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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0141; Directorate Identifier 2013–NM–024–AD; Amendment 39–17871; AD 2014–12–10]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 727–100 series airplanes. This AD is intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. For certain airplanes, this AD requires repetitive inspections for cracking in stringers or frames until modification, and repair if necessary. We are issuing this AD to detect and correct cracking in stringers or frames originating at or near stringer-to-frame attachment fastener holes, which could result in reduced structural integrity of the airplane, and decompression of the cabin.

DATES: This AD is effective July 28, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 28, 2014.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0141; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Chandra Ramdoss, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5239; fax: 562–627–5210; email: *chandraduth.ramdoss@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 727–100 series airplanes. The NPRM published in the **Federal Register** on March 12, 2014 (79 FR 13931). The NPRM proposed actions intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. For certain airplanes, the NPRM proposed to require repetitive inspections for cracking in stringers or frames until modification, and repair if necessary. We are issuing this AD to detect and correct cracking in stringers or frames originating at or near stringer-to-frame attachment fastener holes, which could result in reduced structural integrity of the airplane, and decompression of the cabin.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 13931, March 12, 2014) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 13931, March 12, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (79 FR 13931, March 12, 2014).

Costs of Compliance

We estimate that this AD affects 2 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	60 work-hours × $85 per hour = $5,100 per inspection cycle.	$0	$5,100 per inspection cycle	$10,200 per inspection cycle.

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Modification	600 work-hours × $85 per hour = $51,000 per inspection cycle	Up to $11,481	Up to $62,481 per modification.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

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

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

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2014–12–10 The Boeing Company: Amendment 39–17871; Docket No. FAA–2014–0141; Directorate Identifier 2013–NM–024–AD.

(a) Effective Date

This AD is effective July 28, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 727–100 series airplanes, certificated in any category, as identified in Boeing Service Bulletin 727–53–0041, Revision 6, dated September 5, 1991, unless previously modified using the service information specified in paragraphs (c)(1), (c)(2), or (c)(3) of this AD.

(1) Boeing Service Bulletin 727–53–0041, Revision 4, dated July 27, 1973.

(2) Boeing Service Bulletin 727–53–0041, Revision 5, dated January 25, 1990.

(3) Boeing Service Bulletin 727–53–0041, Revision 6, dated September 5, 1991.

Note 1 to paragraph (c) of this AD: Boeing Service Bulletin 727–53–0041, Revision 4, dated July 27, 1973, is specified in Boeing Document D6–54860 ''Aging Airplane Service Bulletin Structural Modification Program—Model 727,'' Revision C, dated December 11, 1989, as mandated by AD 90–06–09, Amendment 39–6488 (55 FR 8370, March 7, 1990).

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD is intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. We are issuing this AD to detect and correct cracking in stringers or frames originating at or near stringer-to-frame attachment fastener holes, which could result in reduced structural integrity of the airplane, and decompression of the cabin.

(f) Compliance

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

(g) Inspections

Before the accumulation of 16,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, do a high frequency eddy current inspection and a general visual inspection for cracking in stringers and frames originating at or near stringer-to-frame attachment fastener holes, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 727–53–0041, Revision 6, dated September 5, 1991. Repeat the inspections thereafter at intervals not to exceed 6,000 flight cycles until the modification specified by paragraph (h) of this AD is accomplished. If any crack is found during any inspection required by this paragraph: Before further flight, repair or modify the affected stringer-to-frame attachment locations, in accordance with Part V, ''Repair Data,'' of the Accomplishment Instructions of Boeing Service Bulletin 727–53–0041, Revision 6, dated September 5, 1991.

(h) Modification

Modifying the affected stringer-to-frame attachment locations, in accordance with Part IV, ''Preventive Modification Data,'' of the Accomplishment Instructions of Boeing Service Bulletin 727–53–0041, Revision 6, dated September 5, 1991, terminates the repetitive inspections required by paragraph (g) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-REQUESTS@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Los Angeles ACO, to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(j) Related Information

For more information about this AD, contact Chandra Ramdoss, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5239; fax: 562–627–5210; email: *chandraduth.ramdoss@faa.gov*.

(k) Material Incorporated by Reference

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

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

(i) Boeing Service Bulletin 727–53–0041, Revision 6, dated September 5, 1991.

(ii) Reserved.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*.

(4) You may view this service information at FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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

Issued in Renton, Washington, on June 4, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–13830 Filed 6–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0574; Directorate Identifier 2008–SW–22–AD; Amendment 39–17766; AD 2014–04–07]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada (Bell) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2003–05–03 for Bell Model 407 helicopters. AD 2003–05–03 required preflight checking and repetitively inspecting for a crack in certain tailbooms that have been redesigned, replacing the tailboom if there is a crack, modifying and re-identifying certain tailbooms, installing an improved horizontal stabilizer assembly, and assigning a 5,000 hour time-in-service (TIS) limit. This new AD retains the requirements of AD 2003–05–03 and requires additional inspection requirements. This AD was prompted by additional reports of cracked tailboom skins. The actions in this AD are intended to prevent separation of the tailboom and subsequent loss of control of the helicopter.

DATES: This AD is effective July 28, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 28, 2014.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in this AD as of April 17, 2003 (68 FR 11967, March 13, 2003).

ADDRESSES: For service information identified in this AD, contact Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272 or at *http://www.bellcustomer.com/files/*. You may review service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* in Docket No. FAA–2013–0574 or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the foreign authority's AD, any incorporated-by-reference information, the economic evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5110, fax (817) 222–5961, email *sharon.y.miles@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2003–05–03 (68 FR 11967, March 13, 2003). AD 2003–05–03 applied to Bell Model 407 helicopters. The NPRM published in the **Federal Register** on July 12, 2013 (78 FR 41877). The NPRM proposed to retain the actions of AD 2003–05–03 requiring preflight checks and repetitive inspections for a crack in certain tailbooms that have been redesigned, replacing the tailboom if there is a crack, modifying and re-identifying certain tailbooms, installing an improved horizontal stabilizer assembly, and assigning a 5,000 hour TIS limit. The NPRM also proposed to require additional inspection requirements.

The NPRM was prompted by Canadian AD No. CF–2008–04, dated January 11, 2008 (AD CF–2008–04), issued by Transport Canada Civil Aviation (TCAA), which is the aviation authority for Canada, to correct an unsafe condition for Bell Model 407 helicopters. TCAA advises that there have been several reports of cracks to the tailboom skin on the left side in the area of the horizontal stabilizer. AD CF–2008–04 mandates new inspection requirements based on the manufacturer's service information discussed in the ''Related Service Information'' section under **SUPPLEMENTARY INFORMATION** in the preamble of this final rule.

Comments

We gave the public the opportunity to participate in developing this AD, but

we did not receive any comments on the NPRM (78 FR 41877, July 12, 2013).

FAA's Determination

The helicopter has been approved by the aviation authority of Canada and is approved for operation in the United States. Pursuant to our bilateral agreement with Canada, TCAA, its technical representative, has notified us of the unsafe condition described in the TCAA AD. We are issuing this AD because we evaluated all information provided by TCAA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of the same type design and that air safety and the public interest require adopting the AD requirements as proposed except we are removing one of the figures in this AD to meet current publication requirements. This change is consistent with the intent of the proposals in the NPRM (78 FR 41877, July 12, 2013), and will not increase the economic burden on any operator nor increase the scope of this AD.

Differences Between This AD and the TCAA AD

This AD does not require you to contact the manufacturer. This AD does not state that replacing the affected tailboom with tailboom, part number (P/N) 407–030–801–201, –203, –205, or later numbers constitutes terminating action because installing other part-numbered tailbooms than those listed in the applicability of this AD may also result in terminating action for the requirements of this AD.

Related Service Information

We reviewed Bell Technical Bulletin (TB) No. 407–01–33, dated August 29, 2001; Bell Alert Service Bulletin (ASB) No. 407–99–26, Revision B, dated June 14, 2001, and Revision C, dated February 28, 2002; Bell ASB No. 407–07–80, dated August 27, 2007; and Bell ASB No. 407–01–48, Revision C, dated August 27, 2007.

Bell issued TB No. 407–01–33 for certain serial-numbered Bell Model 407 helicopters to improve the installation of the horizontal stabilizer by specifying an inspection for and correction of any gaps between the horizontal stabilizer attachment supports and the stabilizer surface. Bell issued ASB No. 407–99–26, Revision B, to specify an inspection and a preflight check of the left-hand side of the tailboom skin and fasteners at the horizontal stabilizer attachment area for Bell Model 407 helicopters with certain part-numbered tailbooms. Bell later revised ASB No. 407–99–26 to Revision C to remove one part-numbered tailboom from the applicability of the ASB.

In ASB No. 407–07–80, Bell states it has received additional reports of cracked tailboom skins, P/N 407–030–801–157, affecting tailboom assemblies, P/N 407–530–014–101 and –103 (modified per AD 2003–05–03 (68 FR 11967, March 13, 2003), reference ASB No. 407–01–48, Revision B, dated April 25, 2002), and original production tailboom assembly, P/N 407–030–801–107. Each report indicated a crack above the left side upper stabilizer attachment support at Station 98.89. Further investigation conducted by Bell revealed other areas of the tailbooms require additional attention. Thus, ASB No. 407–07–080 contains procedures for preparing the tailboom for repetitive inspection, preflight checking the tailboom, and repetitively inspecting the tailboom. Bell specifies that replacing the affected tailboom assembly, P/N 407–530–014–101, –103 or 407–030–801–107, with tailboom assembly, P/N 407–030–801–201, –203, –205, or later dash numbers is terminating action for Bell ASB No. 407–07–80.

In ASB No. 407–01–48, Bell states that since issuing Revision C of ASB No. 407–99–26, it received additional reports of cracks in the upper skins, which originated from holes where the fasteners are installed at the forward and aft section of the left upper stabilizer support, P/N 407–023–800–117. ASB No. 407–01–48 contains procedures for inspecting the tailboom on the left side where the fasteners are installed, installing an improved horizontal stabilizer assembly, re-identifying the tailboom, and assigning a 5,000-hour TIS life limit to the tailboom.

Costs of Compliance

We estimate that this AD will affect about 464 helicopters of U.S. registry. We estimate that operators will incur the following costs in order to comply with this AD. We estimate the time for conducting pilot checks is minimal and thus we are assuming there is no cost. It will take about .5 work-hour to perform the annotations in the helicopter records, 1.5 work hours to prepare the inspection area and do the magnification inspection, and 2.5 work hours to do the repetitive 100-hour TIS inspections at an average labor rate of $85 per work-hour. Based on these figures, we estimate the cost of the AD on U.S. operators will be $1,445 per helicopter and $670,480 for the U.S. operator fleet to do the checks and inspections, based on 6 repetitive inspections the first year. The previous AD affected 284 helicopters, and we estimated 3.5 work hours to do the initial inspection, 1.5 work hours to do the recurring inspections, and 18 work hours to do the modification at an average labor rate of $60 per work hour. Required parts were estimated at $1,244 per helicopter. Based on these figures, the total cost of the AD on U.S. operators was estimated to be $3,254 per helicopter or $924,136, based on 8 repetitive inspections per year.

According to Bell, the cost of a new tailboom is $82,850. Per Bell ASB No. 407–07–80, the costs to replace the tailboom may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage by Bell. We have included all costs in our cost estimate.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction; and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2003–05–03 (68 FR 11967, March 13, 2003) and by adding the following new AD:

2014–04–07 Bell Helicopter Textron Canada: Amendment 39–17766; Docket No. FAA–2013–0574; Directorate Identifier 2008–SW–22–AD.

(a) Applicability

This AD applies to Model 407 helicopters, serial numbers 53000 through 53475, with tailboom, part number (P/N) 407–030–801–101, –105, or –107, or 407–530–014–101 or –103, installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as cracks in the tailboom skin on the left side in the area of horizontal stabilizer, which could result in separation of the tailboom and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD supersedes AD 2003–05–03, Amendment 39–13079 (68 FR 11967, March 13, 2003).

(d) Effective Date

This AD becomes effective July 28, 2014.

(e) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(f) Required Actions

(1) For tailboom, P/Ns 407–030–801–101 and –105:

(i) Unmodified per Bell Alert Service Bulletin (ASB) 407–01–48, Revision C, dated August 27, 2007 (ASB 407–01–48):

(A) Before the first flight of each day, visually check the tailboom for a crack, as depicted in Figure 1 to Paragraph (f)(1)(i)(A) of this AD.

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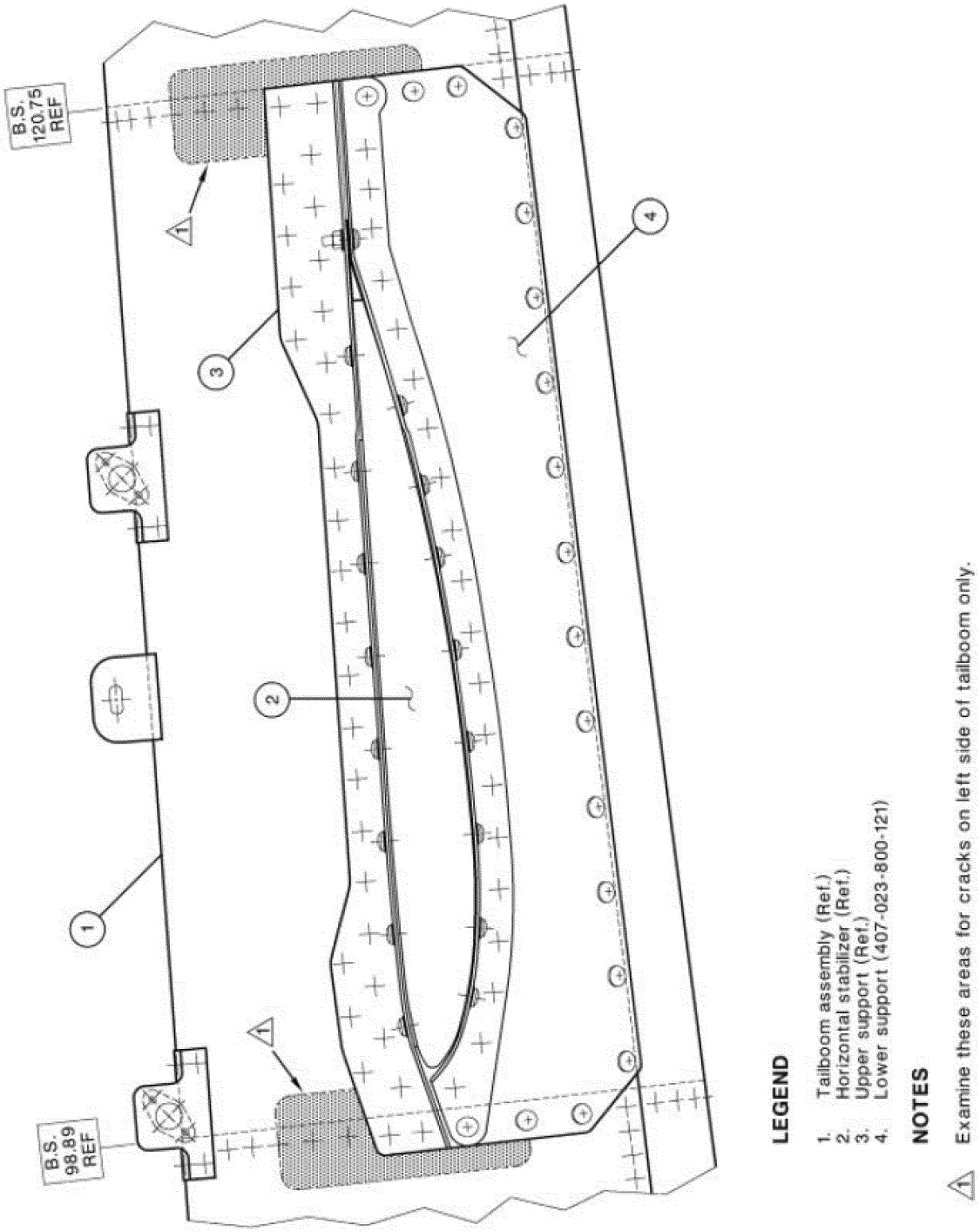

Figure 1 to Paragraph (f)(1)(i)(A)

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(B) For a tailboom with 600 or more hours time-in-service (TIS), within 25 hours TIS and thereafter at intervals not to exceed 50 hours TIS, visually inspect the tailboom for a crack using a 10X or higher magnifying glass by following the Accomplishment Instructions, Part II, of Bell ASB 407–99–26, Revision C, dated February 28, 2002, except this AD does not require you to contact Bell.

(ii) Within 600 hours TIS, but not later than 30 days:

(A) Modify and re-identify each tailboom, P/N 407–030–801–101 as 407–530–014–101, and P/N 407–030–801–105 as 407–530–014–103, by following the Accomplishment Instructions, Parts I and III, of ASB 407–01–48.

(B) Install improved horizontal stabilizer assembly, P/N 407–023–800–ALL, by following Bell Technical Bulletin No. 407–01–33, dated August 29, 2001, except this AD does not require you to contact Bell.

(2) For tailboom, P/Ns 407–530–014–101 and –103, and P/N 407–030–801–107:

(i) Before further flight after the tailboom is modified and re-identified, revise the Airworthiness Limitations section of the maintenance manual by establishing a retirement life of 5,000 hours TIS. Create a

component history card or equivalent record and assign a life limit of 5,000 hours TIS by following the Accomplishment Instructions, Part IV, of ASB 407–01–48.

(ii) Within 25 hours TIS or 30 days, whichever occurs first, prepare the tailboom for daily visual checks and recurring inspections and inspect the tailboom for a crack by following the Accomplishment Instructions, Part II, Steps 1.a) through 1.f), of Bell ASB 407–07–80, dated August 27, 2007 (ASB 407–07–80).

(iii) Thereafter, before the first flight of each day, clean the area on the tailboom where paint has been removed at the upper and lower attachment support areas of the horizontal stabilizer and visually check that area of the tailboom for a crack.

(iv) Within 100 hours TIS and thereafter at intervals not to exceed 100 hours TIS, using a 10X or higher power magnifying glass, inspect each tailboom for a loose rivet, a crack, skin corrosion, or any other damage, by following the Accomplishment Instructions, Part IV, Steps 1 through 6, of ASB 407–07–80, except this AD does not require you to contact Bell. If there is corrosion within an allowable tolerance, repair each area of corrosion.

