose these agreements to the public and the Commission. This is a necessary first step in determining whether the Commission's public interest goals will be furthered through additional regulation of these agreements, as some commenters suggest.

a. Definition of Shared Service Agreement

251. Commenters refer to sharing agreements using various terms, such as sharing agreements, SSAs, or LNS agreements; however the Commission's rules do not define these terms. LMAs and JSAs are two types of sharing agreements that are defined in the Commission's rules. A single sharing agreement, however named, may include provisions for time brokerage, local news production, joint advertising sales, and various other station-related services. All of these different kinds of arrangements present questions about the level and type of coordinated activity that may exist between stations and the impact of such cooperation on the public interest. Therefore, the Commission tentatively concludes that it should define SSAs broadly enough to capture all types of resource sharing and collaboration that may take place between stations as the best means to inform the public and the Commission about the scope of any joint activities between stations. This information will provide the basis for informed decision making about any necessary future Commission regulation impacting SSAs or particular categories of SSAs.

252. Accordingly, for the purpose of implementing the proposed disclosure requirements discussed below, the Commission tentatively defines an SSA as any agreement or series of agreements, whether written or oral, in which (1) a station, or any individual or entity with an attributable interest in the station, provides any station-related services, including, but not limited to, administrative, technical, sales, and/or programming support, to a station that is not under common ownership (as defined by the Commission's attribution rules); or (2) stations that are not under common ownership (as defined by the Commission's attribution rules), or any individuals or entities with an attributable interest in those stations, collaborate to provide or enable the provision of station-related services, including, but not limited to, administrative, technical, sales, and/or programming support, to one or more of the collaborating stations.

253. The Commission believes that this definition, by focusing on the provision of station-related services and collaboration by and between broadcast stations, encompasses the universe of agreements that are broadly referred to as ''sharing agreements.'' This would include, for example, the provision of back office services by one independently owned station to another; a joint news-gathering operation; or the joint negotiation of retransmission consent agreements. Each such example is a type of resource sharing, among many others, and the agreements that govern such arrangements are appropriately referred to as SSAs. These agreements, including those that relate to ''back office'' functions, reflect the range of interaction between stations, and the Commission believes that disclosure of all such agreements will permit it to understand the scope of station interactions so that it can more effectively advance its public policy goals in this area.

254. Moreover, the Commission believes that the definition of SSA should not be limited to only those agreements to which station licensees are parties, as the licensees are not always a party to the sharing agreement that affects their station's operations. For example, the parent company of one station may contract with the parent company of another independently owned station to provide station-related services for the first station, using the same employees for both stations. If the definition were limited to agreements that involved licensees, this type of agreement would arguably not be included, even though this is certainly an example of the type of sharing agreement the Commission seeks to identify. Accordingly, limiting the definition of SSAs to agreements between licensees would exclude existing agreements that the Commission intends to include in the definition, as well as afford a means to evade any disclosure requirements. Neither outcome would serve the public interest.

255. The Commission seeks comment on the tentative conclusion that SSAs should be defined broadly to enable the Commission and the public to understand the potential concerns and benefits of these agreements. Is a broad definition the most appropriate way to inform the Commission and the public about the breadth and prevalence of agreements across the marketplace? The Commission seeks comment also on the proposed definition. Is it broad enough to include all types of resource sharing and service agreements between stations that may be relevant to the Commission's policy making initiatives? Is the definition too broad, such that it would apply to agreements that do not involve the provision of station-related services and/or collaboration between stations to enable the provision of such services? Is there an alternate definition that would better serve the Commission's purpose? The Commission's transaction review experience indicates that SSAs are often accompanied by contingent interest agreements. The Commission seeks comment on whether this is also the case for SSAs that are not part of a transaction. If so, the Commission seeks comment on whether and how it should seek to achieve additional transparency concerning such contingent interest arrangements in this this proceeding. The Commission encourages those who disagree with the proposed definition to provide specific alternative language to define SSAs for purposes of this proceeding.

256. Should the term SSA instead be defined more narrowly, and if so how? For example, are there sharing agreements that are insignificant to the operation of the station(s), such that disclosure would not meaningfully benefit the Commission's or the public's understanding of station operations, and that should thus be excluded from the definition of SSA for this purpose? If so, what types of exclusions to the definition should the Commission adopt? Would a *de minimis* financial exception be appropriate (*i.e.,* if the total dollar amount of the goods or services provided under the agreement is below a certain total dollar amount)? If so, what should the cutoff be? How should the Commission determine where to set the cutoff? Could such an exclusion omit significant agreements that involve in-kind contributions? Should the Commission define SSAs to implicate only agreements that involve local news operations or the provision or production of programming? Is so, how would such a definition be crafted? Would it implicate any special legal or Constitutional considerations? If so, how could the Commission address such issues? Should the Commission limit the definition of SSAs only to those involving stations in the same local market? Could such a limitation exclude agreements that have a significant impact on station operations

or programming? As discussed in the following section, the Commission proposes to limit disclosure of SSAs to commercial television stations. Accordingly, should the Commission limit the definition of SSAs to only those agreements involving exclusively commercial television stations? The Commission notes that commenters focus primarily on sharing agreements involving commercial television stations; accordingly, the Commission tentatively concludes that any disclosure requirement for SSAs should be limited to agreements involving exclusively commercial television stations. The Commission seeks comment on whether to expand the disclosure requirement to include agreements involving commercial radio stations and/or noncommercial stations. Are there many examples of agreements between commercial television stations and other types of stations (*e.g.,* noncommercial stations, AM/FM stations)? What are the costs and benefits of the definition the Commission proposes and of any alternate definitions offered? How would a narrower definition be reconciled with the Commission's and the public's interest in understanding the breadth and prevalence of agreements across the marketplace?

b. Disclosure of Shared Service Agreements

257. Although the Commission believes that commenters have raised meaningful concerns about the potential impact of sharing agreements on competition, diversity, and localism in television markets, it also acknowledges that broadcast commenters have provided evidence that such agreements may produce public interest benefits. Currently, the Commission and the public lack a full understanding of the agreements and the ability to assess the impact of the agreements on Commission policy goals. Thus, the Commission tentatively concludes that disclosure of SSAs as defined in this proceeding is necessary to inform the Commission and the public of joint operations and collaborations between independently owned commercial television stations. Section 73.3613, which governs the filing of contracts with the Commission, requires that a summary of the substance of oral contracts subject to filing under that section must be reported in writing. The Commission proposes that any disclosure requirement it may adopt for SSAs similarly require that the substance of oral SSAs be reported in writing. The Commission seeks comment on this proposal.

258. The Commission believes that disclosure of such agreements involving commercial television stations will permit the Commission to better understand the operation of stations and to assess the impact, if any, of SSAs on the television marketplace. Furthermore, members of the public will be able to gain a greater understanding of the relationships between independently owned stations that are parties to SSAs, which will allow them to evaluate whether such interaction has an impact on programming or other station operations. The Commission seeks comment on its tentative conclusion that disclosure of SSAs as defined herein is necessary to enable the Commission and the public to assess the implications of these agreements for the marketplace and the Commission's public policy goals. Does the Commission have any alternate means of assessing the breadth and prevalence of these agreements or their impact and implications? If so, what means are currently available to the Commission and the public?

259. The Commission seeks comment on the manner in which SSAs are to be disclosed to the public and the Commission. For example, should a television station be required to place a copy of each SSA for the station in its public inspection file? Under such a requirement, should the Commission require that these agreements be placed in the local public inspection file located in the station's main studio or in the station's online public file, or both? Should the disclosure requirement apply to each station that is involved in the agreement (*e.g.,* the recipient of services and the provider of the services)? Would a requirement to disclose only in a physical (*i.e.,* not online) public inspection file limit the Commission's and the public's ability to learn about the content, scope, and prevalence of sharing agreements? The Commission already requires that all radio and television LMAs and JSAs between commercial broadcast stations be disclosed by placing them in the station's public file, regardless of whether the agreements are attributable or filed with the Commission. Should the Commission extend this existing requirement for LMAs and JSAs to include all SSAs for commercial television stations? What are the costs and benefits of each method of disclosure? As noted above, certain types of sharing agreements are already specifically defined in the Commission's rules and are already subject to various regulations and policies (*e.g.,* LMAs and JSAs). The Commission does not believe that the adoption of any proposal in this *Further Notice of Proposed Rulemaking* should result in a duplicate disclosure obligation for such agreements. For example, if the Commission were to extend the existing public inspection file disclosure requirement for LMAs and JSAs to SSAs, an agreement that satisfies the definition of a JSA and an SSA would only need to be placed in the public inspection file once. However, in the event that the Commission adopts a disclosure requirement for SSAs that is different than the disclosure requirements already in existence for other types of sharing agreements—for example, a dedicated docket in the Commission's Electronic Comment Filing System (ECFS) or a new form—the Commission seeks comment on the extent to which that disclosure requirement should apply to other sharing agreements that are already subject to various disclosure requirements, as well as the associated benefits, burdens, and costs of any such approach.