(3) If there is a crack, before further flight, replace the tailboom.

(4) If there is no crack, make sure both of the inspection area surfaces are dry and protect each reworked area with a thin coat of clear coating.

(5) The actions required by paragraphs (f)(1)(i)(A) and (f)(2)(iii) of this AD may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9 (a)(1) through (4) and 91.417(a)(2)(v). This record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Sharon Miles, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *sharon.y.miles@faa.gov*.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office before operating any aircraft complying with this AD through an AMOC.

(h) Additional Information

(1) Bell Alert Service Bulletin No. 407–99–26, Revision B, dated June 14, 2001, which is not incorporated by reference, contains additional information about the subject of this AD. For this service information, contact Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437 2862 or (800) 363–8023, fax (450) 433–0272 or at *http://www.bellcustomer.com/files/*. You may review service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(2) The subject of this AD is addressed in Transport Canada Civil Aviation (TCCA) AD No. CF–2008–04, dated January 11, 2008. You may view the TCCA AD on the Internet at *http://www.regulations.gov* in Docket No. FAA–2013–0574.

(i) Subject

Joint Aircraft Service Component (JASC) Code is 5300: Rotorcraft Tail Boom, and 5302: Middle Section.

(j) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on July 28, 2014.

(i) Bell Helicopter Textron Alert Service Bulletin (ASB) No. 407–01–48, Revision C, dated August 27, 2007.

(ii) Bell Helicopter Textron ASB No. 407–07–80, dated August 27, 2007.

(4) The following service information was approved for IBR on April 17, 2003 (68 FR 11967, March 13, 2003).

(i) Bell Helicopter Textron ASB No. 407–99–26, Revision C, dated February 28, 2002.

(ii) Bell Helicopter Textron Technical Bulletin No. 407–01–33, dated August 29, 2001.

(5) For Bell service information identified in this AD, contact Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272 or at *http://www.bellcustomer.com/files/*.

(6) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued in Fort Worth, Texas, on May 21, 2014.

Lance T. Gant,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2014–13263 Filed 6–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1056; Directorate Identifier 2013–CE–046–AD; Amendment 39–17849; AD 2014–10–02]

RIN 2120–AA64

Airworthiness Directives; Dornier Luftfahrt GmbH Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding airworthiness directive (AD) 2006–11–19 for Dornier Luftfahrt GmbH Model Dornier 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as chafed or damaged wiring on the flight deck overhead panels (5VE and 6VE). We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective July 28, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of July 28, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–1056; or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact RUAG Aerospace Services GmbH, Dornier 228 Customer Support, P.O. Box 1253, 82231 Wessling, Germany; telephone: +49 (0) 8153–30 2220; fax: +49 (0) 8153–30 4258; email: *custsupport.dornier228@ruag.com;* Internet: *http://www.ruag.com/en/Aviation/Aviation_Home.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to add an AD that would apply to Dornier Luftfahrt GmbH Model DORNIER LUFTFAHRT GmbH Models Dornier 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes. The NPRM was published in the **Federal Register** on December 23, 2013 (78 FR 77380), and proposed to supersede AD 2006–11–19, Amendment 39–14624 (71 FR 32268; June 5, 2006).

Since we issued AD 2006–11–19, Amendment 39–14624 (71 FR 32268; June 5, 2006), DORNIER LUFTFAHRT GmbH changed the compliance time between repetitive inspections and incorporated those inspections into the Time Limits/Maintenance Checks Manual (TLMCM).

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

RUAG Aerospace Services GmbH issued Time Limits/Maintenance Checks Manual (TLMCM) TM–TLMCM–090305–ALL, Revision 5 dated 20 March 2011 respectively TM–TLMCM–228–00002–150610, Revision 1 dated 03 March 2011, listing component life limits and describing maintenance instructions for the Dornier 228 type design. The Document TM–TLMCM–228–00002–150610 is valid for airplane SN 8300 and up and other airplane SN modified according to CN–228–247. The instructions contained in that manual have been identified as mandatory actions for continued airworthiness.

In 2005, chafed wiring was found on 5VE Panel due to lost adhesive of the TY–RAP holder and subsequent vibration of the cable harness.

To address this potential unsafe condition, RUAG issued All Operators Telefax (AOT) No. AOT–228–24–028 and Temporary Revision (TR) 05–05 of the TLMCM introducing repetitive of the cockpit overhead panels 5VE and 6VE and, depending on findings, corrective actions(s). Subsequently, LBA issued AD D–2005–438 (EASA approval 2005–6430) to require those actions.

Since that AD was issued, the instructions of TR 05–05 have been incorporated into TM–TLMCM–090305–ALL, Revision 5 dated 20 March 2011 respectively into TM–TLMCM–228–00002–150610, Revision 1 dated 03 March 2011.

For the reasons described above, this AD retains the requirements of EASA AD D–2005–438, which is superseded, and requires the implementation of the life limits and maintenance actions as specified in the TLMCM (TM–TLMCM–090305–ALL respectively TM–TLMCM–228–00002–150610) for zone 321 overhead panels 5VE/6VE.

The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2013-1056-0002.*

After the NPRM was issued, we identified that we inadvertently omitted the calendar time compliance for the inspections of the wiring in the flight deck overhead panels. We issued a supplemental notice of proposed rulemaking (SNPRM) to propose adding the calendar time compliance for the inspections of the wiring in the flight deck overhead panels. The SNPRM was published in the **Federal Register** on March 4, 2014 (79 FR 12131).

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the SNPRM (79 FR 12131, March 4, 2014) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the SNPRM (79 FR 12131, March 4, 2014) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM (79 FR 12131, March 4, 2014).

Costs of Compliance

We estimate that this AD will affect 17 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $2,890 or $170 per product.

In addition, we estimate that any necessary follow-on actions would take about 3 work-hours and require parts costing $1,000, for a cost of $1,255 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

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

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

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–1056; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM/SNPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–14624 (71 FR 32268; June 5, 2006) and adding the following new AD:

2014–10–02 Dornier Luftfahrt GmbH: Amendment 39–17849; Docket No. FAA–2013–1056; Directorate Identifier 2013–CE–046–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective July 28, 2014.

(b) Affected ADs

This AD supersedes AD 2006–11–19, Amendment 39–14624 (71 FR 32268; June 5, 2006).

(c) Applicability

This AD applies to Dornier Luftfahrt GmbH Dornier Models 228–100, 228–101, 228–200, 228–201, 228–202, and 228–212 airplanes, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 5: Time Limits.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as chafed or damaged wiring on the flight deck overhead panels (5VE and 6VE). We are issuing this AD to prevent chafing and damage to the wiring in the flight deck overhead panels, which could result in short-circuiting of related wiring and possibly lead to electrical failure of affected systems and potential fire in the flight deck.

(f) Actions and Compliance

Unless already done, do the following actions in paragraphs (f)(1) through (f)(3) of this AD:

(1) Within the next 600 hours time-in-service (TIS) after July 28, 2014 (the effective date of this AD) or within the next 12 months after July 28, 2014 (the effective date of this AD), whichever occurs first, and repetitively thereafter at intervals not to exceed 600 hours TIS or 12 months, whichever occurs first, inspect the wiring in the flight deck overhead panels, 5VE and 6VE, for chafing, damage, and/or incorrect installation (wire tie attachment holders). For the inspection, refer to:

(i) Zone 321 on page 5, dated May 1, 2006, in section 05–22–10, Zonal Inspection Program, in Chapter 05, Time Limits/Maintenance Checks—General, in RUAG Aerospace Services GmbH Dornier 228 Time Limits/Maintenance Checks Manual (TLMCM), TM–TLMCM–090305–ALL, Revision 5, March 20, 2011;

(ii) Zone 321 on page 5, dated May 1, 2006, in section 05–26–10, Low Utilization Zonal Inspection Program, in Chapter 05, Time Limits/Maintenance Checks—General, in RUAG Aerospace Services GmbH Dornier 228 Time Limits/Maintenance Checks Manual (TLMCM), TM–TLMCM–090305–ALL, Revision 5, March 20, 2011;

(iii) Pages 1 through 10, Overhead Panel 5VE—Description, dated November 25, 2009, in subject 31–10–07, of Chapter 31, Indicating/Recording Systems, in RUAG Aerospace Services GmbH Dornier 228 Airplane Maintenance Manual, TM–AMM–228–00014–080184, Revision 3, October 30, 2012;

(iv) Pages 201 through 208, Overhead Panel 5VE—Maintenance Practices, dated November 25, 2009, in subject 31–10–07, of Chapter 31, Indicating/Recording Systems, in RUAG Aerospace Services GmbH Dornier 228 Airplane Maintenance Manual, TM–AMM–228–00014–080184, Revision 3, October 30, 2012;

(v) Pages 1 and 2, Overhead Panel 6VE—Description, in subject 31–10–08, dated November 25, 2009, of Chapter 31, Indicating/Recording Systems, in RUAG Aerospace Services GmbH Dornier 228 Airplane Maintenance Manual, TM–AMM–228–00014–080184, Revision 3, October 30, 2012;

(vi) Pages 201 through 204, Overhead Panel 6VE—Maintenance Practices, in subject 31–10–08, dated November 25, 2009, of Chapter 31, Indicating/Recording Systems, in RUAG Aerospace Services GmbH Dornier 228 Airplane Maintenance Manual, TM–AMM–228–00014–080184, Revision 3, October 30, 2012.

(2) If any chafed or damaged wires are found during any inspection required in paragraph (f)(1) of this AD, before further flight, repair the affected wire(s) and assure correct installation of the wiring in the flight deck overhead panels by reattaching or replacing the wire tie attachment holders and securing any loose wires to the wire tie attachment holders with plastic wire ties following:

(i) Pages 1 through 10, Overhead Panel 5VE—Description, dated November 25, 2009, in subject 31–10–07, of Chapter 31, Indicating/Recording Systems, in RUAG Aerospace Services GmbH Dornier 228 Airplane Maintenance Manual, TM–AMM–228–00014–080184, Revision 3, October 30, 2012;

(ii) Pages 201 through 208, Overhead Panel 5VE—Maintenance Practices, dated November 25, 2009, in subject 31–10–07, of Chapter 31, Indicating/Recording Systems, in RUAG Aerospace Services GmbH Dornier 228 Airplane Maintenance Manual, TM–AMM–228–00014–080184, Revision 3, October 30, 2012;

(iii) Pages 1 and 2, Overhead Panel 6VE—Description, in subject 31–10–08, dated November 25, 2009, of Chapter 31, Indicating/Recording Systems, in RUAG Aerospace Services GmbH Dornier 228 Airplane Maintenance Manual, TM–AMM–228–00014–080184, Revision 3, October 30, 2012;

(iv) Pages 201 through 204, Overhead Panel 6VE—Maintenance Practices, in subject 31–10–08, dated November 25, 2009, of Chapter 31, Indicating/Recording Systems, in RUAG Aerospace Services GmbH Dornier 228 Airplane Maintenance Manual, TM–AMM–228–00014–080184, Revision 3, October 30, 2012.

(3) To comply with the actions of this AD, you may insert a copy of this AD or a copy of the required actions of this AD into the instructions for continued airworthiness section of the FAA-approved maintenance program (e.g., maintenance manual). This action may be done by an owner/operator (pilot) holding at least a private pilot certificate and must be entered into the airplane records showing compliance with this AD in accordance with 14 CFR 43.9 (a)(1)(4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.173 or 135.439.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2013–0244, dated October 4, 2013, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-1056-0002.*

(i) Material Incorporated by Reference

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

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

(i) Chapter 05, Time Limits/Maintenance Checks—General, in RUAG Aerospace Services GmbH Dornier 228 Time Limits/Maintenance Checks Manual (TLMCM), TM–TLMCM–090305–ALL, Revision 5, March 20, 2011:

(A) Page 5, in section 05–22–10, Zonal Inspection Program, dated May 1, 2006;

(B) Page 5, in section 05–26–10, Low Utilization Zonal Inspection Program, dated May 1, 2006.

(ii) Chapter 31, Indicating/Recording Systems, in RUAG Aerospace Services GmbH Dornier 228 Airplane Maintenance Manual, TM–AMM–228–00014–080184, Revision 3, October 30, 2012:

(A) Pages 1 through 10, Overhead Panel 5VE—Description, in subject 31–10–07, dated November 25, 2009;

(B) Pages 201 through 208, Overhead Panel 5VE—Maintenance Practices, in subject 31–10–07, dated November 25, 2009;

(C) Pages 1 and 2, Overhead Panel 6VE—Description, in subject 31–10–08, dated November 25, 2009;

(D) Pages 201 through 204, Overhead Panel 6VE—Maintenance Practices, in subject 31–10–08, dated November 25, 2009.

(3) For service information identified in this AD, contact RUAG Aerospace Services GmbH, Dornier 228 Customer Support, P.O. Box 1253, 82231 Wessling, Germany; telephone: +49 (0) 8153–30 2220; fax: +49 (0) 8153–30 4258; email: *custsupport.dornier228@ruag.com;* Internet: *http://www.ruag.com/en/Aviation/Aviation_Home.*

(4) You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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

Issued in Kansas City, Missouri, on June 13, 2014.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–14336 Filed 6–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No.: FAA–2010–0302; Amdt. No. 93–98]

RIN 2120–AK46

The Extension of the Expiration Date of the New York North Shore Helicopter Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The action amends the expiration date of the final rule requiring pilots flying civil helicopters under Visual Flight Rules to use the New York North Shore Helicopter Route when operating along the north shore of Long Island, New York. The current rule expires on August 6, 2014. The FAA finds it necessary to extend this rule for an additional two years to preserve the current operating environment in order to determine whether the mandatory use of this route should be made permanent. The FAA will conduct notice and comment rulemaking on the permanent use of this route. A limited extension of the current rule provides needed time to conduct the appropriate analysis to assess the rule's impact and proper rulemaking procedures.

DATES: This final rule is effective August 6, 2014, through August 6, 2016.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact David Maddox, Airspace Regulation and ATC Procedures Group, AJV–113, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone 202–267- 8783; email *david.maddox@faa.gov.*

For legal questions concerning this action, contact Lorelei Peter, International Law, Legislation and Regulations Division, AGC–200, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone 202–267–3073; email *Lorelei.Peter@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

The FAA has broad authority and responsibility to regulate the operation of aircraft, the use of the navigable airspace and to establish safety standards for and regulate the certification of airmen, aircraft, and air carriers. (49 U.S.C. 40104 et seq., 40103(b)). The FAA's authority for this rule is contained in 49 U.S.C. 40103 and 44715. Under section 40103, the Administrator of the FAA has authority to ''prescribe air traffic regulations on the flight of aircraft (including regulations on safe altitudes) for * * * (B) protecting individuals and property on the ground. (49 U.S.C. 40103(b)(2)). In addition, section 44715(a), provides that to ''relieve and protect the public health and welfare from aircraft noise,'' the Administrator of the FAA, ''as he deems necessary, shall prescribe * * * (ii) regulations to control and abate aircraft noise * * *.''

I. Background

In response to concerns from local residents regarding noise from helicopters operating over Long Island, the FAA adopted the New York North Shore Helicopter Route final rule (77 FR 39911). The rule is based on a voluntary Visual Flight Rule (VFR) route that was developed by the FAA working with the Eastern Region Helicopter Council. The rule requires civil helicopter pilots operating under VFR, whose route of flight takes them over the north shore of Long Island between the VPLYD waypoint and Orient point, to use the North Shore Helicopter Route, as published in the New York Helicopter Chart.[1] The rule permits pilots to deviate from the route and altitude requirements when necessary for safety, weather conditions, or transitioning to or from a destination or point of landing. The rule was promulgated to maximize use of the route as published in order to secure and improve upon decreased levels of noise that had been voluntarily achieved.

The current rule terminates on August 6, 2014. The FAA limited the duration of the rule because at the time of promulgation the FAA did not know the current rate of compliance with the voluntary route or the circumstances surrounding an operator's decision to not use the route. The FAA concluded that ''There is no reason to retain this rule if the FAA determines that it is not actually improving the noise situation along the north shore of Long Island.'' [2] Accordingly, the agency decided that

[1] The voluntary route originally was added to the Helicopter Route Chart for New York on May 8, 2008.

[2] See 77 FR 39918.

the rule would sunset in two years if it was determined that there is no meaningful improvement in the effects of helicopter noise on quality of life or that the rule was otherwise unjustified. Specifically, the FAA stated ''Should there be such an improvement, the FAA may, after appropriate notice and opportunity for comment, decide to make the rule permanent. Likewise, should the FAA determine that reasonable modification could be made to the route to better address noise concerns (and any other relevant concerns), we may choose to modify the rule after notice and comment.'' [3]

II. The Final Rule

This action extends the requirement for pilots of civil helicopters to use the North Shore Helicopter Route when transiting along the north shore of Long Island for an additional two years, while the FAA considers whether to make the mandatory use of the route permanent. The current rule requiring use of the route expires on August 6, 2014. Public input to this consideration is critical and additional time is needed to conduct the rulemaking process. However, the FAA does not want to disrupt the operating environment and cause any confusion on using the route during this interim period. Therefore, the FAA finds that a two year extension of the current rule is warranted to maintain the current operating environment and permit the agency to engage in rulemaking to determine future action on this route. The FAA expects to issue a Notice of Proposed Rulemaking on the permanent use of this route in the immediate future. The FAA finds that under Title 5 of the United States Code section 553(b) good cause exists that notice and public comment are impracticable and contrary to the public interest.

III. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed or final rule does not warrant a full evaluation, this order permits that a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this extension. The reasoning for this determination follows.

Since this rule only extends the current requirements for pilots of civil helicopters to use the North Shore Helicopter Route when transiting along the north shore of Long Island for an additional two years, the expected outcome will be a minimal impact and a regulatory evaluation was not prepared.

The FAA has therefore determined that this extension is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.'' To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This final rule will maintain the current operating environment for two years, therefore the FAA maintains that it will only have a minimal impact on any small entity affected by this rulemaking action.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and determined that it would have only a domestic impact and therefore no effect on international trade.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently

[3] Id.

uses an inflation-adjusted value of $151 million in lieu of $100 million. This final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new requirement for information collection associated with this final rule.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

Executive Order 13609, Promoting International Regulatory Cooperation, promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements. The FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

G. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 312f. This action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

IV. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The agency determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not a ''significant energy action'' under the executive order and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

V. Additional Information

A. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);

2. Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies* or

3. Accessing the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Commenters must identify the docket or amendment number of this rulemaking.

All documents the FAA considered in developing this rulemaking action, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced in item (1) above.

List of Subjects in 14 CFR Part 93

Air traffic control, Airspace, Navigation (air).

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends chapter I.

PART 93—SPECIAL AIR TRAFFIC RULES

■ 1. The authority citation for part 93 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44715, 44719, 46301.

■ 2. Amend § 93.101 to read as follows:

§ 93.101 Applicability.

This subpart prescribes a special air traffic rule for civil helicopters operating VFR along the North Shore, Long Island, New York, between August 6, 2012 and August 6, 2016.

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 44703 in Washington, DC, on June 2, 2014.

Michael P. Huerta,

Administrator.

[FR Doc. 2014–14457 Filed 6–20–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

28 CFR Part 32

[Docket No.: OJP (BJA) 1646]

RIN 1121–AA80

Public Safety Officers' Benefits Program

AGENCY: Office of Justice Programs, Justice.

ACTION: Final rule.

SUMMARY: The Office of Justice Programs (OJP) of the U.S. Department of Justice is amending its regulation defining ''Spouse'' for purposes of implementing the Public Safety Officers' Benefits (PSOB) Act, associated statutes, and Program. Prior to the Supreme Court invalidating section 3 of the Defense of Marriage Act (DOMA) DOMA prevented OJP from recognizing same-sex surviving spouses for the purposes of awarding PSOB Act benefits. As amended, the final regulation recognizes as a spouse, for purposes of the PSOB program, a person who lawfully enters into a marriage in one jurisdiction, even when living in another jurisdiction, and without regard to the law of the other jurisdiction.

DATES: Effective July 23, 2014.

FOR FURTHER INFORMATION CONTACT: Hope Janke, Bureau of Justice Assistance (BJA), OJP, at (202) 514–6278, or toll-free at 1 (888) 744–6153.

SUPPLEMENTARY INFORMATION:

I. Background

In a document published in the **Federal Register** on March 5, 2014 (79 FR 12434), OJP proposed to amend its regulation at 28 CFR 32.3, defining spouse for purposes of the PSOB Act and program. The comment period ended on April 4, 2014. OJP received

four comments from interested individuals and organizations. Three of the commentators generally approved of the proposed amendments but suggested that OJP broaden its definition of spouse and child. One commentator stated that OJP's definition exceeded the federalism framework in *Windsor* and suggested that OJP revise the regulation to recognize only those marriages valid under the law of the individual's domicile. The comments are discussed below. Based on the rationale described in this document and in the notice of proposed rulemaking, OJP adopts the proposed rule as indicated in this document.

II. Comments

Definition of Spouse

We received several comments regarding the scope of the proposed definition of spouse. Concerned that the new rule would have no effect on states that do not allow same-sex marriage, or only allow common law marriages, one commentator suggested that OJP revise the rule to include in the definition of a spouse those persons in a same-sex relationship for ten or more years. Two commentators suggested that OJP expand the proposed definition of spouse to include persons in other ''legally recognized'' or ''non-marriage legal unions'' such as civil unions and domestic partnerships.

OJP's current and proposed definition of spouse are premised on its interpretation of the laws authorizing payment of benefits to surviving spouses, e.g., 42 U.S.C. 3796(a), as requiring that an individual must be in a valid marriage to be considered a spouse. Accordingly, we make no change to the proposed rule based on the comments.

Definition of Child

Citing various concerns that a legal relationship between a parent and child, as determined by state law, is often necessary to establish eligibility as a ''child'' for federal benefits, one commentator recommended that OJP expand its definition of ''stepchild'' to include the child of a parent standing *in loco parentis,* ''where *in loco parentis* means those with day-to-day responsibilities to care for and financially support a child, with whom a biological or legal relationship is not necessary.''

Current OJP regulations define an adopted child as an individual (1) legally adopted by the public safety officer (PSO), or (2) known by the PSO not to be his or her biological child, and in a parent-child relationship with the PSO despite such knowledge.[1] Because the regulatory definition provides eligibility based on a parent-child relationship that does not require the PSO to be or have been married to the biological or legally adoptive parent of the child or to have legally adopted the child, the existing definition satisfies the commentator's request. As a result, we make no changes to current regulations.

One commentator, citing concerns about possible bias of state-level claims processors, suggested that OJP revise § 32.3 by adding to the definition of parent-child relationship the following language: ''A parent-child relationship should be assessed without regard to the sexual orientation or gender identity of the parties involved.''

OJP disagrees that such change is necessary. Apart from a hearing that may be conducted locally by OJP appointed hearing officers, *all* PSOB claims are processed in BJA's Washington, DC, office, and reviewed by PSOB Counsel to ensure compliance with governing law. Moreover, nothing in the current regulatory definition of parent-child relationship, or OJP's process for adjudicating claims requires that OJP assess the sexual orientation or gender identity of the PSO upon which a finding as to the existence of a parent-child relationship would be based. Because such information is not relevant to BJA finding whether a person acted as a parent to a child, we make no changes based on this comment.

The Proposed Rule Is Inconsistent With Windsor

Asserting that the proposed definition of spouse was contrary to the federalism framework in *U.S.* v. *Windsor,* one commentator stated that OJP should have conducted a Federalism Assessment before publishing the proposed rule and requested that OJP revise the final rule to determine marital status based on the law of the PSO's domicile.

The Federalism Assessment contemplated by Executive Order 13132 (1999) involves a determination as to whether a proposed rule would have *substantial direct* effects on the States, on the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. The proposed rule, governing the identification of who is a proper beneficiary in a relatively small federal program (700 claims annually) paying benefits to individuals has no substantial direct effect on the States or on a particular State. Moreover, the rule does not change the relationship between state and federal governments, or alter the distribution of power between such governments. Accordingly, OJP's position that no Federalism Assessment was necessary remains unchanged.

The *Windsor* decision held that it was unconstitutional for the federal government to treat unequally a subset of state-sanctioned marriages. With the Court's invalidation of section 3 of the Defense of Marriage Act, OJP sought to fashion a rule that enables it to efficiently and fairly provide benefits to the surviving spouses and children of fallen PSOs in an increasingly mobile workforce that often marries in one state and resides in another. OJP is authorized to prescribe regulations necessary to carry out the PSOB program, e.g., 42 U.S.C. 3796c(a), and a regulation reflecting a policy choice to pay benefits based on the law of the place in which a valid marriage was entered is consistent with *Windsor's* dictate against federal discrimination against a subset of marriages. As a result, we make no change based on the comments.

III. Regulatory Requirements

Executive Order 12866 and 13563—Regulatory Planning and Review

This rule has been drafted and reviewed in accordance with Executive Order 12866, ''Regulatory Planning and Review'' section 1(b), Principles of Regulation, and in accordance with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' section 1(b), General Principles of Regulation. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). The costs of implementing this rule would be minimal, as it would impose no costs on state, local, or tribal governments, or on the private sector.

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

[1] ''*Parent-child relationship* means a relationship between a public safety officer and another individual, in which the officer has the role of parent (other than biological or legally-adoptive), as shown by convincing evidence.'' 28 CFR 32.3.

Executive Order 13132—Federalism

This rule would not have substantial direct effects on the States, on the relationship between the federal government and the States, or on distribution of power and responsibilities among the various levels of government. The PSOB program provides benefits to individuals and does not impose any special or unique requirements on States or localities. Therefore, in accordance with Executive Order No. 13132, OJP has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988—Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) & (b)(2) of Executive Order No. 12988. Pursuant to section 3(b)(1)(I) of the Executive Order, nothing in this rule or any previous rule (or in any administrative policy, directive, ruling, notice, guideline, guidance, or writing) directly relating to the program that is the subject of this rule is intended to create any legal or procedural rights enforceable against the United States, except as may be contained within part 32 of title 28 of the Code of Federal Regulations.

Regulatory Flexibility Act

This rule would not have a significant economic impact on a substantial number of small entities for the following reasons: this rule addresses federal agency procedures; furthermore, this rule would make amendments to clarify existing regulations and agency practice concerning public safety officers' death, disability, and education benefits and would do nothing to increase the financial burden on any small entities. Therefore, an analysis of the impact of this rule on such entities is not required under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Paperwork Reduction Act of 1995

This rule would not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Unfunded Mandates Reform Act of 1995

This rule would not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. The PSOB program is a federal benefits program that provides benefits directly to qualifying individuals. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

List of Subjects in 28 CFR Part 32

Administrative practice and procedure, Claims, Disability benefits, Education, Emergency medical services, Firefighters, Law enforcement officers, Reporting and recordkeeping requirements, Rescue squad.

Accordingly, for the reasons set forth in the preamble, part 32 of chapter I of Title 28 of the Code of Federal Regulations is amended as follows:

PART 32—PUBLIC SAFETY OFFICERS' DEATH, DISABILITY, AND EDUCATIONAL ASSISTANCE BENEFITS CLAIMS

■ 1. The authority citation for 28 CFR Part 32 continues to read as follows:

Authority: 42 U.S.C. ch. 46, subch. XII; 42 U.S.C. 3782(a), 3787, 3788, 3791(a), 3793(a)(4) & (b), 3795a, 3796c–1, 3796c–2; sec. 1601, title XI, Pub. L. 90–351, 82 Stat. 239; secs. 4 through 6, Pub. L. 94–430, 90 Stat. 1348; secs. 1 and 2, Pub. L. 107–37, 115 Stat. 219.

■ 2. Amend § 32.3 by revising the definition of ''Spouse'' to read as follows:

§ 32.3 Definitions.

* * * * *

Spouse means someone with whom an individual entered into marriage lawfully under the law of the jurisdiction in which it was entered into and from whom the individual is not divorced, and includes a spouse living apart from the individual, other than pursuant to divorce, except that, notwithstanding any other provision of law, to determine whether an individual is a spouse of a public safety officer within the meaning of this definition when more than one individual is purported to be such a spouse, the PSOB Program will apply the law of the jurisdiction that it determines has the most significant interest in the marital status of the public safety officer:

(1) On the date of the officer's death, with respect to a claim under subpart B of this part or by virtue of such death; or

(2) As of the injury date, with respect to a claim not under subpart B of this part or by virtue of the officer's death.

* * * * *

Dated: June 13, 2014.

Karol V. Mason,

Assistant Attorney General.

[FR Doc. 2014–14504 Filed 6–20–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[USCG–2014–0323]

RIN 1625–AA08

Special Local Regulation; Tennessee River, Mile 464.0 to 465.0, Chattanooga, TN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for the waters of the Tennessee River beginning at mile marker 464.0 and ending at mile marker 465, extending bank to bank. This zone is necessary to protect participants of the ''Chattanooga Waterfront Triathlon'' during the swim portion of the event. Entry into this area is prohibited unless specifically authorized by the Captain of the Port (COTP) Ohio Valley or designated representative.

DATES: This rule is effective from 7:00 a.m. to 9:30 a.m. June 29, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0323]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Petty Officer Chad Phillips, Marine Safety Detachment Nashville, at (615) 736–5421 or email at *chad.e.phillips@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

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

A. Regulatory History and Information

This event and special local regulation is currently listed under 33

CFR 100.801 Table 1 Sector Ohio Valley No: 15. The event sponsor informed the Coast Guard in April that the event will be taking place on June 29, 2014 rather than during the second week in July as is currently listed in the CFR. Therefore, the Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule. The swimming portion of this event will take place on the Tennessee River from mile marker 464.0 to mile marker 465.0. The details of this event have not changed beyond being scheduled on an earlier date and still support a determination that a special local regulation is necessary during the event's swimming portion. Completing the full NPRM process is contrary to the public interest as it would delay the additional safety measures necessary to protect participants and event personnel from the possible marine hazards present during the swimming portion of this event. The event has been advertised and is planned on by the local community. Delaying the special local regulation would also unnecessarily interfere with the planned event, with the potential to affect contractual obligations of the event sponsors.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Providing a full 30 days' notice and delaying the effective date for this special local regulation would be impracticable because immediate action is necessary to protect event participants from the possible marine hazards present during this swimming event.

B. Basis and Purpose

The swim portion of the ''Chattanooga Waterfront Triathlon'' takes place on the Tennessee River from mile markers 464.0 to 465.0. The Coast Guard determined that a temporary special local regulation is needed to protect the 1500 participants in the ''Chattanooga Waterfront Triathlon'' during the swimming portion. The legal basis and authorities for this rulemaking establishing a special local regulation are found in 33 U.S.C. 1233, which authorizes the Coast Guard to establish and define special local regulations. The COTP Ohio Valley is establishing a special local regulation for the waters of the Tennessee River, beginning at mile marker 464.0 and ending at mile marker 465.0 to protect the participants in the swimming portion of the ''Chattanooga Waterfront Triathlon.'' Entry into this area is prohibited unless specifically authorized by the COTP Ohio Valley or designated representative.

C. Discussion of the Final Rule

The COTP Ohio Valley is establishing a special local regulation for the waters of the Tennessee River, beginning at mile marker 464.0 and ending at mile marker 465.0, during the swimming portion of the ''Chattanooga Waterfront Triathlon'' on June 29, 2014. During this event, vessels shall not enter into, depart from, or move within the regulated area without permission from the COTP Ohio Valley or his authorized representative. Persons or vessels requiring entry into or passage through the regulated area must request permission from the COTP Ohio Valley, or a designated representative. Sector Ohio Valley may be contacted on VHF–FM Channel 13 or 16, or 1–800–253–7465. This rule is effective from 7:00 a.m. to 9:30 a.m. June 29, 2014. The COTP Ohio Valley will inform the public through Broadcast Notices to Mariners (BNM) of the enforcement period for the special local regulation as well as any changes in the planned schedule.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

This special local regulation restricts transit on the Tennessee River from mile marker 464.0 to mile marker 465.0 and covers a period of two and one half hours, from 7:00 a.m. to 9:30 a.m. on June 29, 2014. Due to its short duration and limited scope, it does not pose a significant regulatory impact. BNMs will also inform the community of this special local regulation so that they may plan accordingly for this short restriction on transit. Vessel traffic may request permission from the COTP Ohio Valley or a designated representative to enter the restricted area or deviate from this regulation. Requests to deviate from this regulation will be considered on a case-by-case basis.

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 Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit mile marker 464.0 to mile marker 465.0 on the Tennessee River, from 7:00 a.m. to 9:30 a.m. on June 29, 2014. The special local regulation will not have a significant economic impact on a substantial number of small entities because this rule will be in effect for a short period of time. BNMs will also inform the community of this special local regulation so that they may plan accordingly for this short restriction on transit. Vessel traffic may request permission from the COTP Ohio Valley or a designated representative to enter the restricted area.

3. Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you

wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction. This rule involves establishing a temporary special local regulation to protect the participants in the swimming portion of the ''Chattanooga Waterfront Triathlon'' on the Tennessee River from mile markers 464.0 to mile marker 465.0 for two and one half hour period on one day.

An environmental analysis was performed during the marine event permit process for the swimming event and a checklist and a categorical exclusion determination are not required for this special local regulation.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the U.S. Coast Guard amends 33 CFR Part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. A new temporary § 100.T08–0323 is added to read as follows:

§ 100.T08–0323 Special Local Regulation; Tennessee River, Miles 464.0 to 465.0, Chattanooga, TN.

(a) *Location.* The following area is a regulated area: All waters of the Tennessee River, beginning at mile marker 464.0 and ending at mile marker 465.0.

(b) *Effective date.* This section is effective from 7:00 a.m. to 9:30 a.m. on June 29, 2014.

(c) *Regulations.* (1) In accordance with the general regulations in § 100.35, entry into this area is prohibited unless authorized by the Captain of the Port Ohio Valley or a designated representative.

(2) Persons or vessels requiring entry into or passage through the area must request permission from the Captain of the Port Ohio Valley or a designated representative. U.S. Coast Guard Sector Ohio Valley may be contacted on VHF Channel 13 or 16, or at 1–800–253–7465.

(3) All persons and vessels shall comply with the instructions of the Captain of the Port Ohio Valley and designated U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(d) *Informational broadcasts.* The Captain of the Port Ohio Valley or a designated representative will inform the public through broadcast notice to mariners when the special local regulation is being enforced and if there are changes to the planned schedule and enforcement period for this special local regulation.

Dated: May 16, 2014.

R.V. Timme,

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

[FR Doc. 2014–14490 Filed 6–20–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–0214]

Safety Zones; Recurring Events in Captain of the Port Duluth Zone—Duluth Fourth Fest Fireworks

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Safety Zone for the Duluth Fourth Fest Fireworks in Duluth, MN from 7 p.m. through 11 p.m. on July 4, 2014. This action is necessary to protect spectators during the Duluth Fourth Fest Fireworks show. During the enforcement period, entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or his designated on-scene representative.

DATES: The regulations in 33 CFR 165.943(b) will be enforced from 7 p.m. through 11 p.m. on July 4, 2014 for the Duluth Fourth Fest Fireworks safety zone described in § 165.943(a)(3).

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email LT Judson Coleman, Chief of Waterways Management, Coast Guard; telephone (218) 725–3818, email *Judson.A.Coleman@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone for the annual Duluth Fourth Fest Fireworks in 33 CFR 165.943(a)(3) from 7 p.m. through 11 p.m. July 4, 2014 on all U.S. navigable waters of the Duluth Harbor Basin Northern Section within a 900-foot radius of position 46°46′19.00″ N, 092°06′11.00″ W.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Duluth or his designated on-scene representative. The Captain of the Port's designated on-scene representative may be contacted via VHF Channel 16.

This document is issued under authority of 33 CFR 165.943 and 5 U.S.C. 552(a). In addition to this publication in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of the enforcement of this safety zone via Broadcast Notice to Mariners. The Captain of the Port Duluth or his on-scene representative may be contacted via VHF Channel 16.

Dated: June 4, 2014.

A.H. Moore, Jr.,

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

[FR Doc. 2014–14492 Filed 6–20–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 131021878–4158–02]

RIN 0648–XD337

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary Rule; Modification of Closure.