260. Should the Commission consider a requirement that SSAs be filed pursuant to Section 73.3613 of the Commission's rules? What are the benefits or drawbacks of this alternative? Pursuant to Section 73.3613, licensees or permittees of commercial or noncommercial AM, FM, television, or International broadcast stations must file copies of certain contracts (including written summaries of oral contracts) with the Commission within 30 days of execution. These contracts cover a broad array of agreements that relate to station ownership and operation. Because the Commission proposes to limit the disclosure of SSAs to commercial television stations, as noted above, any new filing requirement under 73.3613 would be similarly tailored. How would such a requirement be structured? Should the Commission consider adopting a different filing process? For example, should the Commission create a new form to be filed with the Commission or open a dedicated docket in ECFS, in which licensees, permittees, or applicants would file copies of agreements? What would such a process entail and what would be the benefits and/or drawbacks of that process?

261. In addition, the Commission proposes that any disclosure requirement it may adopt be subject to the same redaction allowances made available with respect to the filing of LMAs and JSAs, namely, that licensees may redact confidential or proprietary information. Currently, stations are

permitted to redact confidential or proprietary information when disclosing LMAs and JSAs, though the information must be made available to the Commission upon request. The Commission proposes that the same procedure apply to the disclosure of SSAs. Would this approach be desirable with respect to the disclosure requirements the Commission is proposing here? Should it consider limiting any disclosure or filing requirement to larger markets, such as the top 50 or 100 Designated Market Areas? What considerations would justify any proposed limitation, and what other factors should the Commission consider in evaluating any limitation? While such an approach might reduce burdens on stations in smaller markets, is the impact of SSAs in smaller markets potentially greater due to the typically smaller number of stations in these markets, such that limiting disclosure to larger markets would not be advisable? For each potential alternative proposed, the Commission seeks comment on the associated benefits, burdens, and costs. How much time should it provide for stations to come into compliance with this proposed filing requirement? What burdens would the proposed disclosure requirement place on stations, and what costs are associated with those burdens? How often would these burdens or costs be incurred? Do SSAs as defined herein typically last for a period of multiple years, and if so does that fact mitigate any associated burdens or costs, and by how much? How would the possible exclusions from the definition of SSA discussed above impact the burdens and costs?

II. Procedural Matters

A. Ex Parte Rules

262. *Permit-But-Disclose.* The proceeding for this *Further Notice of Proposed Rulemaking* shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

B. Comment Filing Procedures

263. *Comments and Replies.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/*.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

264. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty).

C. Supplemental Initial Regulatory Flexibility Analysis

265. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *NPRM* in this proceeding. The Commission sought written public comment on the proposals in the *NPRM,* including comment on the IRFA. The Commission received no comments in direct response to the IRFA. Additionally, the Commission has prepared this Supplemental IRFA of the possible significant economic impact on small entities of the proposals in the *Further Notice of Proposed Rulemaking*. Written public comments are requested on this Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the deadlines for comments provided on the first page of the *Further Notice of Proposed Rulemaking*. The Commission will send a copy of the *Further Notice of Proposed Rulemaking,* including this Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *Further Notice of Proposed Rulemaking* and Supplemental IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Further Notice of Proposed Rulemaking

266. The *Further Notice of Proposed Rulemaking* initiates the 2014 Quadrennial Review of the broadcast ownership rules, which was initiated pursuant to Section 202(h) of the Telecommunications Act of 1996 (1996

Act). This review will incorporate and build on the record of the ongoing 2010 Quadrennial Review. The Commission is required by statute to review its media ownership rules every four years to determine whether they ''are necessary in the public interest as the result of competition'' and to ''repeal or modify any regulation it determines to be no longer in the public interest.''

267. The media ownership rules that are subject to this quadrennial review are the local television ownership rule, the local radio ownership rule, the newspaper/broadcast cross-ownership rule, the radio/television cross-ownership rule, and the dual network rule. As discussed in more detail below, the *Further Notice of Proposed Rulemaking* proposes to retain two rules without modification—the local radio ownership rule and the dual network rule—and seeks comment on potential changes to two others—the local television ownership rule and the newspaper/broadcast cross-ownership rule. The *Further Notice of Proposed Rulemaking* also seeks comment on whether to eliminate the radio/television cross-ownership rule. In addition, the *Further Notice of Proposed Rulemaking* seeks comment on issues referred to the Commission in the Third Circuit's remand in *Prometheus Radio Project* v. *FCC* (*Prometheus II*) of certain aspects of the Commission's 2008 *Diversity Order*. Lastly, the *Further Notice of Proposed Rulemaking* seeks comment on the proposed disclosure of certain sharing agreements.

268. *Local Television Ownership Rule*. In the *Further Notice of Proposed Rulemaking,* the Commission seeks comment on whether the current local television ownership rule remains necessary in the public interest and should be retained with a limited modification. Specifically, the Commission seeks comment on whether to retain the existing ownership limits, including the top-four prohibition and the eight voices test, but replace the Grade B contour overlap test used to determine when to apply the local television ownership rule with a digital noise limited service contour (NLSC) test, rather than the DMA-based approach proposed in the *NPRM*.

269. The item tentatively concludes that the current local television ownership rule remains necessary in the public interest and should be retained with a limited modification. Based on the current media marketplace and the record in this proceeding, the public interest would be best served by replacing the Grade B contour overlap test used to determine when to apply the local television ownership rule with a digital NLSC test, rather than the DMA-based approach proposed in the *NPRM*. The Commission believes that the local television ownership rule is necessary to promote competition. The Commission further believes that the competition-based rule proposed in the *Further Notice of Proposed Rulemaking* also would promote viewpoint diversity by helping to ensure the presence of independently owned broadcast television stations in local markets and would be consistent with the Commission's localism goal. The Commission finds that the local television ownership rule proposed in the *Further Notice of Proposed Rulemaking* would be consistent with the goal of promoting minority and female ownership of broadcast television stations. The Commission believes that the competition-based rule would also indirectly advance the Commission's viewpoint diversity goal by helping to ensure the presence of independently owned broadcast television stations in the local market, thereby increasing the likelihood of a variety of viewpoints. In addition, while the Commission does not propose to retain the rule with the specific purpose of preserving the current levels of minority and female ownership, the Commission tentatively finds that retaining the existing rule would effectively address the concerns of those commenters who suggested that additional consolidation would have a negative impact on minority and female ownership of broadcast television stations. Ultimately, the Commission believes that its proposed limited modification of the rule will better promote competition, and that this benefit would outweigh any burdens, which would be minimized by the proposal to grandfather combinations.

270. The *Further Notice of Proposed Rulemaking* also tentatively concludes that retaining the existing failed/failing station waiver criteria would be in the public interest. The Commission evaluated the various proposed waiver standards proffered by commenters, and is concerned that many of the proposed waiver criteria would be difficult to monitor or enforce, are not rationally related to the ability of each station to compete in the local market, and could be manipulated in order to obtain a waiver. Ultimately, the Commission predicts that such standards would significantly expand the circumstances in which a waiver of the local television ownership rule would be granted. The Commission is concerned that such relaxation would be inconsistent with the tentative conclusion that the public interest is best served by retaining the existing television ownership limits. Moreover, the Commission believes that the existing waiver standard is not unduly restrictive and that it provides appropriate relief in markets of all sizes. Waiver of the Commission's rules is meant to be exceptional relief, and the item tentatively finds that the existing waiver criteria strike an appropriate balance between enforcing the ownership limits and providing relief from the rule on a case-by-case basis.

271. *Local Radio Ownership Rule*. The *Further Notice of Proposed Rulemaking* seeks comment on whether the current local radio ownership rule remains necessary in the public interest and should be retained without modification. The *Further Notice of Proposed Rulemaking* seeks comment also on whether to retain the existing AM/FM subcaps.