SUMMARY: NMFS is opening directed fishing for northern rockfish in the Bering Sea and Aleutian Islands Management Area (BSAI). This action is necessary to fully use the 2014 total allowable catch (TAC) of northern rockfish in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), June 22, 2014, through 2400 hrs, A.l.t., December 31, 2014. Comments must be received at the following address no later than 4:30 p.m., A.l.t., July 3, 2014.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2013–0152, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NNMFS-2013-0152,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

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), 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: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

Pursuant to the final 2014 and 2015 harvest specifications for groundfish in the BSAI (79 FR 12108, March 4, 2014), NMFS closed the directed fishery for northern rockfish under § 679.2(d)(1)(iii).

As of June 11, 2014, NMFS has determined that approximately 1,887 metric tons of northern rockfish initial TAC remains unharvested in the BSAI. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the 2014 TAC of northern rockfish in the BSAI, NMFS is terminating the previous closure and is opening directed fishing for northern rockfish in the BSAI. This will enhance the socioeconomic well-being of harvesters in this area. The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) the current catch of northern rockfish in the BSAI and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) and § 679.25(c)(1)(ii) as such requirement is impracticable and contrary to the public interest. This

requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of northern rockfish in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 11, 2014.

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

Without this inseason adjustment, NMFS could not allow the fishery for northern rockfish in the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until July 3, 2014.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: June 18, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–14638 Filed 6–18–14; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 120
Monday, June 23, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 630

RIN 3206–AM90

Family and Medical Leave Act; Definition of Spouse

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) is proposing to revise the definition of *spouse* in its regulations on the Family and Medical Leave Act (FMLA) as a result of the decision by the United States Supreme Court holding Section 3 of the Defense of Marriage Act (DOMA) unconstitutional. The new definition will replace the existing definition, which contains language from DOMA that refers to ''a legal union between one man and one woman.'' The new definition permits Federal employees with same-sex spouses to use FMLA leave in the same manner as Federal employees with opposite-sex spouses.

DATES: Comments must be received on or before August 22, 2014.

ADDRESSES: You may submit comments, identified by RIN number ''3206–AM90,'' using either of the following methods:

Federal eRulemaking Portal: www.regulations.gov. Follow the instructions for submitting comments.

Email: pay-leave-policy@opm.gov.

Mail: Brenda Roberts, Acting Deputy Associate Director, Pay and Leave, Employee Services, U.S. Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415–8200.

FOR FURTHER INFORMATION CONTACT: Kurt Springmann by telephone at (202) 606–2858 or by email at *pay-leave-policy@opm.gov*.

SUPPLEMENTARY INFORMATION: The U.S. Office of Personnel Management (OPM) is issuing a proposed regulation to revise the definition of *spouse* for purposes of the Family and Medical Leave Act (FMLA) under 5 CFR 630.1202 based on the June 26, 2013, decision of the United States Supreme Court, 133 S. Ct. 2675 (2013), invalidating Section 3 (1 U.S.C. 7) of the Defense of Marriage Act (Public Law 104–199, 110 Stat. 2419 (1996)). This change will permit Federal employees who are in legal marriages with same-sex spouses to use their leave entitlement under the FMLA in the same manner as Federal employees who are in legal marriages with opposite-sex spouses.

Background

Two Federal agencies administer regulations governing FMLA. The Department of Labor (DOL) issues regulations for title I of the FMLA, which covers non-Federal employees and certain Federal employees not covered by title II. OPM issues regulations for title II of the FMLA, which covers most Federal employees. Title II of the FMLA directs OPM to prescribe regulations that are consistent, to the extent appropriate, with regulations prescribed by the Secretary of Labor to carry out title I of the FMLA. (See 5 U.S.C. 6387.)

On July 23, 1993, OPM issued interim regulations (58 FR 39596) to implement title II of FMLA. The interim regulations adopted the definition of *spouse* used by DOL in its regulations implementing title I of FMLA. Under the interim regulations, OPM defined *spouse* as ''a husband or wife, as defined or recognized under State law for purposes of marriage, including common law marriage in States where it is recognized.''

On September 21, 1996, the Defense of Marriage Act (DOMA) was enacted. Section 3 of DOMA defined the terms *marriage* and *spouse* for purposes of Federal law as follows: ''In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word 'marriage' means only a legal union between one man and one woman as husband and wife, and the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife.'' In final regulations implementing title II of the FMLA, published on December 5, 1996 (61 FR 64441), OPM revised the definition of *spouse* in accordance with DOMA. The current definition reads as follows: ''*Spouse* means an individual who is a husband or wife pursuant to a marriage that is a legal union between one man and one woman, including common law marriage between one man and one woman in States where it is recognized.''

On June 26, 2013, the United States Supreme Court ruled in *United States* v. *Windsor* that Section 3 of DOMA is unconstitutional. In response to this ruling, OPM issued a memorandum on October 21, 2013, at *http://www.chcoc.gov/Transmittals/TransmittalDetails.aspx?TransmittalID=5834* informing Federal agencies that the definition of *spouse* used in OPM's FMLA regulations was no longer valid. The memorandum made clear that, effective June 26, 2013, an employee with a same-sex spouse could use his or her FMLA leave entitlement in the same manner as an employee with an opposite-sex spouse: To care for a same-sex spouse with a serious health condition (including care for a same-sex spouse who gives birth to a child), to care for a same-sex spouse who is a covered servicemember with an injury or illness incurred or aggravated in the line of duty on active duty, or for qualifying exigencies while a same-sex spouse is on covered active duty or has been notified of an impending call or order to covered active duty status in accordance with the statute at 5 U.S.C. chapter 63, subchapter V, and the regulations at 5 CFR part 630, subpart L.

Definition of Spouse

In this regulation, OPM proposes to change the definition of *spouse* to remove the DOMA language and to clarify that ''spouse'' means a husband or wife as defined or recognized under State law for purposes of marriage in the State where the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes a husband or wife in a same-sex or common law marriage entered into in a State that recognizes such marriages or, if entered into outside of any State, was valid in the place where entered into and could have been entered into in at least one State.

Under this definition, an employee who is legally married to a same-sex spouse in one State and who resides or works in a State where the marriage is not legally recognized may use FMLA leave for his or her spouse. This proposed regulation deviates from DOL's current regulatory definition of *spouse* as ''a husband or wife *as defined or recognized under State law for purposes of marriage in the State where the employee resides,* including common law marriage in States where it is recognized.'' (See 29 CFR 825.102 (emphasis added).) However, DOL is concurrently issuing a Notice of Proposed Rulemaking that will propose to change the definition of spouse. OPM's proposed definition in this NPRM is the same as DOL's proposed definition.

OPM believes that this definition of spouse is appropriate for the Federal workforce and that Federal employees would benefit from this broader definition. To support an agency's mission, employees may be stationed in a State other than the State of their marriage, and, at times, relocated throughout the United States and abroad. Accordingly, consistent with DOL's Notice of Proposed Rulemaking, OPM believes that using this definition of spouse will enable the Federal Government to consider the needs of a diverse workforce and provide consistent application of policy across the Federal Government. Uniform treatment of all Federal employees will make it more likely that employees will accept voluntary details and transfers to States where a same-sex marriage is not recognized.

Children of Same-Sex Couples

By clarifying that a same-sex spouse qualifies as a spouse for purposes of the FMLA, children of an employee's same-sex spouse now qualify as stepchildren because their parents are in a legal same-sex marriage. Same-sex spouses who stand in loco parentis to the spouse's child are already entitled to take FMLA leave to care for the child. Additionally, the proposed rule clarifies that same-sex spouses are able to take leave to care for their spouse's child by virtue of being the child's stepparent regardless of whether they stand in loco parentis. For information about the ability of employees to take FMLA leave for the children of their domestic partners, employees should review the OPM memorandum CPM 2010–15, sent to agencies on August 31, 2010, titled ''Interpretation of 'Son or Daughter' Under the Family and Medical Leave Act,'' available at *www.chcoc.gov/Transmittals/TransmittalDetails.aspx?TransmittalID=3122*.

Conforming Amendments

We are also proposing conforming amendments to revise the definition of *parent* and add a definition for *State* to align with DOL's definitions of these terms. DOL revised its definition of *parent* on November 17, 2008, at 73 FR 67934, to include adoptive, step, or foster parents. This change will permit an employee to use FMLA leave to care for a stepparent who did not stand in loco parentis to the employee when the employee was a child. The definition of *State* clarifies that the term, as used in the definition of *spouse,* includes the District of Columbia and any Territory or possession of the United States.

Executive Order 13563 and Executive Order 12866

The Office of Management and Budget has reviewed this rule in accordance with E.O. 13563 and 12866.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 630

Government employees.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

Accordingly, OPM proposes to amend 5 CFR part 630 as follows:

PART 630—ABSENCE AND LEAVE

■ 1. The authority citation for part 630 continues to read as follows:

Authority: 5 U.S.C. 6311; § 630.205 also issued under Pub. L. 108–411, 118 Stat 2312; § 630.301 also issued under Pub. L. 103–356, 108 Stat. 3410 and Pub. L. 108–411, 118 Stat 2312; § 630.303 also issued under 5 U.S.C. 6133(a); §§ 630.306 and 630.308 also issued under 5 U.S.C. 6304(d)(3), Pub. L. 102–484, 106 Stat. 2722, and Pub. L. 103–337, 108 Stat. 2663; subpart D also issued under Pub. L. 103–329, 108 Stat. 2423; § 630.501 and subpart F also issued under E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G also issued under 5 U.S.C. 6305; subpart H also issued under 5 U.S.C. 6326; subpart I also issued under 5 U.S.C. 6332, Pub. L. 100–566, 102 Stat. 2834, and Pub. L. 103–103, 107 Stat. 1022; subpart J also issued under 5 U.S.C. 6362, Pub. L 100–566, and Pub. L. 103–103; subpart K also issued under Pub. L. 105–18, 111 Stat. 158; subpart L also issued under 5 U.S.C. 6387 and Pub. L. 103–3, 107 Stat. 23; and subpart M also issued under 5 U.S.C. 6391 and Pub. L. 102–25, 105 Stat. 92.

■ 2. In § 630.1202, the definitions of *parent* and *spouse* are revised and the definition of *State* is added in alphabetical order to read as follows:

§ 630.1202 Definitions.

* * * * *

Parent means a biological, adoptive, step, or foster father or mother, or any individual who stood in loco parentis to the employee when the employee was a son or daughter as defined below. This term does not include parents ''in law.''

* * * * *

Spouse, as defined in the statute, means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under State law for purposes of marriage in the State where the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either:

(1) Was entered into in a State that recognizes such marriages; or

(2) If entered into outside of any State, was valid in the place where entered into and could have been entered into in at least one State.

* * * * *

State means any State of the United States or the District of Columbia or any Territory or possession of the United States.

* * * * *

[FR Doc. 2014–14514 Filed 6–20–14; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 915 and 944

[Doc. No. AMS–FV–13–0069; FV13–915–3 PR]

Avocados Grown in South Florida and Imported Avocados; Clarification of the Avocado Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on changes to the minimum grade requirements currently prescribed under the Florida avocado marketing order (order) and a technical correction to the avocado import regulation. The order regulates the handling of avocados

grown in South Florida, and is administered locally by the Avocado Administrative Committee (Committee). For South Florida-grown avocados, this proposed rule would align the regulations with current industry practice. It would remove language permitting the commingling of avocados with dissimilar characteristics in containers for shipment within the production area. All avocado shipments within the production area would need to meet the provisions of a U.S. No. 2 grade, as provided in the United States Standards for Grades of Florida Avocados. For imported avocados, this rule would also make a technical correction to the avocado import regulation to clarify that the minimum grade requirement for imported avocados remains unchanged at a U.S. No. 2.

DATES: Comments must be received by July 23, 2014.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov.* All comments should reference the document number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov.* All comments submitted in response to this proposal will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 325–8793, or Email: *Doris.Jamieson@ams.usda.gov* or *Christian.Nissen@ams.usda.gov.*

Small businesses may request information on complying with this regulation by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Fruit and Vegetable Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Jeffrey.Smutny@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Order No. 915, as amended (7 CFR part 915), regulating the handling of avocados grown in South Florida, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

This proposed rule is also issued under section 8e of the Act, which provides that whenever certain specified commodities, including avocados, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodities.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 12866, 13563, and 13175.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of import regulations issued under section 8e of the Act.

This proposal invites comments on revisions to the grade requirements currently prescribed under the order and the avocado import regulation. This proposed rule would remove language permitting the commingling of avocados with dissimilar characteristics for shipment within the production area. This would require all avocados shipped within the production area to meet the provisions of a U.S. No. 2 grade, as provided in the United States Standards for Grades of Florida Avocados. This rule would also make a technical correction to the avocado import regulation to clarify that the minimum grade requirement for imported avocados remains unchanged at a U.S. No. 2.

Section 915.51 of the order provides, in part, authority to issue regulations establishing specific grade and pack requirements for avocados. Section 915.52 of the order provides authority for the modification, suspension, or termination of established regulations.

Section 915.306 of the order's container and pack regulations prescribe grade, pack, and container marking requirements for Florida avocados. Paragraph (a)(1) of that section prescribes, in part, the grade requirements for avocados shipped within the production area. Minimum grade and size requirements for avocados imported into the United States are currently in effect under § 944.28.

In reviewing the Florida avocado regulations, it was noted that paragraph (a)(1) of § 915.306 of the regulations currently states that avocados must grade at least U.S. No. 2 but also allows for the commingling of different shapes and sizes within the same container. However, the provisions of the U.S. No. 2 grade require that avocados packed in the same container be similar in shape and size.

USDA requested that the Committee review the Florida avocado regulations regulatory language in regards to grade for shipments within the production area. The Committee responded that the language permitting commingling was added to the regulations in 1992 to allow handlers to ship quantities of fruit of different shapes and sizes in the same container to make more fruit available for shipment within the production area. Committee members agreed that handlers no longer use this provision as ample fruit is available to fill the containers with avocados of the same shape and size. Consequently, in a June 12, 2013, meeting, the Committee recommended removing the language permitting commingling to align the regulations with current industry practices and with the United States Standards for Grades of Florida Avocados (7 CFR 51.3050 through 51.3069). This action would remove the language permitting the commingling of avocados with dissimilar characteristics, requiring all avocados shipped within the production area to meet the provisions of a U.S. No. 2 grade, as

provided in the United States Standards for Grades of Florida Avocados.

This action would also make a technical correction to the grade requirements under the avocado import regulation. Section 8e of the Act provides that when certain domestically produced commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements. As it is the only marketing order covering avocados, import requirements are based on the marketing order for avocados grown in South Florida.

The minimum grade requirement for Florida avocados shipped outside the production area was recently increased by a final rule (78 FR 51041) from a U.S. No. 2 to a U.S. Combination grade. The change in grade applies only to Florida avocados shipped outside the production area. The less restrictive U.S. No. 2 grade would continue to apply to shipments within the production area and to imported avocados. As indicated in the final rule, this action would make a technical correction to the import regulation to clarify that the minimum grade requirement for imported avocados remains unchanged at a U.S. No. 2, which is the same grade requirement for avocados shipped within the production area.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Import regulations issued under the Act are based on those established under Federal marketing orders.

There are approximately 30 handlers of Florida avocados subject to regulation under the order and approximately 300 producers of avocados in the production area. There are approximately 260 importers of avocados. Small agricultural service firms, which include avocado handlers and importers, are defined by the Small Business Administration (SBA) as those whose annual receipts are less than $7,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000 (13 CFR 121.201).

According to Committee data and information from the National Agricultural Statistical Service, the average price for Florida avocados during the 2011–12 season was approximately $20.79 per 55-pound bushel container, and total shipments were slightly higher than 1.2 million 55-pound bushels. Using the average price and shipment information provided by the Committee, the majority of avocado handlers could be considered small businesses under SBA's definition. In addition, based on avocado production, producer prices, and the total number of Florida avocado producers, the average annual producer revenue is less than $750,000. Information from the Foreign Agricultural Service, USDA, indicates that the dollar value of imported avocados was around $1.1 billion in 2013. Using these values, most importers would have annual receipts of less than $7,000,000 for avocados. Consequently, the majority of avocado handlers, producers, and importers may be classified as small entities.

Mexico, Chile, Peru, and Dominican Republic are the major production areas exporting avocados to the United States. In 2013, shipments of avocados imported into the United States totaled nearly 572,000 metric tons. Mexico accounted for around 509,700 metric tons, with 23,400 metric tons from Chile, 21,600 metric tons from Peru, and 17,000 metric tons were imported from the Dominican Republic.

This proposed rule would remove language permitting the commingling of avocados with dissimilar characteristics for shipments within the production area. This would require all avocados shipped within the production area to meet the provisions of a U.S. No. 2 grade, as provided in the United States Standards for Grades of Florida Avocados. This proposal would revise the grade requirements currently prescribed for Florida avocados shipped within the production area under § 915.306 of the regulations. This proposed change would align marketing order regulations with current industry practices and with the United States Standards for Grades of Florida Avocados. Authority for this action is provided in §§ 915.51 and 915.52 of the order. This action would also make a technical correction to the avocado import regulation, § 944.28, to clarify that the minimum grade requirement for imported avocados remains unchanged at a U.S. No. 2.

Any costs associated with this change are anticipated to be minimal. Committee members indicated that the industry no longer ships containers of dissimilar fruit within the production area. In addition, the volume of U.S. No. 2 grade Florida avocados shipped during a season is small, representing less than one percent of total annual shipments. Further, any impact from this action would be limited to the volume of fruit shipped within the production area. Therefore, implementation of this proposed rule is not expected to impact the volume of fruit being utilized nor would it impact the total volume of Florida avocados on the market. There is no anticipated impact on import volume, as the proposed change to those requirements is merely a clarification. The effects of this proposed rule are not expected to be disproportionately greater or less for small handlers or growers than for large entities.

The only alternative the Committee considered was leaving the regulations for shipments within the production area unchanged. However, Committee members agreed that this language was outdated as the industry no longer commingles shapes and sizes in production area shipments. Therefore, this alternative was rejected.