272. The Commission tentatively finds that the current local radio ownership rule remains necessary in the public interest and should be retained without modification. The Commission believes that the rule is necessary to promote competition. In addition, the Commission believes that the radio ownership limits promote viewpoint diversity ''by ensuring a sufficient number of independent radio voices and by preserving a market structure that facilitates and encourages new entry into the local media market.'' Similarly, the Commission tentatively finds that a competitive local radio market helps to promote localism, as a competitive marketplace will lead to the selection of programming that is responsive to the needs and interests of the local community. The Commission tentatively finds also that the local radio ownership rule is consistent with the goal of promoting minority and female ownership of broadcast television stations. Ultimately, the Commission believes that these benefits outweigh any burdens that may result from its proposal to retain the rule without modification.

273. The Commission agrees with commenters that supported retention of the AM subcaps in order to promote new entry. The Commission believes that broadcast radio, in general, continues to be a more likely avenue for new entry in the media marketplace—including entry by small businesses and entities seeking to serve niche audiences—as a result of radio's ability to more easily reach certain demographic groups and the relative affordability of radio stations compared to other mass media. AM stations are generally the least expensive option for entry into the radio market, often by a

significant margin, and therefore permit new entry for far less capital investment than is required to purchase an FM station. While some commenters suggested that eliminating the subcaps could result in divestiture of properties that could be acquired by new entrants, the Commission tentatively finds that this speculative rationale is not persuasive. Therefore, consistent with Commission precedent, the Commission believes that the public interest is best served by retaining the existing AM subcaps, which would continue to further competition, and possibly also viewpoint diversity, by promoting new entry.

274. In addition, the Commission tentatively finds that there continue to be technical and marketplace differences between AM and FM stations that justify retention of both the AM and FM subcaps in order to promote competition in local radio markets. As the Commission has noted previously, FM stations enjoy unique technical advantages over AM stations, such as increased bandwidth and superior audio signal fidelity. In addition, AM signal propagation varies with the time of day (*i.e.,* AM signals travel much farther at night than during the day), and many AM stations are required to cease operation at sunset. These technological differences often, but not always, result in greater listenership and revenues for FM stations.

275. While the technological and marketplace differences between AM and FM stations generally benefit FM stations, and thus support retention of the FM subcaps, there continue to be many markets in which AM stations are ''significant radio voices.'' For example, a study provided by Clear Channel found that throughout the 300 Arbitron Metro markets, there are 187 a.m. stations ranked in the top five in terms of all-day audience share. And according to NAB, AM stations are among the top revenue earners in some of the largest radio markets (*e.g.,* New York, Chicago, and Los Angeles). Therefore, the Commission tentatively finds that retention of the existing AM subcaps is necessary to prevent a single station owner from acquiring excessive market power through concentration of ownership of AM stations in markets in which AM stations are significant radio voices.

276. In addition, the Commission tentatively concludes that it is not in the public interest to tighten the numerical ownership limits; therefore, the Commission sees no need to reassess the subcaps associated with each numerical tier, as proposed by Mt. Wilson. Indeed, tightening the subcaps absent a concurrent tightening of the numerical ownership limits would result in an internal inconsistency in the rule, as an entity would be unable to own all the stations otherwise permitted under certain numerical tiers. For example, in markets with 30–44 stations, an entity currently may own up to seven stations, provided that no more than four of the stations are in the same service. If the subcap was tightened to three stations in the same service, an entity could then only own up to six stations, even though the rule's premise is that the public interest is best served by permitting ownership of up to seven stations in this particular market.

277. *Newspaper/Broadcast Cross-Ownership Rule.* The *Further Notice of Proposed Rulemaking* seeks comment on the Commission's previous finding, which has been upheld in the courts, that the current absolute ban on newspaper/broadcast cross-ownership, first adopted in 1975, is overly broad. The Commission continues to believe that some restriction on newspaper/broadcast cross-ownership is necessary to protect and promote viewpoint diversity in local markets; this view is consistent with the Commission's longstanding rationale for the NBCO rule. The Supreme Court has recognized the importance of the Commission's role in promoting viewpoint diversity, calling it a ''basic tenet of national communications policy.''

278. In addition, the *Further Notice of Proposed Rulemaking* seeks further comment on whether the restriction on newspaper/broadcast cross-ownership is necessary to protect and promote viewpoint diversity in local markets. The *Further Notice of Proposed Rulemaking* seeks comment on whether the absolute ban should be revised to allow combinations that would not unduly harm viewpoint diversity or localism. The *Further Notice of Proposed Rulemaking* specifically requests comment on whether the prohibition on newspaper/radio combinations should be eliminated. The *Further Notice of Proposed Rulemaking* seeks comment on approaches that would retain a ban on newspaper/television combinations in all markets and further seeks comment on whether to entertain waiver requests on a pure case-by-case approach, assessing each request independently and considering the totality of the circumstances each proposed transaction presents, or on a case-by-case waiver approach that would include presumptions that favor or disfavor the grant of waiver requests in accordance with certain prescribed guidelines. The *Further Notice of Proposed Rulemaking* seeks comment on whether the Commission should provide for an exception to a newspaper/television cross-ownership prohibition if the merger applicant demonstrates that either the television station or the newspaper has failed or is failing. The *Further Notice of Proposed Rulemaking* also seeks comment on possible modifications to the 2006 rule to adjust for aspects of that rule that may be obsolete, difficult to prove or enforce, or ineffectual.

279. In the event that the newspaper/television restriction were to be revised, the *Further Notice of Proposed Rulemaking* seeks comment on the following aspects of the rule. First, should the obsolete analog Grade A contour be replaced with an approach that uses both the DMA and the digital the principal community contour (PCC) to determine when the newspaper/television prohibition applies in order to approximate the former analog contour approach as closely as possible? Second, should the four-factor test that all waiver applicants, even those entitled to a favorable presumption, were required to satisfy under the 2006 rule be eliminated? The *Further Notice of Proposed Rulemaking* suggests that the factors were vague, subjective, difficult to prove and enforce, and/or not directly linked to viewpoint diversity. Third, should the previous local news exception permitted by the 2006 rule under which the Commission reversed the negative presumption against a waiver when the proposed combination involved a broadcast station that had not been offering local newscasts and the applicants committed to airing at least seven hours of local news per week after the transaction be eliminated? The Commission tentatively concludes that the potential difficulties in monitoring and enforcing such an exception would render it meaningless.

280. *Radio/Television Cross-Ownership Rule.* The *Further Notice of Proposed Rulemaking* seeks comment on whether the radio/television cross-ownership rule, which limits the combined number of commercial radio and television stations a single entity may own in the same market, is no longer necessary in the public interest, and whether it should be repealed. Based on the current media marketplace and the evidence adduced in this proceeding, the *Further Notice of Proposed Rulemaking* seeks comment on whether the local television ownership rule and the local radio ownership rule, which the *Further Notice of Proposed Rulemaking* proposes to retain with limited modification, adequately serve the goals

this rule was intended to promote, namely, competition and diversity in local markets. Thus, the *Further Notice of Proposed Rulemaking* seeks comment on whether this additional prohibition on the cross-ownership of broadcast facilities is unnecessary. Further, the *Further Notice of Proposed Rulemaking* seeks comment on whether this simplification of the rules will have minimal effects in most markets.

281. The Commission tentatively finds that the radio/television cross-ownership rule is not necessary to promote competition. The Commission has found previously that most advertisers do not consider radio and television to be good substitutes for one another, and that television and radio stations neither compete in the same product market nor do they bear any vertical relation to one another. This position is consistent with the long-standing conclusion of the Department of Justice, which considers radio advertising as a separate antitrust market for purposes of its competition analysis. Similarly, the Commission tentatively finds that most consumers do not consider radio and television stations to be substitutes for one another and do not switch between television viewing and radio listening based on program content. Nothing in the current record undermines the Commission's previous conclusion that a television-radio combination, therefore, cannot adversely affect competition in any relevant product market. Given that radio and television stations do not appear to compete in the same market and that the local television and radio rules would prevent significant additional consolidation even in the absence of this rule, the record does not suggest that repeal of the radio/television cross-ownership rule would harm competition.