AMS 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.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0189, Generic Fruit Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

Accordingly, this action would not impose any additional reporting or recordkeeping requirements on either small or large Florida avocado handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule. However, as previously stated, imported

avocados and those shipped within the production area must meet the applicable requirements for grade, as specified in the United States Standards for Grades of Florida Avocados (7 CFR 51.3050 through 51.3069) issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 through 1627).

Further, the Committee's meeting was widely publicized throughout the Florida avocado industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 12, 2013, meeting was a public meeting. All entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide*. Any questions about the compliance guide should be sent to Jeffrey Smutny at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

In accordance with section 8e of the Act, the United States Trade Representative has concurred with the issuance of this proposed rule.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate as this proposed rule should be in place as soon as possible because handlers begin shipping in mid-May, and the technical correction to the import regulation is to clarify that the grade requirement is unchanged. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects

7 CFR Part 915

Avocados, Marketing agreements, Reporting and recordkeeping requirements.

7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth in the preamble, 7 CFR parts 915 and 944 are proposed to be amended as follows:

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

■ 1. The authority citation for 7 CFR part 915 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In § 915.306, paragraph (a)(1) is revised to read as follows:

§ 915.306 Florida avocado grade, pack, and container marking regulation.

(a) * * *

(1) Such avocados grade at least U.S. Combination, except that avocados handled to destinations within the production area grade at least U.S. No. 2.

* * * * *

PART 944—FRUITS; IMPORT REGULATIONS

■ 3. The authority citation for 7 CFR part 944 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 4. In § 944.28, paragraph (a) is revised to read as follows:

(a) Pursuant to section 8e of the Act and Part 944—Fruits; Import Regulations, the importation into the United States of any avocados is prohibited unless such avocados grade at least U.S. No. 2, as such grade is defined in the United States Standards for Grades of Florida Avocados (7 CFR 51.3050 through 51.3069).

* * * * *

Dated: June 16, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–14405 Filed 6–20–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM14–11–000]

Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities

AGENCY: Federal Energy Regulatory Commission, Energy.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document contains corrections to the proposed rule (RM14–11–000) which published in the **Federal Register** of Friday, May 30, 2014 (79 FR 31061). The regulation proposed to amend regulations to waive the Open Access Transmission Tariff requirements, the Open Access Same-Time Information System requirements of its regulations, and the Standards of Conduct requirements of its regulations, for any public utility that is subject to such requirements solely because it owns, controls, or operates Interconnection Customer's Interconnection Facilities, in whole or in part, and sells electric energy from its Generating Facility, as those terms are defined in the *pro forma* Large Generator Interconnection Procedures and the *pro forma* Large Generator Interconnection Agreement and adopted in Order No. 2003. The Commission proposed to find that requiring the filing of an Open Access Transmission Tariff is not necessary to prevent unjust or unreasonable rates or unduly discriminatory behavior with respect to Interconnection Customer's Interconnection Facilities over which interconnection and transmission services can be ordered pursuant to sections 210, 211, and 212 of the Federal Power Act.

DATES: Comments are due July 29, 2014.

FOR FURTHER INFORMATION CONTACT:

Becky Robinson (Technical Information), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8868, *Becky.Robinson@ferc.gov.*

Brian Gish (Legal Information), Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8998, *Brian.Gish@ferc.gov.*

SUPPLEMENTARY INFORMATION: On May 15, 2014, the Commission issued a Notice of Proposed Rulemaking (NOPR) in the above-captioned proceeding. *Open Access and Priority Rights on Interconnection Customer's Interconnection Facilities,* 147 FERC ¶ 61,123 (2014). This errata notice makes several corrections to the NOPR as issued.

In FR Doc. 2014–11946 appearing on page 31061 in the **Federal Register** of Friday, May 30, 2014, the following corrections are made:

■ 1. On page 31072, second column, first paragraph, the first sentence of section 35.28(d)(1) of the proposed regulatory text is revised to read as follows:

''A public utility subject to the requirements of this section and 18 CFR parts 37 (Open Access Same-Time Information System) and 358 (Standards of Conduct for Transmission Providers) may file a request for waiver of all or part of such requirements for good cause shown.''

■ 2. On page 31072, second column, fourth paragraph, the first sentence of section 35.28(d)(2)(ii) of the proposed

regulatory text is revised to read as follows:

''Any eligible entity that seeks interconnection or transmission services with respect to Interconnection Customer's Interconnection Facilities for which a waiver is in effect pursuant to this paragraph (d)(2) shall follow the procedures in sections 210, 211, and 212 of the Federal Power Act, 18 CFR § 2.20, and 18 CFR part 36.''

■ 3. On page 31070, third column, in Paragraph 62, the following topics are revised to read as follows:

''Title: FERC–917, Non-Discriminatory Open Access Transmission Tariff; FERC–582, Electric Fees and Annual Charges''

''OMB Control No. 1902–0233; 1902–0132''

■ 4. On page 31071, first column, the last sentence of Paragraph 64 is revised to read as follows:

''Please reference OMB Control No. 1902–0233, 1902–0132, and the docket number (RM14–11–000) of this proposed rulemaking in your submission.''

Issued: June 16, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–14425 Filed 6–20–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF EDUCATION

34 CFR Parts 369 and 371

[Docket ID ED–2013–OSERS–0083]

RIN 1820–AB66

Vocational Rehabilitation Services Projects for American Indians With Disabilities

AGENCY: Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, Department of Education (RSA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary proposes to amend the definition of ''reservation'' under the regulations governing the American Indian Vocational Rehabilitation Services (AIVRS) program in one of two ways.

The first proposed amendment, ''Alternative A,'' would conform the definition to the Department's current interpretation and practices. In order to be eligible for a grant, a federally or State recognized tribe must be located on a Federal or State reservation. The statutory definition of ''reservation'' includes Federal or State Indian reservations; public domain Indian allotments; former Indian reservations in Oklahoma; and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act. The Department's ''Alternative A'' definition would also include as a reservation ''defined areas of land recognized by a State or the Federal Government where there is a concentration of tribal members and on which the tribal government is providing structured activities and services.''

The second proposed amendment to the regulatory definition of ''reservation,'' ''Alternative B,'' would limit the areas of land the Department considers to be reservations to those that are listed in the statutory definition of ''reservation'': Federal or State Indian reservations; public domain Indian allotments; former Indian reservations in Oklahoma; or land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

The Secretary seeks comment on both alternatives.

DATES: We must receive your comments on or before August 22, 2014.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Are you new to the site?''
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these proposed regulations, address them to Thomas Finch, U.S. Department of Education, 400 Maryland Avenue SW., Room 5147 Potomac Center Plaza (PCP), Washington, DC 20202–2800.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov*. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Thomas Finch, U.S. Department of Education, 400 Maryland Avenue SW., Room 5147, Potomac Center Plaza (PCP), Washington, DC 20202–2800. Telephone: (202) 245–7343, or by email: *Tom.Finch@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 these proposed regulations. Specifically, we invite comments from tribal officials, tribal governments, tribal organizations, affected tribal members, State vocational rehabilitation (VR) agencies, VR counselors, and all other concerned parties.

We also invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the Department's programs and activities.

During and after the comment period, you may inspect all public comments about these proposed regulations by accessing Regulations.gov. You may also inspect the comments in person in room 5147 Potomac Center Plaza (PCP), Washington, DC 20202–2800, between 8:30 a.m. and 4:00 p.m. Washington, DC time, Monday through Friday of each week except Federal holidays. Please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

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 these proposed regulations. 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

Under section 121(a) of the Rehabilitation Act of 1973, as amended (the Rehabilitation Act) (29 U.S.C. 741(a)), the RSA Commissioner may make grants to the governing bodies of Indian tribes located on Federal and

State reservations (and consortia of such governing bodies) to pay 90 percent of the costs of VR services for American Indians who are individuals with disabilities residing on or near such reservations. The purpose of the program is for the tribes to provide VR services to these individuals so that they can prepare for and engage in gainful employment.

Section 121(c) of the Rehabilitation Act defines the term ''reservation'' as: ''The term 'reservation' includes Indian reservations, public domain Indian allotments, and former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.'' The current regulatory definition of ''reservation'' under the AIVRS program at 34 CFR 371.4(b) is similar: ''*Reservation* means a Federal or State Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, and land held by incorporated Native groups, regional corporations and village corporations under the provisions of the Alaska Native Claims Settlement Act.''

The Department currently interprets the term ''includes'' in the statutory definition of ''reservation'' to mean that the list of land areas in the statute is not exhaustive. As a result, the Department considers other land areas that it determines are consistent with both the purpose of the program and the list of land areas provided in the statute to be within the meaning of ''reservation.'' Thus, the Department's longstanding interpretation of the statute is that tribes that are located on a defined and contiguous (i.e. attached, bordering, adjacent) area of land where there is a concentration of tribal members and on which the tribal government is providing structured activities and services meet the statutory definition of ''reservation.''

From FY 2007 through FY 2011, five grantees, serving six tribes, were awarded AIVRS grants using the Department's long-standing interpretation of ''reservation.'' In FY 2013, these grantees provided services to 559 American Indians with disabilities. The Department has received no complaints about the grantees' eligibility at any time during the life of these grants.

We are proposing Alternative A because the current definition of ''reservation'' in § 371.4(b) does not clearly reflect our statutory interpretation. The Department seeks comment on the amended definition in Alternative A that would make its current interpretation explicit.

The proposed Alternative B definition of ''reservation'' arises out of a May 9, 2012, U.S. Government Accountability Office (GAO) report, ''Federal Funding for Non-Federally Recognized Tribes,'' GAO–12–348 (available at *www.gao.gov/products/GAO–12–348*). The report questions whether the Department's interpretation of ''reservation'' is broader than the term's statutory definition.

Specifically, the GAO questioned the Department's view that a State-recognized tribe is eligible for AIVRS program grants when it is not located on a State reservation but on a defined area of land where there is a concentration of tribal members and on which the tribal government is providing structured activities and services—described in the tribal service area outlined in a tribe's grant application. The Department provided comments on the GAO's draft report supporting its current practice. The GAO, in its final report, recommended that the Secretary review the eligibility requirements for AIVRS grants and take appropriate action.

The Department has done so, and here continues to consider how best to interpret the statute in light of the purposes of the program. The Department is therefore also seeking comment on a proposed definition of ''reservation'' that limits eligibility to tribes located only on those areas of land specifically identified in the statutory definition—Alternative B. This proposed change would align the Department's interpretation of ''reservation'' in the AIVRS program with that of the GAO.

In considering these alternative definitions of ''reservation'' in the AIVRS program, we have consulted internally, as well as with officials of other Federal government agencies. In addition, as required by Executive Order 13175, the Department consulted tribal officials, tribal governments, tribal organizations, and affected tribal members regarding this matter. The tribal consultation conducted by the Department is described further in the *Tribal Summary Impact Statement* section of this notice.

Finally, the same definition of ''reservation'' found in 34 CFR 371.4(b) is included in 34 CFR 369.4(b), the regulations governing special project activities, including the AIVRS program, that provide vocational rehabilitation services. We therefore propose conforming amendments to 34 CFR 369.4.

Summary of Proposed Changes

The proposed regulation in Alternative A would amend § 371.4(b) to reflect the Department's current interpretation and practices. Tribes eligible for AIVRS grants would continue to be those located on land specifically identified in the statute, as well as those located on a defined area of land recognized by a State or the Federal Government where there is a concentration of tribal members and on which the tribal government is providing structured activities and services.

In refining our current interpretation in these proposed regulations, we have removed the requirement that the tribal lands be contiguous and added the requirement that they be recognized by a State or the Federal Government. While in the past, many of the tribal lands of tribes that received grants under our current interpretation have been contiguous, we have determined that requiring the lands to be contiguous is not essential to be considered a ''reservation'' for the purposes of the AIVRS program. We believe that, in order to have similar characteristics to a reservation, the tribal lands must be located on a defined area of land recognized by a State or the Federal Government where there is a concentration of tribal members and on which the tribal government is providing structured activities and services. We understand that some tribal lands so recognized are not necessarily contiguous.

The proposed regulation in Alternative B would limit eligibility to tribes located only on those areas of land specifically identified in the statutory definition. *Statute:* Section 121(a) of the Rehabilitation Act authorizes the RSA Commissioner to ''make grants to the governing bodies of Indian tribes located on Federal and State reservations (and consortia of such governing bodies) to pay 90 percent of the costs of vocational rehabilitation services for American Indians who are individuals with disabilities residing on or near such reservations.'' Section 121(c) of the Rehabilitation Act defines the term ''reservation'' as: ''The term 'reservation' includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.''

Current Regulations: Section 371.2 of the current regulations implementing section 121 of the Rehabilitation Act

provides that applications may be made only by the governing bodies of Indian tribes and consortia of those governing bodies located on Federal and State reservations. Current § 371.4(b) defines ''reservation'' as ''a Federal or State Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, and land held by incorporated Native groups, regional corporations and village corporations under the provisions of the Alaska Native Claims Settlement Act.''

Proposed Regulations: Under proposed Alternative A, we would amend current § 371.4 to reflect more clearly the Department's current eligibility determination practices and interpretation of ''reservation.'' Specifically, we would amend the definition of ''reservation'' to include ''a defined area of land recognized by a State or the Federal Government where there is a concentration of tribal members and on which the tribal government is providing structured activities and services.'' This definition would include lands identified in the U.S. Census as a State-designated tribal statistical area or a tribal-designated statistical area and lands designated as tribal service areas by statute, judicial decision, or administrative determination.

Under proposed Alternative B, we would amend current § 371.4 to state that *only* those land areas specifically listed in the statutory definition of ''reservation'' qualify as a reservation. Consequently, under § 371.2, only those tribes that are located on land areas that are listed under the definition of ''reservation'' would be eligible to apply for a grant under the AIVRS program. This alternative would constitute a change in the Department's interpretation such that federally recognized tribes without Federal reservations, State recognized tribes without State reservations, or other areas of land not specifically listed in the statutory definition of ''reservation'' would not be eligible to apply for grants under the AIVRS program.

Reasons: The Department is proposing two alternative regulatory interpretations of the statutory definition of ''reservation'' in the AIVRS program because we believe that the statute is capable of these different interpretations, and we are seeking public comment on both of them, including their policy ramifications, to inform our decision.

The statutory definition of ''reservation'' specifically includes land areas that meet the requirements for a reservation (past or present). Use of the term ''includes'' in the definition, however, indicates that the list need not be exhaustive. Proposed Alternative A areas of land would be identified by the Federal or State Government as discrete areas of land in which tribes provide governmental services to their members, although they do not share all of the characteristics of the areas of land listed in the statute.

For example, tribal land areas proposed as ''reservations'' in Alternative A are identified by States (in the case of State-designated tribal statistical areas) or by federally recognized Indian tribes (in the case of tribal designated statistical areas) and are accepted by the U.S. Census Bureau, which recognizes them as compact and contiguous areas of land that contain a concentration of people who identify with the tribe and in which there is structured or organized tribal activity. Other service areas that would be covered by proposed Alternative A are defined by State or Federal statute. *See, e.g.,* the Ponca Restoration Act, which establishes a service area for members of the Ponca Tribe of Nebraska in various counties in Nebraska, Iowa, and South Dakota. 25 U.S.C. 983c. Still other areas identified by judicial decision or administrative determination could be covered. Please refer to the discussion of proposed Alternative B below to understand how the characteristics of these types of land areas differ from the land areas specified in the statute.

Arguably, including these areas of land in addition to those listed in the statute furthers the purpose of the AIVRS program, which the Department administers with the goal of assisting tribes to provide vocational rehabilitation services in a culturally sensitive manner to as many American Indians with disabilities as possible, resulting in meaningful employment.

In proposed Alternative B, we are considering the interpretation recommended by GAO in its report, that the list of land areas contained in the statutory definition of ''reservation'' should be exclusive and no other areas of land can be ''reservations'' under the AIVRS program. There may be some support for such an interpretation in other Federal statutes we have examined that authorize financial assistance to Indian tribes and that have been interpreted to include the tribes whose eligibility is at issue here. These statutes use language defining the eligibility of tribes that is broader than the AIVRS governing statute and that authorizes financial assistance to tribes with or without reservations. These statutes use either the phrase ''including but not limited to'' or explicitly include the authority to provide assistance, for example, to Indian organizations or public or private nonprofit agencies serving Indians. *See, e.g.,* Native Americans Program Act of 1974, 42 U.S.C. 2991b and the Indian Health Care statute, 25 U.S.C. 1644(c).

The Department acknowledges that the areas of land it currently accepts and proposes to include in Alternative A as ''reservations'' are not specifically identified in the statute and are distinguishable in two respects. All of the statutorily specified land areas—reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act—are (or were) formally recognized and set aside by the Federal or State government for use by Indians and are (or were) subject to Federal or State supervision.

The additional areas of land proposed in Alternative A are not located on reservations, or on any of the other areas listed in the statute as reservations, and do not share these characteristics: They are not set aside for Indians by the Federal or State government, and neither the Federal nor State governments have oversight over them. One reason for limiting AIVRS eligibility to only those tribes that have reservations or other land areas listed in the statute, is to contain the program to tribes that have a certain relationship with a State or the Federal Government that the traditional reservation status implies.

Because we believe either interpretation is supportable, we propose alternative regulations that would each clarify eligibility for the program but have different consequences for affected tribes. We welcome comment on both.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and therefore subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

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

referred to as an ''economically significant'' rule);

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

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

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This proposed regulatory action is a significant regulatory action subject to review by OMB under section 3(f)(4) of Executive Order 12866.

We have also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing these proposed regulations only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that these proposed regulations are consistent with the principles in Executive Order 13563.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs associated with this regulatory action are those resulting from our interpretation of statutory requirements and those we have determined are necessary for administering the Department's programs and activities.

The amendment to the regulatory definition of ''reservation'' proposed in Alternative A would produce no change in costs or benefits as it conforms the definition to the Department's current interpretation and practices. The proposed change to ''reservation'' in Alternative B would affect five current grantees (six tribes, as one grantee is a consortium of two tribes) that currently receive funding through the AIVRS program and at least 29 other federally or state-recognized tribes that we have identified through census data. These tribes would be significantly affected in that they would not be eligible to apply for grants under the AIVRS program. Also significantly affected would be the American Indians with disabilities (559 in FY 2013) who would have sought VR services through these tribes.