282. The Commission tentatively finds that the radio/television cross-ownership rule is not necessary to promote localism. The Commission agrees with industry commenters who maintained that some limited cross-ownership could create efficiencies that could benefit the public should broadcasters choose to invest additional resources in the production of local news and information programming. When broadcasters engage in joint operations, whether those operations are focused on programming and news gathering or back office matters, the Commission believes it likely that financial efficiencies result. Such efficiencies could lead ultimately to consumer benefits in the form of additional station investments in equipment for radio or television newsrooms, an increase in staffing for news and informational programs, or additional local news coverage on radio stations.

283. The Commission considered carefully whether there is evidence in the current record that elimination of the radio/television cross-ownership rule would likely adversely affect minority and female ownership. The Commission believes that the current record does not establish that such harm is likely. Furthermore, the Commission does not believe that record evidence shows that the cross-ownership ban has protected or promoted minority or female ownership of broadcast stations, or that it could be expected to do so in the future. Notably, radio/television cross-ownership combinations were not the focus of commenters' concerns raised in response to the *NPRM.* In fact, no commenter to the *NPRM* presented empirical data or other analyses that established that repeal of this rule would harm competition, localism, or viewpoint diversity in local markets. The Commission tentatively concludes that the rule is not necessary to promote competition or localism, and the record reflects that most radio commercial stations do not broadcast significant amounts of local news and information. The current record does not suggest that minority/female-owned radio stations contribute more significantly to viewpoint diversity than other radio stations or broadcast more meaningful amounts of local news on which consumers rely as a primary source of information.

284. Moreover, while the Commission acknowledges the concerns raised by NABOB and others advocating for additional minority ownership opportunities, the Commission agrees with commenters, including NAB, that the low level of minority and female broadcast ownership cannot be attributed solely or primarily to consolidation. Nor has any commenter shown that these low levels of ownership are a result of the existing radio/television cross-ownership rule. The Commission recognizes the presence of many disparate factors, including, most significantly, access to capital, as longstanding, persistent impediments to ownership diversity in broadcasting.

285. *Dual Network Rule.* The *Further Notice of Proposed Rulemaking* tentatively concludes that the dual network rule, which permits common ownership of multiple broadcast networks, but prohibits a merger between or among the ''top-four'' networks (ABC, CBS, Fox, and NBC), continues to be necessary to promote competition and localism and should be retained without modification.

286. The Commission tentatively finds that the dual network rule remains necessary in the public interest to foster competition in the provision of primetime entertainment programming and the sale of national advertising time. Specifically, the Commission tentatively finds that the primetime entertainment programming supplied by the top-four broadcast networks is a distinct product, the provision of which could be restricted if two of the four major networks were to merge. The Commission also tentatively finds that, consistent with past Commission findings, the top-four broadcast networks comprise a ''strategic group'' in the national advertising market and compete largely among themselves for advertisers that seek to reach large, national mass audiences. Accordingly, the Commission continues to believe that a top-four network merger would substantially lessen competition for advertising dollars in the national advertising market, which would, in turn, reduce incentives for the networks to compete with each other for viewers by providing innovative, high quality programming. Based on their distinctive characteristics relative to other broadcast and cable networks, the Commission tentatively finds that the top-four broadcast networks serve a unique role in the provision of primetime entertainment programming and the sale of national advertising time that justifies retaining a rule specific to them.

287. In addition, the Commission tentatively finds that, consistent with past Commission findings, the dual network rule remains necessary to promote the Commission's localism goal. Specifically, the Commission tentatively finds that the rule remains necessary to preserve the balance of bargaining power between the top-four networks and their affiliates, thus improving the ability of affiliates to exert influence on network programming decisions in a manner that best serves the interests of their local communities. Typically, a critical role of a broadcast network is to provide its local affiliates with high quality programming. Because this programming is distributed across the country, broadcast networks have an economic incentive to ensure that the programming both appeals to a mass, nationwide audience and is widely shown by affiliates. A network's local affiliates serve a complementary role by providing local input in network programming decisions and airing programming that serves the specific

needs and interests of that specific local community. As a result, the economic incentives of the networks are not always aligned with the interests of the local affiliates or the communities they serve.

288. *Diversity Order Remand and Eligible Entity Definition.* In addition to evaluating each of the broadcast ownership rules, the *Further Notice of Proposed Rulemaking* addresses the Third Circuit's remand of certain aspects of the 2008 *Diversity Order*. Based on the Commission's analysis of the preexisting eligible entity standard as well as the measures to which it applied, the Third Circuit's remand instructions, and the record in this proceeding, the *Further Notice of Proposed Rulemaking* proposes to reinstate the revenue-based eligible entity standard and to apply it to the regulatory policies set forth in the *Diversity Order*. While the Commission does not have an evidentiary record demonstrating that this standard specifically increases minority and female broadcast ownership, the Commission anticipates that reinstating the previous revenue-based standard will promote small business participation in the broadcast industry. The Commission believes that small businesses benefit from flexible licensing policies and that making it easier for small business applicants to participate in the broadcast industry will encourage innovation and enhance viewpoint diversity. The Commission also believes that the benefits of reinstating the eligible entity standard and applying it to the regulatory measures set forth in the *Diversity Order* would outweigh any potential costs of the decision to do so. Accordingly, the Commission tentatively determines that this action will advance the policy objectives that traditionally have guided the Commission's analyses of broadcast ownership issues and will serve the public interest.

289. *Shared Service Agreements.* The *Further Notice of Proposed Rulemaking* provides further consideration of the regulatory treatment of various agreements for the sharing of services between broadcast stations. Because the Commission does not currently require the filing or disclosure of all sharing agreements that do not contain time brokerage or joint advertising sales provisions, the Commission has limited information about the content or breadth of such agreements or the frequency of their use. Accordingly, in order to allow the Commission and the public to better understand the terms, operation, and prevalence of these agreements and their potential impact on the Commission's competition, localism, and diversity goals, the *Further Notice of Proposed Rulemaking* seeks comment on proposals to require the disclosure of such agreements. Specifically, the *Further Notice of Proposed Rulemaking* proposes a specific definition for a category of sharing agreements designated in the *Further Notice of Proposed Rulemaking* as Shared Service Agreements (SSAs). Because the Commission desires to expand its knowledge of these agreements, the *Further Notice of Proposed Rulemaking* proposes to adopt a broad definition of SSAs. The *Further Notice of Proposed Rulemaking,* however, seeks comment on whether to narrow the scope of the definition, seeking comment, for example, on whether a *de minimis* financial exception would be appropriate. The *Further Notice of Proposed Rulemaking* then seeks comment on various proposals for the disclosure of SSAs, including that commercial television stations be required to place copies of such agreements in their public inspection files, the filing of SSAs pursuant to 47 CFR 73.3613, or the adoption of a new filing process (*e.g.,* a new form or a dedicated docket in the Commission's Electronic Comment Filing System (ECFS)). The Commission proposes that any disclosure requirement it may adopt be subject to the same redaction allowances made available to local marketing agreements and joint sales agreements, namely, that licensees may redact confidential or proprietary information.

290. The Commission believes that disclosure of these agreements will further its understanding of the television marketplace and inform future policy decisions to address any potential negative impacts of SSAs on the Commission's competition, localism, and diversity goals. The *Further Notice of Proposed Rulemaking* tentatively concludes that disclosure will permit the Commission to better understand the operation of stations and to assess the impact, if any, of such combined operation on the television marketplace and that members of the public will be able to gain a greater understanding of the relationship between independently owned stations that are parties to SSAs, which will allow them to evaluate whether this interaction has an impact on programming or other station operations.

2. Legal Basis

291. The *Further Notice of Proposed Rulemaking* is adopted pursuant to Sections 1, 2(a), 4(i), 303, 307, 308, 309, 310, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 308, 309, 310, and 403, and Section 202(h) of the Telecommunications Act of 1996.

3. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

292. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The final rules adopted herein affect small television and radio broadcast stations and small entities that operate daily newspapers. A description of these small entities, as well as an estimate of the number of such small entities, is provided below.

293. *Television Broadcasting.* The SBA defines a television broadcasting station that has no more than $35.5 million in annual receipts as a small business. The definition of business concerns included in this industry states that establishments are primarily engaged in broadcasting images together with sound. These establishments operate television broadcasting studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. Census data for 2007 indicate that 2,076 such establishments were in operation during that year. Of these, 1,515 had annual receipts of less than $10.0 million per year and 561 had annual receipts of more than $10.0 million per year. Based on this data and the associated size standard, the Commission concludes that the majority of such establishments are small.

294. The Commission has estimated the number of licensed commercial television stations to be 1,387. According to Commission staff review of the BIA Kelsey Inc. Media Access Pro

Television Database (BIA) as of November 26, 2013, 1,249 (or about 90 percent) of an estimated 1,387 commercial television stations in the United States have revenues of $35.5 million or less and, thus, qualify as small entities under the SBA definition.

295. The Commission notes, however, that in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. This estimate, therefore, likely overstates the number of small entities that might be affected by this action because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive to that extent.

296. *Radio Broadcasting.* The proposed policies could apply to radio broadcast licensees, and potential licensees of radio service. The SBA defines a radio broadcast station as a small business if such station has no more than $35.5 million in annual receipts. Business concerns included in this industry are those ''primarily engaged in broadcasting aural programs by radio to the public.'' According to Commission staff review of the BIA Publications, Inc. Master Access Radio Analyzer Database as of November 26, 2013, about 11,331 (or about 99.9 percent) of 11,341 commercial radio stations have revenues of $35.5 million or less and thus qualify as small entities under the SBA definition. The Commission notes, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. This estimate, therefore, likely overstates the number of small entities that might be affected by this action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

297. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific radio station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any radio station from the definition of a small business on this basis and therefore may be over-inclusive to that extent. Also, as noted, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

298. *Daily Newspapers.* The SBA has developed a small business size standard for the census category of Newspaper Publishers; that size standard is 500 or fewer employees. Business concerns included in this category are those that ''carry out operations necessary for producing and distributing newspapers, including gathering news; writing news columns, feature stories, and editorials; and selling and preparing advertisements.'' Census Bureau data for 2007 show that there were 4,852 firms in this category that operated for the entire year. Of this total, 4,771 firms had employment of 499 or fewer employees, and an additional 33 firms had employment of 500 to 999 employees. Therefore, the Commission estimates that the majority of Newspaper Publishers are small entities that might be affected by this action.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

299. The *Further Notice of Proposed Rulemaking* proposes rule changes that will affect reporting, recordkeeping, and other compliance requirements. Each of these changes is described below.

300. The *Further Notice of Proposed Rulemaking* proposes modifications to several of the media ownership rules as set forth in Section A above. The proposals, if ultimately adopted, would modify several FCC forms and their instructions: (1) FCC Form 301, Application for Construction Permit For Commercial Broadcast Station; (2) FCC Form 314, Application for Consent to Assignment of Broadcast Station Construction Permit or License; and (3) FCC Form 315, Application for Consent to Transfer Control of Corporation Holding Broadcast Station Construction Permit or License. The Commission may have to modify other forms that include in their instructions the media ownership rules or citations to media ownership proceedings, including Form 303–S and Form 323. The impact of these changes will be the same on all entities, and the Commission does not anticipate that compliance will require the expenditure of any additional resources.

301. In addition, the *Further Notice of Proposed Rulemaking* proposes changes that would affect reporting, recordkeeping, or other compliance requirements with regard to the proposed disclosure of SSAs. If this proposal is ultimately adopted, commercial television stations will be required to disclose all SSAs to the public and the Commission. Depending on the method of disclosure for SSAs that may ultimately be adopted, commercial television stations may be required to upload all SSAs to their online public file or place a copy of all SSAs in their physical local public inspection file. In addition, if the Commission were to require the filing of SSAs pursuant to 47 CFR 73.3613, commercial television stations would be required to file a paper copy of such contracts with the Commission; list the contracts on their FCC Form 323, Ownership Report for Commercial Broadcast Station; and either place the SSAs in their local public inspection file or maintain an up-to-date list of all contracts reported on Form 323 and make such contracts available on request. Other proposed alternatives may include the creation of a new form for the filing of SSAs or the creation of a dedicated docket in the Commission's Electronic Comment Filing System that could be used for filing purposes.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

302. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

303. In conducting the quadrennial review, the Commission has three chief alternatives available for each of the Commission's media ownership rules — eliminate the rule, modify it, or, if the Commission determines that the rule is ''necessary in the public interest,'' retain it. The Commission believes that the rules proposed in the *Further Notice of*

Proposed Rulemaking, which are intended to achieve its policy goals of competition, localism, and diversity, will continue to benefit small entities by fostering a media marketplace in which they are able to compete effectively and by promoting additional broadcast ownership opportunities, as described below, among a diverse group of owners, including small entities. This Supplemental IRFA discusses below several ways in which the rules may benefit small entities as well as steps taken, and significant alternatives considered, to minimize any potential burdens on small entities.

304. *Local Television Ownership Rule.* The Commission proposes to retain the local television ownership rule with only a minor modification, consistent with the proposal in the *NPRM.* In the *NPRM,* the Commission proposed to retain the rule but sought comment on a number of alternatives to this proposal. Specifically, the *NPRM* proposed to retain the top-four prohibition, eight-voices test, and numerical limits of the existing rule, while proposing to replace the Grade B contour overlap provision with a DMA-based approach. The *NPRM* also invited comment on whether to adopt a market size waiver standard, the impact of multicasting on the local television ownership rule, and the impact of the proposed rule on minority and female ownership.

305. Multiple commenters asserted that the Commission should retain, or tighten, the local television ownership rule to promote competition and create ownership opportunities for new entrants. In contrast, broadcast commenters asserted that the local television ownership rule should be eliminated or substantially relaxed as a result of competition for viewers and advertising revenue from non-broadcast video alternatives. A number of commenters argued that such relief is warranted particularly for broadcasters—including small entities—that operate in small and mid-sized markets. Broadcast commenters also support adoption of a more flexible waiver standard for small and mid-sized markets.

306. In the *Further Notice of Proposed Rulemaking,* the Commission tentatively finds that the local television ownership rule remains necessary in the public interest and should be maintained with a limited modification. Accordingly, under the proposed modified television ownership rule an entity may own up to two television stations in the same DMA if (1) the digital NLSCs of the stations (as determined by Section 73.622(e)) do not overlap; or (2) at least one of the stations is not ranked among the top four stations in the market and at least eight independently owned television stations will remain in the DMA following the combination. In calculating the number of stations remaining post-merger, only those stations whose digital NLSC overlaps with the digital NLSC of at least one of the stations in the proposed combination will be considered. In addition, the Commission proposes to retain the existing failed/failing station waiver policy.

307. As noted above, the *NPRM* proposed to replace the Grade B contour overlap provision with a DMA-based approach. The Commission tentatively finds, however, that adoption of a DMA-based approach to replace the analog Grade B contour as the trigger for the rule would unduly expand the reach of the local television ownership rule in some DMAs, particularly in those DMAs that cover large rural areas in the western United States where numerous small television stations operate. Thus, the *Further Notice of Proposed Rulemaking* proposes to adopt instead the use of a digital NLSC as the functional equivalent of the analog Grade B contour, which is no longer relevant following the digital television transition. In the *Further Notice of Proposed Rulemaking,* the Commission tentatively affirms the *NPRM's* proposal to grandfather existing ownership combinations that would exceed the numerical limits under the revised contour approach, though the Commission proposes that, going forward, the sale of such combinations must comply with the local television ownership rule then in effect. The Commission believes that this approach will avoid disruption of settled expectations and prevent any impact on the provision of television service by smaller stations operating in rural areas. Moreover, the Commission believes that by preventing stations with the largest market shares from combining to achieve excessive market power, the local television ownership rule protects against potential harm to broadcasters with smaller market shares, including small entities. Accordingly, the Commission believes that the rule, as modified, will continue to ensure that local television markets do not become too concentrated and, by doing so, will allow more firms, including those that are small entities, to enter local markets and compete effectively.

308. The *Further Notice of Proposed Rulemaking* also addresses the competitive challenges faced by broadcasters that operate in small markets—including small entities—by proposing to retain the existing failed/failing station waiver policy. The Commission finds that the existing waiver standard is not unduly restrictive and provides appropriate relief in markets of all sizes. In particular, the Commission notes that a review of recent transactions demonstrates that waivers under the failed/failing station policy are frequently granted in small and mid-sized markets, which often provides relief for small entities. Moreover, waiver of the Commission's rules is meant to be exceptional relief, and the Commission believes that the existing waiver criteria strike an appropriate balance between enforcing the ownership limits and providing relief from the rule in circumstances where it is truly appropriate. However, the *Further Notice of Proposed Rulemaking* seeks comment on whether to relax the failed/failing station waiver criteria or establish additional grounds for waiver. For example, the items asks whether there are circumstances in which the Commission should refrain from applying the four-percent all-day audience share requirement or adopt a higher threshold.