The obvious sources to continue to provide VR services to American Indians with disabilities are the State VR programs. Section 121(b)(3) of the Rehabilitation Act of 1973, as amended, requires States to ''provide vocational rehabilitation services under its State plan to American Indians residing on or near a reservation whenever such State includes any such American Indians in its State population under section 110(a)(1).''

Of the six tribes that would be immediately affected by the change in proposed Alternative B, two tribes are in Washington State, three tribes are in Louisiana, and one tribe is in North Carolina. Information obtained from discussions with State VR Directors suggests that the State Division of Rehabilitation Services in Washington would be able to serve consumers currently being served by the two AIVRS grantees in that State, whereas Louisiana and North Carolina indicated that they would not be able to absorb the large number of individuals who would need to be served. In addition, Louisiana is under an order of selection whereby it only serves individuals with the most severe or significant disabilities. Therefore, it is unlikely that the current 121 consumers who do not have the most significant disabilities served by that project would be able to receive VR services under an order of selection.

On the other hand, because new grantees would replace the current grantees and provide VR services to American Indians with disabilities who need them in order to secure or maintain employment, the change would primarily involve a shift of resources among projects. Thus, there may not be a net effect in terms of the purpose of the program, which is to serve and place American Indians with disabilities into competitive employment.

In addition, the pool of eligible applicants for a grant under the AIVRS program includes all federally- and State-recognized tribes that are located on reservations as defined specifically by the statute. This is a large majority of the tribes. Currently, RSA provides funds to 85 tribal VR programs to provide VR services to American Indians with disabilities; consequently, the pool of potential applicants is still quite large, and the Department has information that eligible tribes that have not previously applied for an AIVRS grant are preparing to do so.

Under the capacity-building projects in section 21 of the Rehabilitation Act, the Department awards grants to provide support to traditionally underserved populations by conducting research, training, technical assistance, or a related activity to improve services provided under the Act. The grants included a project that conducted grant-writing workshops for American Indian tribes. The Director of this project indicated that, at a minimum, there are at least 12 eligible tribes that have attended the grant writing workshops that have not previously submitted applications for this program, and the tribes have expressed an intent to apply when the Department holds its next competition.

In summary, proposed Alternative B would have a major effect on a small number of current and future grantees. However, we would expect to fund new grantees at the same level as the current grantees. Therefore, the net effect of this proposed change is likely to be that it will not have a noticeable effect on the number of American Indians with disabilities served and placed in employment by the AIVRS program.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum ''Plain Language in Government Writing'' require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A ''section'' is preceded by the symbol ''§ '' and a numbered heading; for example, § 350.6.)
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

To send any comments that concern how the Department could make these proposed regulations easier to understand, see the instructions in the **ADDRESSES** section.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant impact on a substantial number of small entities. Applicants to RSA's AIVRS program are the governing bodies of Indian tribes or consortia of such governing bodies located on Federal and State reservations and are not considered small entities under the Regulatory Flexibility Act.

Paperwork Reduction Act of 1995

This proposed regulation does not contain any information collection requirements.

Intergovernmental Review

This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Tribal Summary Impact Statement

As the first step in soliciting feedback on a possible change in the Department's interpretation of ''reservation'' under the AIVRS program, and consistent with Executive Order 13175 entitled ''Consultation and Coordination With Indian Tribal Governments,'' the Department of Education published a Notice of Tribal Consultation and Request for Comments in the **Federal Register** on July 5, 2013 (78 FR 40458). That notice sought input from tribal officials, tribal governments, tribal organizations, and affected tribal members about a possible change in the Department's interpretation of the term of ''reservation'' as that term is used in determining AIVRS program grant eligibility.

The Department's request seeking input focused on three areas: (1) The potential effect on limiting eligibility for AIVRS grants to those Indian tribes (and consortia of tribes) located only on Federal and State reservations and the other land areas specifically listed in the statutory definition of ''reservation''; (2) for tribes that currently provide services under this program and that would not meet the revised interpretation of ''reservation,'' how the individuals receiving those services would continue to receive vocational rehabilitation services to help them in obtaining employment or returning to work; and (3) how a revised interpretation of ''reservation'' might affect the pool of potential applicants for the AIVRS program that have not previously applied but may consider applying for an AIVRS grant.

The Department received a total of 72 comments in response to the published notice, three of which did not respond directly to the areas on which the Department focused. The 69 remaining comments supported retaining the Department's current interpretation of ''reservation.'' With regard to the three specific areas on which the Department sought comment, 58 commenters believed that limiting eligibility to only those Indian tribes on Federal or State reservations as defined specifically in the statute would result in a loss of services or the availability of services to American Indians with disabilities; 25 commenters did not believe that the State VR program is as well prepared as the AIVRS projects to provide VR services, including traditional healing services, in a way that would be culturally sensitive to tribal consumers; and 11 commenters believed that a change to the interpretation of ''reservation'' would reduce the pool of potential applicants.

As a supplement to the **Federal Register** notice seeking input, program officials from the Department also participated in two face-to-face Tribal Consultation Listening Sessions that were held in August (Smith River, California) and September (Scottsdale, Arizona) 2013. The participants were asked to respond to the same three areas identified in the **Federal Register** notice. The comments provided by participants during these ''Listening Sessions,'' while much fewer in number, were comparable to those received in response to the **Federal Register** notice and were primarily from the same tribes that provided responses to the notice. These commenters supported retaining the current interpretation of ''reservation.'' They believed that, for those consumers receiving services under the AIVRS program, such services would not continue because tribal members would be reluctant to seek services from the State VR agencies or the agencies' case load would not be able to absorb them.

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 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. Catalog of Federal Domestic Assistance Number 84.250.

List of Subjects

34 CFR Part 369

Grant programs—social programs, Reporting and recordkeeping requirements, Vocational rehabilitation.

34 CFR Part 371

Grant programs—Indians, Grant programs—social programs Indians, Vocational rehabilitation.

Dated: June 16, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

For the reasons discussed in the preamble, the Secretary proposes to amend parts 369 and 371 of title 34 of

the Code of Federal Regulations as follows:

PART 369—VOCATIONAL REHABILITATION SERVICE PROJECTS

■ 1. The authority citation for part 369 continues to read as follows:

Authority: 29 U.S.C. 7011(c), 732, 750, 777(a)(1), 777b, 777f and 795g, unless otherwise noted.

■ 2. Section 369.4(b) is amended by revising the definition of ''Reservation'' to read as follows:

[Alternative A]

§ 369.4 What definitions apply to these programs?

* * * * *

(b) * * *

Reservation means a Federal or State Indian reservation; public domain Indian allotment; former Indian reservation in Oklahoma; land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act; or a defined area of land recognized by a State or the Federal Government where there is a concentration of tribal members and on which the tribal government is providing structured activities and services.

* * * * *

[Alternative B]

§ 369.4 What definitions apply to this program?

* * * * *

(b) * * *

Reservation means only a Federal or State Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

* * * * *

PART 371—VOCATIONAL REHABILITATION SERVICES PROJECTS FOR AMERICAN INDIANS WITH DISABILITIES

■ 3. The authority citation for part 371 continues to read as follows:

Authority: 29 U.S.C. 709(c) and 741, unless otherwise noted.

■ 4. Section 371.4(b) is amended by revising the definition of ''Reservation'' to read as follows:

[Alternative A]

§ 371.4 What definitions apply to this program?

* * * * *

(b) * * *

Reservation means a Federal or State Indian reservation; public domain Indian allotment; former Indian reservation in Oklahoma; land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act; or a defined area of land recognized by a State or the Federal Government where there is a concentration of tribal members and on which the tribal government is providing structured activities and services.

* * * * *

[Alternative B]

§ 371.4 What definitions apply to this program?

* * * * *

(b) * * *

Reservation means only a Federal or State Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, and land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act.

* * * * *

[FR Doc. 2014–14387 Filed 6–20–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 252

RIN 0750–AI30

Defense Federal Acquisition Regulation Supplement: Flowdown of Specialty Metals Restrictions (DFARS Case 2014–D011)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to clarify the flowdown requirements for the DFARS clause entitled ''Restriction on Acquisition of Certain Articles Containing Specialty Metals.''

DATES: *Comment date:* Comments on the proposed rule should be submitted in writing to the address shown below on or before August 22, 2014, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2014–D011, using any of the following methods:

○ *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS Case 2014–D011'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS Case 2014–D011.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS Case 2014–D011'' on your attached document.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2014–D011 in the subject line of the message.

○ *Fax:* 571–372–6094.

○ *Mail:* Defense Acquisition Regulations System, Attn: Ms. Amy G. Williams, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, Defense Acquisition Regulations System, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

The clause at DFARS 252.225–7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals, as prescribed at DFARS 225.7003–5(a)(2), implements 10 U.S.C. 2533b. This clause is used in solicitations and contracts, including solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, that exceed the simplified acquisition threshold and require the delivery of the following items, if such items contain specialty metals: Aircraft, missile or space systems, ships, tank or automotive systems, weapon systems, or ammunition, and components thereof. Except as provided in paragraph (c) of the clause, any specialty metals incorporated in items delivered under the contract shall be melted or produced

in the United States, its outlying areas, or a qualifying country.

DoD is proposing to revise paragraph (e) of this clause to clarify the requirement to flow this clause down to subcontracts.

II. Discussion and Analysis

In order to prevent misinterpretation of the current flowdown requirement to insert the ''substance of the clause'' in subcontracts, the flowdown requirement has been rewritten to specify that the only modifications allowed when flowing down the clause are as follows:

- Exclude and reserve paragraph (d) of the clause.
- Modify paragraph (c)(6) of the clause only as necessary to facilitate management of the allowance for up to 2 percent otherwise noncompliant specialty metal content in the end product, while recognizing that the minimal content exception does not apply to specialty metals contained in high-performance magnets.
- Not further alter the clause, other than to identify the appropriate parties.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because it is a clarification of an existing requirement. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

The reason for issuance of this proposed rule is to clarify the flowdown requirements for DFARS clause 252.225–7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals.

The objective of the rule is to more fully implement the requirements of 10 U.S.C. 2533b, which restricts the acquisition of specialty metals not melted in the United States, its outlying areas, or a qualifying country, in order to strengthen the United States industrial base.

This rule applies to DoD contractors and subcontractors that are providing aircraft, missile or space systems, ships, tank or automotive items, weapon systems, ammunition, or components thereof that contain specialty metals.

Based on FY 2013 data in the Federal Procurement Data System (FPDS), DoD awarded 1,566 contracts that exceeded the simplified acquisition threshold for aircraft, missile or space systems, ships, tank or automotive items, weapon systems, ammunition, or components thereof. Of those awards, 642 were to 533 unique small business entities. FPDS does not contain data on subcontracts. If we estimate an average of 20 subcontracts per contract for items containing specialty metals, and that 35 percent of those subcontracts are awarded to small businesses, 2 subcontracts per small entity, then this rule may apply to approximately 6,123 small business entities subject to DFARS 52.225–7009.

(1,566 × 20 = 31,320 × .35 = 10,962 × .5 = 5,481 small business subcontractors + 642 small business prime contractors = 6,123)

There are no reporting or recordkeeping requirements associated with this rule. With some exceptions, the rule requires contractors to provide certain end products containing specialty metals melted or produced in the United States, its outlying areas, or a qualifying country. However, end items may contain a minimal amount of otherwise noncompliant specialty metals, if the total weight of such noncompliant metals does not exceed 2 percent of the total of all specialty metals in the end item. Therefore, the contractor has some discretion in flowing down the requirement to subcontractors to the extent necessary to ensure compliance of the end products the contractor will deliver to the Government.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

DoD did not identify any alternatives to this rule that would reduce burdens on small entities and meet the objective of the rule. This rule does not impose any significant new burdens on small entities, because it only clarifies what was intended by the conventional statement to insert ''the substance of the clause'' in subcontracts for items containing specialty metals.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (DFARS Case 2014–D011), in correspondence.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Part 252

Government procurement.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

Therefore, 48 CFR part 252 is proposed to be amended as follows:

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for 48 CFR part 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

■ 2. Amend section 252.225–7009 by—

■ a. Removing the clause date ''(JUN 2013)'' and adding ''(DATE)'' in its place; and

■ b. Revising paragraph (e) to read as follows:

252.225–7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals

* * * * *

(e) *Subcontracts.*

(1) The Contractor shall exclude and reserve paragraph (d) and this paragraph (e)(1) when flowing down this clause to subcontracts.

(2) The Contractor shall insert paragraphs (a) through (c) and this paragraph (e)(2) of this clause in subcontracts, including subcontracts for commercial items, that are for items containing specialty metals to ensure compliance of the end products that the Contractor will deliver to the Government. When inserting this clause in subcontracts, the Contractor shall—

(i) Modify paragraph (c)(6) of this clause only as necessary to facilitate management of the minimal content

exception at the prime contract level. The minimal content exception does not apply to specialty metals contained in high-performance magnets; and

(ii) Not further alter the clause other than to identify the appropriate parties.

[FR Doc. 2014–14590 Filed 6–20–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2014–0023; 4500030113]

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition To List the Humboldt Marten as Endangered or Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of initiation of scoping and request for information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are gathering information to prepare a 12-month finding under the Endangered Species Act of 1973, as amended (Act), on a petition to list the current classification of Humboldt marten (*Martes caurina humboldtensis*) as an endangered or threatened species. We provide this notice to summarize the uncertainty regarding the subspecies taxonomic classification (based on current genetics information) and, therefore, our intent to conduct an evaluation of a potential distinct population segment (DPS) of martens in coastal northern California and coastal Oregon relative to the full species classification level. We will submit a 12-month finding on the petition to the **Federal Register** by April 1, 2015.

DATES: We request that we receive information on or before August 7, 2014. Information submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: You may submit information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R8–ES–2014–0023. You may submit information by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand delivery to: Public Comments Processing, Attn: FWS–R8–ES–2014–0023; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send information only by the methods described above. We will post all information we receive on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the **Information Requested** section below for more information).

FOR FURTHER INFORMATION CONTACT: Bruce Bingham, Field Supervisor, U.S. Fish and Wildlife Service, Arcata Fish and Wildlife Office, 1655 Heindon Road, Arcata, CA 95521; telephone 707–822–7201; or facsimile 707–822–8411. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

In a petition dated September 28, 2010 (Center for Biological Diversity (CBD) and Environmental Protection Information Center (EPIC) 2010), the petitioners requested that we consider for listing the (then-classified) subspecies Humboldt marten (*Martes americana humboldtensis*), *or* the (now-recognized) subspecies Humboldt marten (*M. caurina humboldtensis*), *or* the Humboldt marten Distinct Population Segment (DPS) of the Pacific marten (*M. caurina*). The petitioners further stipulated that, based on recent genetic analyses indicating that populations of marten from coastal Oregon are more closely related to *M. a. humboldtensis* than to *M. a. caurina* in the Cascades of Oregon (citing Dawson 2008, Slauson *et al.* 2009), the range of the subspecies or DPS of the Humboldt marten should be expanded to include coastal Oregon populations. On January 12, 2012, we published a substantial 90-day finding on the petition to list the Humboldt marten as an endangered or threatened species under the Act (77 FR 1900). For purposes of the 90-day finding, the common name Humboldt marten referred to the then-classified American marten (*M. americana*) populations in coastal northern California and coastal Oregon.

The American marten (*Martes americana*) was originally described as a single species by Turton (1806; entire), based on specimens from eastern North America. In 1890, Merriam (1890; entire) considered a new species, *M. caurina,* as those martens found west of the Rocky Mountains. In 1926, the Humboldt [Pine] marten (*M. c. humboldtensis*) was described as a subspecies of *M. caurina* (Grinnel and Dixon 1926, entire); historically, this subspecies was distributed throughout the coastal, fog-influenced coniferous forests of northern California from northwestern Sonoma County north to the Oregon border (Grinnel and Dixon 1926, entire). In 1953, Wright (1953; entire) described one species, the American marten (*M. americana*), which included as subspecies both the Humboldt [Pine] marten subspecies (*M. a. humboldtensis*), and the former western marten species (*M. caurina*), classified as *M. a. caurina.*

As noted above, at the time of our 90-day finding (77 FR 1900; January 12, 2012), the Humboldt marten was classified as *Martes americana humboldtensis.* Subsequently, Dawson and Cook (2012, entire) split the American marten, recognizing the Pacific marten (*M. caurina*) for all martens occurring west of the Rocky Mountain crest, based on genetic and morphological differences. While this split changed the species-level name of all martens occurring west of the Rocky Mountain crest from *M. americana* to *M. caurina,* subspecies epithets were not changed. Therefore, the current classification of the Humboldt marten in coastal northern California is *M. c. humboldtensis,* and the marten populations occurring in adjacent coastal Oregon are *M. c. caurina.* In addition, as currently recognized, populations of martens in the Oregon Cascades northward through the State of Washington and into British Columbia, Canada, are also *M. c. caurina.*

Ongoing genetic research indicates uncertainty in the Pacific marten subspecies delineations in California and Oregon. Specifically, the best available data indicate that the *Martes caurina humboldtensis* population in coastal northern California (Humboldt, Siskiyou, and Del Norte Counties) and the two *M. c. caurina* populations in coastal Oregon (Curry, Coos, coastal portion of Douglas, coastal portion of Lane, Lincoln, and Tillamook Counties) may be a single evolutionary unit (clade) (Slauson *et al.* 2009, p. 1,340; Schwartz *et al.,* in prep) (available for review at *http://www.regulations.gov,* Docket No. FWS–R8–ES–2014–0023). Although questions regarding the taxonomy of marten subspecies in northern California and Oregon are not new (i.e., both the petition we received (CBD and EPIC 2010) and our 90-day finding (January 12, 2012; 77 FR 1900) identified ongoing genetic research and taxonomic uncertainty), the best available information indicates that the original designation of two separate marten subspecies occurring in coastal

northern California and coastal Oregon may be invalid. However, there is currently insufficient information to conclude with reasonable certainty that coastal Oregon populations of Pacific marten should be classified as *M. c. humboldtensis.* Such a conclusion is confounded by small sample sizes and lack of corroborating information (e.g., similar morphological or physiological traits among the two clades) that would lend further support to a conclusion that these two groups should be considered the same subspecies.