309. *Local Radio Ownership Rule.* The *Further Notice of Proposed Rulemaking* proposes to retain the local radio ownership rule without modification, consistent with the *NPRM.* In the *NPRM,* the Commission proposed to retain the rule and sought comment on alternatives to this proposal. Specifically, the *NPRM* proposed to retain the AM/FM subcaps, which limit the number of radio stations in the same service that an entity can own. The Commission also sought comment on whether and, if so, how, to incorporate new audio platforms into the rule and sought additional comment on the impact of such platforms on the broadcast radio industry. In addition, the *NPRM* sought comment on whether to adopt a specific waiver standard for the local radio ownership rule and on how the proposed rule would affect minority and female ownership opportunities.

310. Several commenters supported the tentative conclusion to retain the local radio ownership rule, including the AM/FM subcaps. They asserted that the AM band, in particular, is a critical point of new entry in the marketplace. By contrast, many broadcast commenters supported eliminating or loosening the rule, including the AM/FM subcaps. In particular, NAB disputes the tentative conclusion that the subcaps promote new entry, asserting instead that elimination of the subcaps could spur market activity that

leads to divested properties that could be purchased by new entrants, including small businesses and minority and women-owned businesses.

311. The Commission proposes to retain the local radio ownership rule, including the AM/FM subcaps, finding that AM subcaps in particular promote new entry in the broadcast radio marketplace. Accordingly, an entity may own: (1) Up to eight commercial radio stations in radio markets with 45 or more radio stations, no more than five of which can be in the same service (AM or FM); (2) up to seven commercial radio stations in radio markets with 30–44 radio stations, no more than four of which can be in the same service (AM or FM); (3) up to six commercial radio stations in radio markets with 15–29 radio stations, no more than four of which can be in the same service (AM or FM); and (4) up to five commercial radio stations in radio markets with 14 or fewer radio stations, no more than three of which can be in the same service (AM or FM), provided that an entity may not own more than 50 percent of the stations in such a market, except that an entity may always own a single AM and single FM station combination.

312. The Commission tentatively concludes that, consistent with previous Commission findings, broadcast radio continues to be a viable avenue for new entry in the media marketplace, including by small businesses, minorities, women, and entities seeking to serve niche audiences. Specifically, the Commission tentatively finds that AM stations are generally the least expensive option for entry into the radio market, often by a significant margin, and therefore permit new entry for far less capital investment than is required to purchase an FM station. The Commission believes that retention of the local radio ownership limits, including the AM/FM subcaps, will foster opportunities for new entry in local radio markets, particularly by small entities. Moreover, the Commission believes that by limiting the consolidation of market power among the dominant groups, the rule will ensure that small radio station owners remain economically viable.

313. *Newspaper/Broadcast Cross-Ownership Rule.* The *Further Notice of Proposed Rulemaking* seeks additional comment on the *NPRM*'s proposals regarding the newspaper/broadcast cross-ownership (NBCO) rule. The *NPRM* offered a myriad of tentative conclusions and inquired about detailed scenarios. In particular, the *NPRM* sought comment on a number of alternatives, including whether to modify the top 20 DMA distinction, the top-four restriction, or the eight voices test. The *NPRM* also proposed to eliminate the use of a station's analog signal contour in favor of a DMA-based approach for triggering the rule.

314. The Commission received a substantial number of comments on the NBCO rule, several of which discuss issues that may be of interest to small entities. For instance, several commenters claimed that lifting the newspaper/radio cross-ownership restriction will revitalize local news on radio stations and will provide struggling newspapers with a broader base of financial support and an increased ability to reach audiences. In the *Further Notice of Proposed Rulemaking,* the Commission seeks comment on whether the restriction on newspaper/radio cross-ownership is no longer necessary to promote viewpoint diversity and therefore should be eliminated from the NBCO rule.

315. Additionally, in the *Further Notice of Proposed Rulemaking,* the Commission tentatively concludes that it should not adopt a bright-line rule allowing some newspaper/television combinations, even under narrowly prescribed circumstances. The Commission is aware that bright-line rules are more likely to produce predictable and consistent outcomes in an expeditious and less costly manner than rules that incorporate a waiver process, which is inherently more uncertain. The Commission is concerned, however, that a bright-line rule is too blunt an instrument to be used for allowing newspaper/television cross-ownership, no matter how limited. Of particular interest to small entities, the Commission also is concerned that a bright-line rule allowing only certain combinations in the largest markets could foreclose merger opportunities in smaller markets where a combination might be acceptable.

316. Although the Commission tentatively concludes that a general prohibition on newspaper/television combinations in all markets is the appropriate starting point when considering the impact of newspaper/television cross-ownership on viewpoint diversity, it recognizes that particular combinations might be shown to be consistent with its diversity goal. Therefore, it proposes to entertain requests for waiver of the general prohibition. An approach that incorporates a waiver process would provide the Commission with the flexibility to take into account the particular circumstances of a proposed merger and potentially provide relief for broadcasters—including small entities—by allowing the combination of a newspaper and a television station where appropriate.

317. The Commission requests comment on what type of waiver process would enable it to identify any acceptable newspaper/television combinations most accurately and effectively. It asks whether it should implement a pure case-by-case approach that evaluates the totality of the circumstances for each individual transaction, considering each waiver request anew without measuring it against a set of defined criteria or awarding the applicant an automatic presumption based on a *prima facie* showing of particular elements. Additionally, the Commission seeks comment on an approach whereby the Commission would ascribe a favorable presumption to certain waiver applicants in the top-20 DMAs and a negative presumption to all other waiver applicants. It seeks comment on requiring as conditions for a favorable presumption that: (1) The proposed merger does not involve a television station ranked among the top-four television stations in the DMA and (2) at least eight major media voices remain in the DMA following the transaction. The Commission seeks comment on the pros and cons, costs and benefits of both these approaches.

318. As noted above, the *NPRM* also proposed to eliminate the use of a station's Grade A contour in favor of a DMA-based approach for triggering the rule. As commenters note, however, because DMAs can be much larger in size than the former Grade A contour areas, the proposed DMA-based approach could expand the reach of the rule and prohibit cross-ownership when there is no overlap between the community in which a newspaper is published and the primary service area of a broadcast station. To avoid that possibility, the *Further Notice of Proposed Rulemaking* proposes instead to prohibit cross-ownership of a full-power television station and a daily newspaper when: (1) The community of license of the television station and the community of publication of the newspaper are in the same Nielsen DMA, and (2) the Principal Community Contour (PCC) of the television station, as defined in Section 73.625 of the Commission's rules, encompasses the entire community in which the newspaper is published. Under this proposal, both conditions must be met in order for the cross-ownership prohibition to be triggered. Furthermore, the Commission proposes to grandfather those existing combinations that would exceed the ownership limit by virtue of

the change to this new DMA/PCC approach. The Commission believes that this approach will avoid disruption of settled expectations and prevent any impact on the provision of television service by smaller stations. Moreover, the Commission believes that the newspaper/television cross-ownership limits—including the top 20 DMA distinction, the top-four restriction, and the eight voices test—will continue to foster diffuse ownership among media outlets and thereby create more ownership opportunities for small entities.

319. *Radio/Television Cross-Ownership Rule.* In the *Further Notice of Proposed Rulemaking,* the Commission seeks comment on whether to eliminate the radio/television cross-ownership rule, which limits the combined number of commercial radio and television stations a single entity may own in the same market. In the *NPRM,* the Commission tentatively concluded that the radio/television cross-ownership rule is not currently necessary to promote the public interest. The Commission sought comment on a range of issues, including whether radio and television stations constitute different markets, whether repeal of the rule would encourage more and better competition in local media markets, whether repeal of the rule would result in additional broadcast consolidation, and what impact, if any, repeal would have on small, independent broadcasters, including those stations owned by minorities and women. The Commission indicated in the *NPRM* that changes in the marketplace and evidence from the media ownership studies specifically supported the tentative conclusion that the rule is not necessary to promote viewpoint diversity in local media markets.