According to section 3(16) of the Act, we may consider for listing any of three categories of vertebrate animals: A species, subspecies, or distinct population segment (DPS; see the Service's 1996 Policy Regarding the Recognition of Distinct Vertebrate Population Segments under the Endangered Species Act at 61 FR 4722). We refer to each of these categories as a potential ''listable entity.'' We have been petitioned to list collectively two groups of the Pacific marten (two populations in Oregon and one in California) that are currently recognized as belonging to two separate subspecies (as described above). To ensure we are evaluating the most accurate listable entity based on the best scientific and commercial data currently available (including unpublished genetics information), and to ensure we are being fully responsive to the petition (CBD and EPIC 2010), we consider it reasonable that a coastal distinct population segment (DPS) of the Pacific marten constitute the listable entity for our 12-month status review. As such, we consider this DPS to include the currently recognized *Martes caurina humboldtensis* (i.e., Humboldt marten) and the coastal populations of *M. caurina caurina* in Oregon (i.e., Oregon Coast Range group). We believe this entity is reasonable for consideration at this time given:

(1) The best available data (e.g., new genetics information, similar habitat usage) suggest that the coastal northern California marten population and the coastal Oregon marten populations may be a single evolutionary entity as opposed to two separate entities.

(2) Existing genetics information suggests that subspecies-level taxonomy of *M. c. humboldtensis, M. c. caurina,* and possibly other subspecies of the Pacific marten as currently classified may be inaccurate.

(3) The DPS policy states that the population segment under consideration must be evaluated for discreteness and significance in relation to the remainder of the taxon to which it belongs. Ordinarily, in the present case we would evaluate the marten populations relative to the subspecies to which they belong, but the populations in question currently represent two separate subspecies and there is uncertainty as to the legitimacy of those subspecies classifications, rendering such an evaluation invalid.

(4) Uncertainty in the subspecies-level taxonomy of Pacific marten logically necessitates that we elevate our evaluation of the DPS relative to the Pacific marten at the full species-level. In other words, we would apply the criteria for evaluating a coastal DPS of the Pacific marten relative to the full species Pacific marten (*Martes caurina*) as a whole.

(5) The DPS policy states that ''In all cases, the organisms in a population are members of a single species or lesser taxon.'' Therefore, given (1) through (4) above, we think that an evaluation at the species level is appropriate.

Under the DPS policy, two basic elements are considered in the decision regarding the establishment of a population of a vertebrate species as a possible DPS. The question as to whether a population or group of populations qualifies as a DPS requires a finding that the population is both: (1) Discrete in relation to the remainder of the taxon to which it belongs, and (2) biologically and ecologically significant to the taxon to which it belongs. If the population meets the first two criteria under the DPS policy, we then proceed to the third element in the process, which is to evaluate the population segment's conservation status in relation to the Act's standards for listing as an endangered or threatened species.

Under the DPS policy, a population segment of a vertebrate taxon may be considered discrete if it satisfies either one of the following conditions:

(1) It is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors. Quantitative measures of genetic or morphological discontinuity may provide evidence of this separation.

(2) It is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act. As the marten populations in question here do not transcend an international boundary, this criterion does not apply.

If we determine that a vertebrate population segment is discrete under one or more of the conditions described in our DPS policy, then we consider its biological and ecological significance to the larger taxon to which it belongs. Because precise circumstances are likely to vary considerably from case to case, the DPS policy does not describe all the classes of information that might be used in determining the biological and ecological importance of a discrete population. However, the DPS policy describes four possible classes of information that provide evidence of a population segment's biological and ecological importance to the taxon to which it belongs. This consideration of the population segment's significance may include, but is not limited to, the following:

(1) Persistence of the discrete population segment in an ecological setting unusual or unique to the taxon;

(2) Evidence that loss of the discrete population segment would result in a significant gap in the range of a taxon;

(3) Evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historical range; or

(4) Evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics.

A population segment needs to satisfy only one of these conditions to be considered significant. Furthermore, other information may be used as appropriate to provide evidence for significance.

As indicated above, we anticipate concluding an evaluation of the coastal DPS of Pacific marten and submitting a 12-month finding to the **Federal Register** by April 1, 2015. We appreciate any information regarding our consideration of the coastal northern California and coastal Oregon populations of Pacific marten as a single listable entity (see **Information Requested**).

Information Requested

We will accept written information during this 45-day scoping period on our future 12-month finding evaluation of the putative coastal DPS of Pacific marten. We will consider information from all interested parties. We intend that any final action resulting from our evaluation be as accurate as possible and based on the best available scientific and commercial data.

We are interested in the following information for Pacific martens, specifically Humboldt martens in coastal northern California and coastal Oregon populations of Pacific marten:

(1) Habitat requirements for feeding, breeding, and sheltering.

(2) Genetics and taxonomy, especially:

(a) Information (e.g., morphological, genetic, physiological, ecological, behavioral) supporting or contesting current subspecies taxonomy of *Martes caurina* in coastal northern California and Oregon.

(b) Information supporting or contesting the validity of the historical geographic boundaries of the Pacific marten subspecies, *Martes caurina caurina.*

(3) Information to inform a DPS designation, especially:

(a) Information supporting or contesting the combining of the population of Pacific martens in northwest California with the coastal Oregon populations as a single listable entity under our DPS policy.

(b) Information to inform our evaluation as to whether martens in coastal northern California and coastal Oregon do or do not meet the criteria for discreteness and significance under our DPS policy.

(4) The factors that are the basis for making a listing determination for a species, subspecies, or DPS under section 4(a) of the Act (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

(5) Exposure to toxicants, including anticoagulant rodenticides, including information related to:

(a) Scope of exposure within coastal northern California and coastal Oregon;

(b) Severity of exposure to individuals; and

(c) Potential impacts of exposure to populations.

(6) Historical and current range of the Pacific marten in coastal northern California and coastal Oregon, including distribution patterns.

(7) Historical and current population levels of the Pacific marten in coastal northern California and coastal Oregon, and current and projected trends.

(8) Past and ongoing conservation measures for the Pacific marten in coastal northern California and coastal Oregon, or its habitat.

(9) Effects of climate change on habitat of the Pacific marten, including changes in fire frequency and intensity.

(10) Whether our suggested approach to evaluating the presently recognized subspecies Humboldt marten (*M. c. humboldtensis*) collectively with the Oregon coastal populations of the Pacific marten (a subset of *M. c. caurina*) as a potential single DPS of the full species *Martes caurina* is supported by the best available scientific and commercial data.

If you submitted comments or information on the 90-day finding (77 FR 1900) during the initial comment period from January 12, 2012, to March 12, 2013, please do not resubmit them. We will incorporate them into the public record and we will fully consider them in the preparation of our 12-month finding. Our 12-month finding will take into consideration all written comments and any additional information we receive during the previous comment period and this scoping period. If you submit information during this scoping period, please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include. You may submit your information by one of the methods listed in **ADDRESSES**. We request that you send information only by the methods described in **ADDRESSES**.

If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. We will post all hardcopy information received on *http://www.regulations.gov* as well. If you submit hardcopy information that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Information we receive, as well as supporting documentation we use in preparing our 12-month finding, will be available via Docket No. FWS–R8–ES–2014–0023 upon publication of our 12-month finding in the **Federal Register**.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Arcata Fish and Wildlife Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Author

The primary authors of this notice are the staff members of the Pacific Southwest Regional Office and Arcata Fish and Wildlife Field Office.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: June 12, 2014

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–14513 Filed 6–20–14; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 79, No. 120

Monday, June 23, 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

Office of the Secretary

Notice of Solicitation of Members to the National Agricultural Research, Extension, Education, and Economics Advisory Board

AGENCY: Research, Education, and Economics, USDA.

ACTION: Solicitation for membership.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the United States Department of Agriculture announces solicitation for nominations to fill 8 vacancies on the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATES: Deadline for Advisory Board member nominations is July 18, 2014.

ADDRESSES: The nominee's name, resume, completed Form AD–755, and any letters of support must be submitted via one of the following methods:

(1) Email to *Michele.esch@usda.gov* and *Shirley.morgan@ars.usda.gov;* or

(2) By mail delivery service to Thomas Vilsack, Secretary, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250, Attn: NAREEE Advisory Board, Room 332A, Whitten Building.

FOR FURTHER INFORMATION CONTACT: Michele Esch, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, 1400 Independence Avenue SW., Room 332A, Whitten Building, Washington, DC 20250–2255, telephone: 202–720–3684; fax: 202–720–6199; email: *michele.esch@ars.usda.gov*. Committee Web site: *www.nareeeab.ree.usda.gov*.

SUPPLEMENTARY INFORMATION: The National Agricultural Research, Extension, Education, and Economics Advisory Board was established in 1996 via Section 1408 of the *National Agricultural Research, Extension, and Teaching Policy Act of 1977* (7 U.S.C. 3123) to provide advice to the Secretary of Agriculture and land-grant colleges and universities on top priorities and policies for food and agricultural research, education, extension and economics. Section 1408 of the *National Agricultural Research, Extension, and Teaching Policy Act of 1977* (7 U.S.C. 3123) was amended by the Farm Security and Rural Investment Act of 2008 by deleting six membership categories in the National Agricultural Research, Extension, Education, and Economics Advisory Board, which totals 25 members. Since the Advisory Boards inception by congressional legislation in 1996, each member has represented a specific category related to farming or ranching, food production and processing, forestry research, crop and animal science, land-grant institutions, non-land grant college or university with a historic commitment to research in the food and agricultural sciences, food retailing and marketing, rural economic development, and natural resource and consumer interest groups, among many others. The Board was first appointed by the Secretary of Agriculture in September 1996 and one-third of its members were appointed for a one, two, and three-year term, respectively. The terms for 8 members who represent specific categories will expire September 30, 2014. Nominations for a 3-year appointment for these 8 vacant categories are sought. All nominees will be carefully reviewed for their expertise, leadership, and relevance to a category.

The 8 slots to be filled are:

Category B. Farm Cooperatives
Category D. Plant Commodity Producer
Category E. National Aquaculture Association
Category H. National Food Science Organization
Category J. National Nutritional Science Society
Category K. 1862 Land-Grant Colleges and Universities
Category M. 1994 Equity in Education Land-Grant Institutions
Category Y. National Social Science Association

Nominations are solicited from organizations, associations, societies, councils, federations, groups, and companies that represent a wide variety of food and agricultural interests throughout the country. Nominations for one individual who fits several of the categories listed above, *or* for more than one person who fits one category, will be accepted. In your nomination letter, please indicate the specific membership category for each nominee. Each nominee must submit form AD–755, ''Advisory Committee Membership Background Information'' (which can be obtained from the contact person below or from: *http://www.ocio.usda.gov/sites/default/files/docs/2012/AD-755_Master_2012_508%20Ver.pdf*). All nominees will be vetted before selection.

Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or sexual orientation. To ensure that recommendations of the Advisory Board take into account the needs of the diverse groups served by the USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities. Please note that registered lobbyist and individuals already serving another USDA Federal Advisory Committee, are ineligible for nomination.

Appointments to the National Agricultural Research, Extension, Education, and Economics Advisory Board will be made by the Secretary of Agriculture.

Done at Washington, DC, this 17th day of June 2011.

Ann Bartuska,

Deputy Under Secretary, Research, Education, and Economics.

[FR Doc. 2014–14578 Filed 6–20–14; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Forest Service

Davy Crockett Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Davy Crockett Resource Advisory Committee (RAC) will meet in Ratcliff, Texas. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (Pub. L. 110–343)

(the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. The meeting is open to the public. The purpose of the meeting is to discuss the proposal of new Title II projects.

DATES: The meeting will be held at 6:00 p.m. on July 31, 2014.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Davy Crockett National Forest (NF) Ranger Station, Conference Room, 18551 State Highway 7 East, Kennard, Texas. If you would like to attend via teleconference, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Davy Crockett NF Ranger Station. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Michelle Rowe, RAC Coordinator, by phone at 936–655–2299 extension 230, or via email at *lrowe@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 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *https://fsplaces.fs.fed.us/fsfiles/unit/wo/secure_rural_schools.nsf/RAC/ABB47F5A670D58A688256DC9005B5AD5?OpenDocument.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by July 15, 2014 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Gerald Lawrence, Jr., Designated Federal Officer, 18551 State Highway 7 East, Kennard, Texas 75847; by email to *glawrence@fs.fed.us* or via facsimile to 936–655–2817.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: June 17, 2014.

Gerald Lawrence, Jr.,

Designated Federal Officer.

[FR Doc. 2014–14554 Filed 6–20–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596–AD14

Ski Area Water Rights on National Forest System Lands

AGENCY: Forest Service, USDA.

ACTION: Notice of Proposed Directive; Request for Public Comment.

SUMMARY: The U.S. Forest Service (Forest Service or Agency) is proposing to amend its internal directives for ski area concessions by adding two clauses to the Special Uses Handbook, FSH 2709.11, chapter 50, to address water rights necessary for and that primarily support operation of ski areas on National Forest System (NFS) lands. A revised water rights clause for ski area permits is needed because the current water rights clause cannot be implemented as intended in many States and because the current clause does not ensure that sufficient water is available for operation of ski areas on NFS lands. Implementation of a revised water rights clause would ensure that water will be available for ski areas on NFS lands. Additionally, there would be greater consistency and accountability in authorization of water uses and ownership of water rights for ski areas.

DATES: Comments must be submitted in writing by August 22, 2014.

ADDRESSES: Send comments electronically by following the instructions at the Federal eRulemaking portal at *http://www.regulations.gov*. Comments also may be submitted by mail to USDA Forest Service, Attn: Carolyn Holbrook, Recreation, Heritage, and Volunteer Resources staff, Ski Area Water Rights Comments, 1400 Independence Avenue SW., Stop 1125, Washington, DC 20250–1125. Comments may also be submitted electronically to *skiareawaterrights@fs.fed.us*. If comments are sent electronically, duplicate comments should not be sent by mail. Hand-delivered comments will not be accepted. All comments, including names and addresses when provided, will be placed in the record and will be made available for public review and copying. Those wishing to review comments should call Carolyn Holbrook at (202) 205–1426 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: Carolyn Holbrook, Recreation, Heritage, and Volunteer Resources staff, 202–205–1426, or Jean Thomas, Watershed, Fish, Wildlife, Air, and Rare Plants staff, 202–205–1172.

SUPPLEMENTARY INFORMATION:

1. Background and Need for the Proposed Directive

The Forest Service is proposing a revised clause to address water rights utilized in support of ski areas on NFS lands. One of the statutory duties of the Forest Service is to administer National Forest System (NFS) lands to provide outdoor recreation to the American public on a sustainable basis. Water for snowmaking and domestic uses is critical to the continuation of resort-based skiing on NFS lands. Because of this, the Forest Service requires ownership by the United States, either solely or in narrow circumstances jointly with the permit holder, of water rights developed on NFS lands to support operation of ski areas. This policy was adopted due to concern that if water rights used to support ski area operations are severed from a ski area the Forest Service will lose the ability to offer the area to the public for skiing. An example of this is when water rights are sold for other purposes.

It has long been the policy of the Forest Service that permit holders must acquire water rights in the name of the United States for water diverted from and used on NFS lands pursuant to special use authorizations in furtherance of the Agency's congressionally mandated multiple-use objectives through the Multiple-Use Sustained-Yield Act (MUSYA) of 1960, which include range, watershed, timber, fish and wildlife, and outdoor recreation. The reason for this policy is straightforward: Congress has directed the Agency to manage National Forests

to provide for specified multiple uses, including outdoor recreation, ''in perpetuity'' (16 U.S.C. 531(b)), and water is of critical importance to the Agency's ability to meet that mandate. Without water for snowmaking and domestic uses, ski areas on NFS lands would not be able to operate. However, the Forest Service does not require United States ownership of water rights for reservoirs, pipelines, or other water storage or conveyance infrastructure that is for water use on private or non-Forest Service land, such as water used by municipalities, irrigation districts, and private industries. The use of NFS lands for these infrastructures merely involve access to NFS lands through a Special Use Authorization.

To effectuate the policy, the Forest Service Manual (FSM) included directives since 1982 that require the United States to own water rights for water diverted from and used on NFS lands as a condition of issuance of special use authorizations for activities that further MUSYA objectives. For example, a 1982 permit clause for ski areas in the Forest Service's Rocky Mountain Region required that ''[a]ll water rights obtained by the permittee for use on the area must be acquired in the name of the United States''; a 1989 ski area permit clause in that Region provided that water rights ''shall be acquired in the name of or transferred to the United States''; and a 1997 national clause for recreation uses authorized under term permits required that ''all water rights obtained by the holder for use on the area authorized must be acquired in the name of the United States.''

In 2004, after extensive discussion with the National Ski Areas Association (NSAA), the Forest Service adopted a new water rights clause for inclusion in ski area permits. In a significant departure from prior policy, the 2004 clause provided that after June 2004, rights to water diverted from and used on NFS lands inside the permit area would be jointly held by the United States and the permit holder. The 2004 clause did not address ownership of water rights that were acquired before June 2004, water rights for diversions from NFS lands, or private lands outside the permit boundary.

As the Forest Service began utilizing the 2004 clause, it become apparent that it did not operate to effectuate co-ownership of a 100 percent interest in NFS ski area water rights as intended and there were substantial misunderstandings as to its meaning with regard to application of the Forest Service's water rights policy to NFS ski area water rights. Based on these concerns, the Agency decided to revise the 2004 Clause.

On November 8, 2011, the Forest Service issued an interim directive replacing the 2004 Clause with a revised water rights clause (2011 Clause). In contrast to the 2004 Clause, the 2011 Clause addressed the different types of water rights associated with ski areas, the need to ensure that ski area water rights remain available to support the ski area, and the ability of the United States to effectuate the provisions of the clause.

The 2011 Clause identified three categories of water rights associated with ski areas: (1) Water rights for water diverted from and used on NFS lands in the permit area; (2) water rights for water diverted from NFS lands outside the permit area for use on NFS lands inside the permit area; and (3) water rights for water purchased or leased by the holder and water rights for water diverted from non-NFS lands.

Consistent with the 2004 Clause, the 2011 Clause provided that water rights for water diverted from and used on NFS lands in the permit area that were acquired after the effective date of the 2004 Clause must be jointly owned. For clarity, the 2011 Clause included provisions expressly effectuating a joint tenancy with a right of survivorship for jointly held water rights. Water rights in this category that were acquired prior to the effective date of the 2004 Clause were governed by the terms of the permit under which they were acquired. The United States had to exercise its joint ownership of ski area water rights only in support of the authorized ski area. Likewise, the permit holder could not sever its joint ownership from the ski area.