320. Most broadcast commenters supported the Commission's tentative conclusion, and asserted that the cross-ownership rule is no longer necessary to protect the public interest, particularly in light of competition from new media technologies and Internet-based information outlets. Not all broadcasters, however, agreed. Mt. Wilson, an independent broadcaster, asserted that CBS, its primary competitor, is able to wield significant power in the radio market because of its ability to leverage its non-radio holdings, which, in turn, adversely affects the ability of independent radio owners in the market to compete effectively. Mt. Wilson argued that elimination of the radio/television cross-ownership rule will benefit group owners, such as CBS, by allowing them to acquire additional co-owned radio stations in a market, and thereby giving them a further competitive benefit to the disadvantage of independent broadcasters.

321. Commenters who supported retention of the rule also expressed concern about the potential loss of viewpoint diversity in local markets if the rule were to be repealed. They were skeptical of conclusions in the media ownership studies that consolidated broadcast stations air more local content, and thus, contribute more to viewpoint diversity than independent voices. Commenters also asserted that the Commission must take into account the public's reliance on broadcast stations and newspapers as the primary sources of information for individuals to learn about their local communities and to participate in local civic affairs.

322. In addition, public interest commenters claimed that broadcast radio is one of the few remaining entry points into media ownership for women and minorities, and that its usefulness as such would potentially be limited if the radio/television cross-ownership rule were eliminated. Other commenters argued more generally that any media consolidation disproportionately affects opportunities for women and minorities to become and remain broadcast station owners and that female- and minority-owned stations thrive in markets that are less concentrated. NHMC *et al.* contended that strengthening, or at least retaining, broadcast ownership limits is one of the few race- and gender-neutral ways to increase broadcast station ownership by women and minorities, thereby, avoiding the constitutional concerns raised by race- and gender-specific remedies. NABOB asked that the Commission not take any action that would further erode minority broadcast ownership, particularly given that new media outlets are not positioned to replace traditional broadcasters and the information services they provide to minority communities. NABOB contended that any deregulation allows consolidation and it asserted that consolidation enhances an entity's competitive advantage in obtaining advertising.

323. Consistent with prior Commission holdings, the Commission tentatively finds that the radio/television cross-ownership rule is not necessary to promote competition. The Commission has found previously that most advertisers do not consider radio and television to be good substitutes for one another and that television and radio stations do not compete in the same product market. This position is consistent with the long-standing conclusion of the Department of Justice, which considers radio advertising as a separate antitrust market for purposes of its competition analysis. The *Further Notice of Proposed Rulemaking* tentatively finds that most consumers do not consider radio and television stations to be substitutes for one another and do not switch between television viewing and radio listening based on program content. Contrary to Mt. Wilson's conflicting opinion, the Commission believes that the weight of the evidence in the record of this proceeding and precedent supports these tentative conclusions.

324. The *Further Notice of Proposed Rulemaking* tentatively concludes that the radio/television cross-ownership rule is not necessary to promote localism. The Commission agrees with industry commenters who maintained that some limited cross-ownership could create efficiencies that could benefit the public should broadcasters choose to invest additional resources in the production of local news and information programming. When broadcasters engage in joint operations, whether those operations are focused on programming and news gathering or back office matters, the Commission believes it likely that financial efficiencies result. Such efficiencies could lead ultimately to consumer benefits in the form of additional station investments in equipment for radio or television newsrooms, an increase in staffing for news and informational programs, or additional local news coverage on radio stations.

325. The Commission seeks comment on whether the radio/television cross-ownership rule is not necessary to promote viewpoint diversity. In addition, the *Further Notice of Proposed Rulemaking* tentatively finds that the current record does not support claims that elimination of the radio/television cross-ownership rule would have a negative impact on minority and female ownership. Notably, radio/television cross-ownership combinations were not the focus of commenters' concerns raised in response to the *NPRM.* In fact, no commenter to the *NPRM* presented empirical data or other analyses that established that repeal of this rule would harm competition, localism, or viewpoint diversity in local markets. Moreover, while the Commission acknowledges the concerns raised by those advocating for additional minority ownership opportunities, the Commission agrees with commenters, including NAB, that the low level of minority and female broadcast ownership cannot be attributed solely or primarily to consolidation. Nor has any commenter shown that these low levels

of ownership are a result of the existing radio/television cross-ownership rule. The Commission recognizes the presence of many disparate factors, including, most significantly, access to capital, as longstanding, persistent impediments to ownership diversity in broadcasting.

326. *Shared Service Agreements.* The proposed filing requirement for SSAs is not expected to have a significant economic impact on any entities, whether small or otherwise. The filing requirement is limited to commercial television stations, so any small entities that are licensees of commercial radio stations and any small entities that are licensees of noncommercial television or radio stations are exempt from the filing requirement. Furthermore, the Commission believes that SSAs are generally executed for a period of multiple years, which likely limits the number of agreements that will be subject to the proposed disclosure requirement. However, the *Further Notice of Proposed Rulemaking* seeks comment on ways to limit the disclosure requirement that could reduce the burden while not negatively impacting the policy justifications for requiring disclosure. For example, the Commission asks whether any category of agreements between stations should be excluded from the definition of SSA in this proceeding, for instance by adopting a *de minimis* financial exclusion, limiting the definition to agreements that involve local news production or that only involve stations from the same local market. The *Further Notice of Proposed Rulemaking* also seeks comment on how much time should be provided for compliance with the proposed requirement, which could reduce the burden on all stations. Finally, the *Further Notice of Proposed Rulemaking* seeks comment on whether to limit the disclosure requirement to certain larger markets (*e.g.,* the top 50 or 100 Designated Market Areas).

327. In addition, the *Further Notice of Proposed Rulemaking* seeks comment on multiple alternatives for the proposed disclosure requirement. These alternatives include placing the SSAs in the stations' public inspection files (online or physical), filing the agreements with the Commission, the creation of a new form for the filing of SSAs, or the creation of a dedicated docket in ECFS that could be used for filing purposes. This gives commenters the opportunity to demonstrate that one of these alternatives may have less of an economic impact on small businesses and/or all entities. The Commission will consider all such comments.

328. *Diversity Order Remand/Eligible Entity Definition.* The Commission solicited comment in the *NPRM* on whether the Commission should reinstate the preexisting revenue-based eligible entity definition to support the measures the Third Circuit vacated and remanded as well as other measures the Commission may implement in the future. In addition, the Commission sought comment on whether re-adoption of the revenue-based standard would support the Commission's traditional diversity, localism, and competition goals in other ways, particularly by enhancing ownership opportunities for small businesses and other new entrants.

329. As noted above, the *Further Notice of Proposed Rulemaking* tentatively concludes that the Commission should reinstate the preexisting revenue-based eligible entity definition, which includes those entities, commercial or noncommercial, that would qualify as small businesses consistent with SBA standards for its industry grouping, based on revenue. Specifically, the Commission believes that reinstating the revenue-based standard will promote small business participation in the broadcast industry. The Commission believes that small-sized applicants and licensees benefit from flexible licensing, auctions, transactions, and construction policies. Often, small-business applicants have financing and operational needs distinct from those of larger broadcasters. By easing certain regulations for small broadcasters, the Commission believes that it will promote the public interest goal of making access to broadcast spectrum available to a broad range of applicants. The Commission also believes that enabling more small businesses to participate in the broadcast industry will encourage innovation and expand viewpoint diversity.

330. In addition, the Commission proposes to readopt each measure relying on the eligible entity definition that was remanded in *Prometheus II.* These measures include: (1) Revision of Rules Regarding Construction Permit Deadlines; (2) Modification of Attribution Rule; (3) Distress Sale Policy; (4) Duopoly Priority for Companies that Finance or Incubate an Eligible Entity; (5) Extension of Divestiture Deadline in Certain Mergers; and (6) Transfer of Grandfathered Radio Station Combinations. The Commission's intent in proposing the reinstatement of the previous revenue-based eligible entity definition—and in applying it to the construction, licensing, transaction, and auction measures to which it previously applied—is to expand broadcast ownership opportunities for new entrants, including small entities. Therefore, the Commission anticipates that the measures proposed in the *Further Notice of Proposed Rulemaking* will benefit small entities, not burden them.

331. The Commission tentatively concludes that it does not have sufficient evidence at this time to satisfy the constitutional standards necessary to adopt race- or gender-conscious measures. In evaluating the possibility of adopting a socially disadvantaged business (SDB) standard based on the definition employed by the SBA, or any other race-conscious standard, the first question the Commission must consider is whether the standard could be justified by a ''compelling governmental interest.'' Assuming that such an interest could be established, the Commission then would have to be able to demonstrate that the application of the race-conscious standard to specific measures or programs would be ''narrowly tailored'' to further that interest. While the Commission tentatively finds that a reviewing court could deem the Commission's interest in promoting a diversity of viewpoints compelling, the Commission believes that it does not have sufficient evidence at this time to demonstrate that adoption of race-conscious measures would be narrowly tailored to further that interest. Additionally, the Commission tentatively finds that it cannot conclude that the record evidence establishes a relationship between the Commission's interest in viewpoint diversity and the ownership of broadcast stations by women that would satisfy intermediate scrutiny. While the Commission acknowledges that the data show that women-owned stations are not represented in proportion to the presence of women in the overall population, the Commission does not believe that the evidence available at this time reveals that the content provided via women-owned broadcast stations substantially contributes to viewpoint diversity in a manner different from other stations or otherwise varies significantly from that provided by other stations. Further, the Commission tentatively finds that it does not have sufficient evidence to establish a compelling interest in remedying past discrimination.

332. In addition, the Commission reject commenters' arguments that the Commission is required to adopt an SDB standard or another race-conscious eligible entity standard in this proceeding in light of the court's

instructions in *Prometheus II.* The Commission also disagrees with arguments that the Commission is not permitted to conclude this proceeding until the Commission has completed any and all studies or analyses that may enable it to take such action in the future consistent with current standards of constitutional law. The Commission intends to follow the Third Circuit's direction that the Commission consider adopting an SDB definition before completion of this proceeding and evaluate the feasibility of adopting a race-conscious eligibility standard based on an extensive analysis of the available evidence. The Commission does not believe that the Third Circuit intended to prejudge the outcome of the Commission's analysis of the evidence or the feasibility of implementing a race-conscious standard that would be consistent both with applicable legal standards and the Commission's practices and procedures.

333. The Commission also declined to adopt at this time an eligible entity definition that incorporates the Overcoming Disadvantage Preference (ODP) standard proposed by the Commission's Diversity Advisory Committee in 2010. Commenters generally did not suggest criteria, other than race and ethnic origin, that could be considered in an individualized, holistic evaluation system like that approved in *Grutter.* Commenters recommended that the Commission replace its revenue-based eligible entity definition with an ODP standard as a race-neutral means of advancing ownership diversity. The Commission notes that it is not entirely clear whether the proposed ODP standard would be subject to heightened constitutional scrutiny. Moreover, the Commission believes that it does not have a sufficient record at present on a number of issues that would need to be resolved prior to the implementation of an ODP standard. Among other issues, no commenter provided input on (1) what social or economic disadvantages should be cognizable under an ODP standard, (2) how the Commission could validate claims of eligibility for ODP status, (3) whether applicants should bear the burden of proving specifically that they would contribute to diversity as a result of having overcome certain disadvantages, (4) how the Commission could measure the overcoming of a disadvantage if an applicant is a widely held corporation rather than an entity with a single majority shareholder or a small number of control persons, and (5) how the Commission could evaluate the effectiveness of the use of an ODP standard. Even if the Commission could develop an adequate record on these issues, the Commission is concerned that it may lack the resources to conduct such individualized reviews. Moreover, the Commission would have to walk a very fine line in order to fully evaluate the potential diversity contributions of individual applicants without running afoul of First Amendment values. The Commission is concerned that the type of individualized consideration that would be required under an ODP standard could prove to be administratively inefficient, unduly resource-intensive, and inconsistent with First Amendment values.

334. The Commission also tentatively declined to act on various recommendations from commenters regarding the promotion of minority and female ownership. These recommendations include: (1) Relaxing the foreign ownership limitations under section 310(b)(4) of the Communications Act; (2) encouraging Congress to reinstate and update tax certificate legislation; (3) granting waivers of the local radio ownership rule to parties that ''incubate'' qualified entities; and (4) migrating AM radio to VHF Channels 5 and 6. In addition, the Alliance for Women in Media, Inc. (AWM) asked the Commission to consider several actions to address the ''historic underrepresentation of women'' in ownership of broadcast stations and managerial positions in the broadcast industry. The Commission has already implemented some of these recommendations. Because the Commission believes that the remainder of these proposals would raise public interest concerns, may not provide meaningful assistance to the intended beneficiaries, or are outside of the proper scope of this broadcast ownership proceeding, the Commission tentatively concludes that it should not adopt them here.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

335. None.

D. Ordering Clauses

336. Accordingly, *it is ordered,* that pursuant to the authority contained in sections 1, 2(a), 4(i), 303, 307, 309, 310, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 303, 307, 309, 310, and 403, and section 202(h) of the Telecommunications Act of 1996, this *Further Notice of Proposed Rulemaking is adopted.*

337. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the *Further Notice of Proposed Rulemaking,* including the Supplemental Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects 47 CFR Part 73

Radio, Reporting and recordkeeping requirements, Television.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

■ 2. Amend § 73.3555 by revising paragraph (b) to read as follows:

§ 73.3555 Multiple ownership.

* * * * *

(b) *Local television multiple ownership rule.* An entity may directly or indirectly own, operate, or control two television stations licensed in the same Designated Market Area (DMA) (as determined by Nielsen Media Research or any successor entity) if:

(1) The digital noise limited service contours of the stations (as determined by § 73.622) do not overlap; or

(i) At the time the application to acquire or construct the station(s) is filed, at least one of the stations is not ranked among the top four stations in the DMA, based on the most recent all-day (9:00 a.m.-midnight) audience share, as measured by Nielsen Media Research or by any comparable professional, accepted audience ratings service; and

(ii) At least 8 independently owned and operating, full-power commercial and noncommercial TV stations would remain post-merger in the DMA in which the communities of license of the TV stations in question are located. Count only those TV stations the digital noise limited service contours of which overlap with the digital noise limited service contour of at least one of the stations in the proposed combination. In areas where there is no Nielsen DMA, count the TV stations present in an area that would be the functional equivalent

of a TV market. Count only those TV stations the digital noise limited service contours of which overlap with the digital noise limited service contour of at least one of the stations in the proposed combination.

(2) [Reserved]

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Part IV

The President

Proclamation 9125—60th Anniversary of *Brown* v. *Board of Education*

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Presidential Documents

Title 3—

The President

Proclamation 9125 of May 15, 2014

60th Anniversary of *Brown* v. *Board of Education*

By the President of the United States of America

A Proclamation

May 17, 1954, marked a turning point in America's journey toward a more perfect Union. On that day, the Supreme Court handed down a unanimous decision in *Brown* v. *Board of Education,* outlawing racial segregation in our Nation's schools. *Brown* overturned the doctrine of ''separate but equal,'' which the Court had established in the 1896 case of *Plessy* v. *Ferguson.* For more than half a century, Plessy gave constitutional backing to discrimination, and civil rights organizations like the National Association for the Advancement of Colored People faced an uphill battle as they sought equality, opportunity, and justice under the law.

Brown v. *Board of Education* shifted the legal and moral compass of our Nation. It declared that education ''must be made available to all on equal terms'' and demanded that America's promise exclude no one. Yet the Supreme Court alone could not destroy segregation. *Brown* had unlocked the schoolhouse doors, but even years later, African-American children braved mobs as they walked to school, while U.S. Marshals kept the peace. From lunch counters and city streets to buses and ballot boxes, American citizens struggled to realize their basic rights. A decade after the Court's ruling, *Brown's* moral guidance was translated into the enforcement measures of the Civil Rights Act and the Voting Rights Act.

Thanks to the men and women who fought for equality in the courtroom, the legislature, and the hearts and minds of the American people, we have confined legalized segregation to the dustbin of history. Yet today, the hope and promise of *Brown* remains unfulfilled. In the years to come, we must continue striving toward equal opportunities for all our children, from access to advanced classes to participation in the same extracurricular activities. Because when children learn and play together, they grow, build, and thrive together.

On the 60th Anniversary of *Brown* v. *Board of Education,* let us heed the words of Justice Thurgood Marshall, who so ably argued the case against segregation, ''None of us got where we are solely by pulling ourselves up by our bootstraps. We got here because somebody . . . bent down and helped us pick up our boots.'' Let us march together, meet our obligations to one another, and remember that progress has never come easily—but even in the face of impossible odds, those who love their country can change it.

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 17, 2014, as the 60th Anniversary of *Brown* v. *Board of Education.* I call upon all Americans to observe this day with programs, ceremonies, and activities that celebrate this landmark decision and advance the causes of equality and opportunity for all.

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

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