The 2011 Clause provided that water rights for water diverted from NFS lands outside the permit area for use on NFS lands inside the permit area had to be authorized by a separate permit, and addressed ownership of these water rights based on when they were acquired. Water rights in this category that were acquired after the effective date of the 2011 Clause had to be acquired in the name of the United States. Ownership of water rights in this category that were acquired prior to adoption of the 2011 Clause was governed by the permit terms under which the water rights were acquired. Under the 2011 Clause, the holder could not sever these water rights from the ski area.

The 2011 Clause also made clear that water rights purchased or leased by the permit holder could be solely owned by the holder even if they were changed or exchanged to a point of diversion and use on NFS lands in the permit area (changed or exchanged water rights). The 2011 Clause provided that changed or exchanged water rights and water rights for water diverted from non-NFS lands for use on NFS lands in the permit area that were acquired after issuance of the 2011 Clause could not be divided or transferred or severed from the ski area.

The 2011 Clause provided that upon termination or revocation of the permit, the holder had to transfer to any succeeding permit holder its interest in water rights for water diverted from and used on NFS lands within the permit area; water rights for water diverted from non-NFS lands for use on NFS lands in the permit area that were acquired after the effective date of the 2011 Clause; and water rights that were changed or exchanged after the effective date of the 2011 Clause. If the ski area was not reauthorized, the permit holder's interest in jointly held water rights had to be transferred to the United States. For water rights owned solely by the holder, the holder had the option of removing the diversion structures and water use off NFS lands or transferring the water rights to the United States.

The 2011 Clause included a provision granting limited power of attorney to the United States to execute documents on behalf of the holder as necessary to ensure that water rights were acquired and transferred as required by the 2011 Clause. The 2011 Clause also obligated the holder to waive any claims against the United States for compensation in connection with application of the 2011 Clause.

On March 6 2012, the Forest Service issued an interim directive clarifying and modifying the 2011 Clause (2012 Clause). The 2012 Clause modified the 2011 Clause in several respects. First, the Agency clarified that the Forest Service would not take any action with respect to its water rights that would adversely affect the availability of water for operation of the authorized ski area unless necessary to fulfill legal requirements. Second, the Agency clarified that for water rights for water diverted from NFS lands, the ski area could divide or transfer its ownership interest or sever its ownership interest from the ski area with the consent of the Forest Service. Third, the Agency removed any restrictions on the holder's ability to sever water rights for water diverted from non-NFS lands for use on NFS lands in the permit area.

The NSAA filed a lawsuit in the United States District Court for the District of Colorado on March 12, 2012, opposing use of the 2011 and 2012 Clauses. On December 19, 2012, the

court ruled that the Forest Service failed to comply with the Administrative Procedure Act and the National Forest Management Act by not providing an opportunity for public notice and comment on the 2011 and 2012 interim directives and that the Agency needed to conduct a Regulatory Flexibility Act analysis of the impact of the directives on small business entities that hold ski area permits. The court did not rule on the substance of the interim directives. The court vacated the interim directives and enjoined enforcement of the 2011 and 2012 Clauses in permits that contained them.[1]

Publishing this proposed directive for public comment corrects procedural deficiencies associated with the 2011 and 2012 ski area water rights clauses that were identified by the court and allows those who would be affected by the proposed directive to participate in its development.

The Forest Service reached out to stakeholders by conducting four listening sessions and three open houses in April 2013 to identify interests and views from a diverse group of stakeholders regarding a revised water rights clause for ski areas (78 FR 21343, Apr. 10, 2013). Two listening sessions were held in Washington, DC; one was held in Denver, Colorado; and one was held in the Lake Tahoe area in California. Approximately 21 people attended the listening sessions. Open houses were held in Denver, Colorado; Salt Lake City, Utah; and the Lake Tahoe area in California. To generate discussion, stakeholders were presented with four themes at the meetings: The role of ski areas in ensuring natural resource sustainability, availability of water to support ski are improvements, economic sustainability, and ensuring long-term commitment of water for use at ski areas.

Approximately 40 people attended the open houses. Additionally, participants were invited to submit comments electronically by May 10, 2013. Fourteen comments were received. The input from these listening sessions and open houses (hereinafter ''stakeholder recommendations'') was considered in the development of this proposed directive. A summary of the stakeholder recommendations follows.

Stakeholder Recommendations

General Recommendations

- Do not issue a ski area water rights clause. The United States should apply for water rights in its own name and participate in State proceedings.
- Follow applicable State water law and pertinent Supreme Court decisions.
- Conduct a negotiated rulemaking to establish a new ski area water rights clause and obtain an outside facilitator.
- All previous ski area water rights clauses must be declared null and void.
- Rescind water rights clauses for other types of special uses.
- Intergovernmental and private contractual agreements regarding water rights are essential in Colorado and are difficult to replicate. It would be difficult for a new permit holder to duplicate the complex water rights agreements that currently support ski areas.

Analysis Recommendations

- Assess the sufficiency of water during project analysis, including consideration of current operations.
- Assess impacts of proposals on water quality and downstream water needs.
- Assure that sufficient water is available for both current and future ski area needs to protect business operations and local recreation economies.
- Determinations of water sufficiency and fair market value should be made by a third party with substantial experience in ski area operations and water right appraisals.
- The applicable Forest plan should establish whether winter use is appropriate and how much water is available for winter use. Ski area modifications, additions, or expansions that require water could be limited to the scope of winter use and water for winter use contemplated by the applicable Forest plan.
- Requirements to operate snowmaking and other facilities in accordance with the applicable master development plan may be adequate to ensure sufficient water for ski area operations.
- Do not be short-sighted about the use of resources to benefit for-profit business versus the future of natural resources.

Clause Recommendations

- Require that water rights associated with all water necessary to operate a ski area be committed to that use in perpetuity.
- Do not allow ski areas to own water rights on leased land.
- The water should remain tied to the land.
- Require a deed restriction to ensure that privately owned water rights are not severed from NFS lands.
- Create procedures that safeguard against severance of water rights from ski areas.
- Ski areas should commit to retaining water rights with the land over the term of the permit.
- Add a provision stating that a water rights clause that reduces the availability of water on or to NFS lands may injure resources and therefore is presumed to be contrary to the public interest.
- A concern regarding adequacy of water may arise if a prospective permit holder has not acquired sufficient water rights, and the current permit holder retains or sells water rights that have been historically used at the ski area.
- It may be helpful to require the Agency to make a determination of whether a prospective permit holder has acquired sufficient water rights for future ski area operations.
- The permit needs to describe the ground rules or responsibilities for the ski area when acting as the agent of the Forest Service with respect to water rights.
- Specify how compliance with the water rights clause will be measured.
- Factor the value of water rights into ski area permit fees.
- Forest Service ownership of water rights would create a disincentive for private investment.
- A clause that requires transfer of ownership to the United States or that restricts transfer of ski area water rights would substantially impair the value of ski area investments.
- The Forest Service does not need to assure long-term economic health of the ski industry.
- Ski areas have proven experience with water rights; the Forest Service has uneven knowledge of water rights.
- Water rights are an asset like a ski lift that needs to be managed by the ski area.
- Water rights are private property rights, not publicly owned resources.
- Distinguish between newly acquired water rights and existing water rights.
- Do not require change of ownership of existing, privately owned water rights.
- Do not require transfer of privately owned water rights to the United States without compensation; that would constitute a taking.
- Do not require joint ownership of water rights; that could constitute a taking.
- There are legal differences between ski area water rights located inside and ski area water rights located outside the permitted area.
- Water rights on private and other non-Federal land should not be treated

[1] *National Ski Areas Association, Inc.* v. *United States Forest Service,* 910 F. Supp. 2d 1269 (D. Colo. 2012).

the same as water rights on NFS lands within a ski area permit boundary.

- Recognize different requirements for water rights and water use in different jurisdictions.
- Do not establish terms that conflict with municipal water rights and associated agreements between suppliers and ski areas.
- Require ski area permit holders to provide written notice in advance of any water right application, including notice of filings to change a point of diversion or beneficial use.
- Provide an initial option to a subsequent ski area owner to purchase the water rights necessary to operate the ski area; provide a second option to local government to purchase those water rights; and provide a third option to the Forest Service to purchase those water rights.
- Condition the quantity rather than the ownership of water rights, for example, require ski areas to maintain a specific quantity of water rights.

These comments are addressed in the section-by-section analysis of the proposed directive to the extent they were utilized in the development of the proposed directive.

Public Notice and Comment

Establishing terms that govern water rights associated with a ski area permit is necessary to communicate clear expectations and to achieve consistency in administration of special uses among Forest Service administrative units. Pursuant to the court order in *National Ski Areas Association* v. *United States Forest Service,* the Forest Service is providing an opportunity for public comment in revising the water rights clause for ski areas. Comments received during the public comment period will be assessed in developing the final directive. The scope of this proposed directive is water rights clauses for ski area permits. Water rights clauses for other types of special uses are not addressed.

2. Background on the Forest Service's Regulatory Authority for Special Uses

The Forest Service's authority to manage lands under its jurisdiction derives from the Property Clause of the United States Constitution, which empowers Congress to ''make all needful Rules and Regulations respecting the . . . Property belonging to the United States.'' [2] The Supreme Court has emphasized that Congressional authority over Federal lands is ''without limitations.'' [3] In turn, Congress entrusted the Forest Service with authority to ''make such rules and regulations and establish such service as will insure the objects of the [national forests], namely to regulate their occupancy and use and to preserve the forests thereon from destruction.'' [4] The Organic Administration Act constitutes an ''extraordinarily broad'' delegation to the Forest Service to regulate use of NFS lands and ''will support Forest Service regulations and management . . . unless some specific statute limits Forest Service powers.'' [5] [6] In the Organic Administration Act, Congress explicitly recognized that Forest Service regulations may impact the use of water on NFS lands (16 U.S.C. 481) (water on NFS lands may be used ''under the laws of the United States and the rules and regulations established thereunder'').

The Forest Service has broad authority to regulate and condition the use and occupancy of NFS lands under the Term Permit Act of 1915 (16 U.S.C. 497), which authorizes the Secretary of Agriculture to permit use and occupancy of National Forest land ''upon such terms and conditions as he may deem proper''; the Multiple Use—Sustained Yield Act (MUSYA) (16 U.S.C. 529), which authorizes the Secretary of Agriculture to develop and administer the surface resources of the National Forests; and the Federal Land Policy and Management Act (FLPMA) (43 U.S.C. 1765), which authorizes the Secretary of Agriculture to impose terms and conditions of rights-of-way on Federal land. In 1986, Congress directly addressed the Forest Service's authority to regulate development of ski areas on NFS lands. In the National Forest Ski Area Permit Act of 1986 (16 U.S.C. 497b), Congress explicitly provided that permits are to be issued ''subject to such reasonable terms and conditions as the Secretary deems appropriate'' (16 U.S.C. 497(b)(7)).

Special Use Authorizations

Consistent with its constitutional and statutory authority, the Forest Service regulates the occupancy and use of NFS lands, including ski area operations, through issuance of special use permits and other authorizations (36 CFR part 251, subpart B). The Forest Service must include in special use authorizations terms and conditions that the Forest Service deems necessary to protect Federal property and economic interests (36 CFR 251.56(a)(ii)(A)); manage efficiently the lands subject to and adjacent to the use (36 CFR 251.56(a)(ii)(B)); protect the interests of individuals living in the general area of the use who rely on resources of the area (36 CFR 251.56(a)(ii)(E)); and otherwise protect the public interest (36 CFR 251.56(a)(ii)(G)).

The Forest Service's Directive System

By regulation, the Forest Service has also established the Directive System, through which the Chief and specified Line Officers can issue directives setting forth the Agency's administrative policy, procedure, and guidance (36 CFR 200.4(b)(1)). The Directive System consists of the Forest Service Manual (FSM) and a series of Forest Service Handbooks (FSHs), which serve as the primary source of administrative direction to Forest Service employees. The Special Uses Handbook, FSH 2709.11, governs special uses, including ski areas on NFS lands.

Proposed Water Rights Clause for Prior Appropriation States

The proposed water rights clause for prior appropriation States would modify the Forest Service's approach to accomplishing the objective of long-term availability of water to sustain ski area uses. Unlike water rights diverted from and used on NFS lands by holders of other types of special use authorizations, water rights for water diverted from and used on NFS lands for ski area purposes involve long-term capital expenditures. In States like Colorado and New Mexico, holders of ski area permits may have to purchase senior water rights at considerable expense to meet current requirements for snowmaking to maintain viability. Holders of ski area permits need to show the value of these water rights as business assets, particularly during refinancing or sale of a ski area. The value of these water rights is commensurate with the significant investment in privately owned improvements at ski areas. These investments were recognized by Congress in enactment of the National Forest Ski Area Permit Act, which authorizes permit terms of up to 40 years. 16 U.S.C. 497b(b)(1). In addition to these financial issues, the land ownership patterns at ski areas—particularly the larger ones—often involves a mix of NFS and private lands both inside and outside the ski area permit boundary, making it difficult to implement a policy of sole Federal ownership for NFS ski area water rights. Much of the development at ski areas is

[2] U.S. Const. art. IV, sec. 3, cl. 2.

[3] *Kleppe* v. *New Mexico,* 426 U.S. 529, 539 (1976).

[4] Organic Administration Act of 1897 (16 U.S.C. 551).

[5] Charles F. Wilkinson & H. Michael Anderson, *Land and Resource Planning in the National Forests* 59 (1987).

[6] *Wyoming Timber Indus. Ass'n* v. *United States Forest Serv.,* 80 F. Supp. 2d 1245, 1258–59 (D. Wyo. 2000).

located on private lands at the base of the mountains. As a result, water diverted and used on NFS lands in the ski area permit boundary is sometimes used on private land, either inside or outside the permit boundary.

Therefore, the Forest Service is proposing to require non-severability, rather than United States ownership, of NFS ski area water rights. In the context of the proposed clause, non-severability means that a privately owned water right could not be sold separately from other ski area assets (e.g., improvements such as lifts and lodges). Non-severability would prevent ski area permit holders from taking any action during the term of the permit that would adversely affect the availability of applicable water rights to support operation of the ski area. By providing for non-severability of NFS ski area water rights, the Agency will be able to ensure continued availability of water to support ski area operations, so that the Agency can fulfill its mandate to provide for recreational use of NFS lands.

The proposed directive would have no effect on water rights clauses in existing ski area permits that predate the 2011 and 2012 clauses. In addition, other aspects of the Forest Service's water rights policy, such as approval of water facilities, would remain the same for ski areas as it is for other types of special uses. Furthermore, the proposed directive would have no effect on the Forest Service's water rights policy for other multiple uses since water rights for those uses would continue to be owned and administered in accordance with applicable directives and permit clauses.

3. Section-by-Section Analysis of Proposed Changes

The Forest Service is proposing to add two clauses for ski area water rights to FSH 2709.11, section 52.4: Clause D–30 would be used in States that follow prior appropriation law for managing water rights, and Clause D–31 would be used in States that follow riparian law for managing water rights. Under a prior appropriation system, water rights may be severed from the land in some States. Under a riparian system, water rights are appurtenant to the land. This approach responds to the recommendation that a water rights clause should recognize different requirements for different jurisdictions. The chart below identifies which clause would be used for ski area permits in various states.

D–30 Clause—prior appropriation	D–31 Clause—riparian
Arizona	Michigan.
California	New Hampshire.
Colorado	Vermont.
Idaho	
Montana	
Nevada	
New Mexico	
Oregon	
Utah	
Washington	
Wyoming	

Clause D–30. Water Facilities and Water Rights—Ski Areas in Prior Appropriation States

Instructions for the Prior Appropriations Water Rights Clause

The first paragraph of the instructions would provide direction to permit administrators on when to use the prior appropriation clause. The first paragraph would limit clause D–30 to ski areas in prior appropriation States; provide that clause D–30 supersedes existing national and regional ski area water rights clauses in the Directive System in prior appropriation States; and provide for inclusion of the clause when a ski area permit is reissued or modified per 36 CFR 251.61 in a prior appropriation State.

The second paragraph would instruct that before issuing a new or modified permit in a prior appropriation State, Authorized Officers shall: Ensure that the holder is in compliance with all water facility and water use requirements in clause D–30; inventory ski area water rights; classify the ski area's water rights consistent with the tables in clause D–30; and ensure that the water rights inventory in paragraph 8 of clause D–30 is approved in writing by the Regional Forester prior to issuance or amendment of a ski area permit.

The third paragraph would provide for amending the permit to update the water rights inventory, as appropriate.

The fourth paragraph would limit water rights and water developments under a ski area permit to those that are necessary for and that primarily support the operation of the ski area; would provide that all water facilities and water rights that meet these criteria, regardless of whether they are for diversions on NFS lands inside or outside the permit boundary, should be included in the ski area permit; and would define what it means to be necessary for and primarily support the operation of a ski area.

The fifth paragraph would provide instructions for use of an optional provision when restrictions on water withdrawal are required by a regulation or policy, an adjudication, or a settlement agreement or are based on a decision document supported by environmental analysis; provide instructions for use of an additional provision in California, which has a riparian system in addition to a prior appropriation system; and require an analysis of water sufficiency prior to authorizing a permit amendment for a new water development.

The sixth paragraph would provide that prior to authorizing a permit amendment for a new water facility at a ski area, the Authorized Officer shall ensure that sufficient water is available to operate the water facility.

The last paragraph would provide that when bonding is required, direction in FSM 6560 applies and standard forms for bonding should be utilized.

These instructions on when and how to use clause D–30 are being added to FSH 2709.11, sec. 52.4, to provide direction to permit administrators to enhance consistency and accountability in authorization of water uses and ownership of water rights for ski areas. The instructions incorporate several focus group recommendations, including providing a water rights clause for prior appropriation States and a water rights clause for riparian States to recognize differences among jurisdictions; providing for the proposed clause to supersede existing water rights clauses in the Directive System; and requiring that a determination of whether sufficient water is available be made prior to authorizing new water developments.

Paragraph F—Water Facilities and Water Rights. Paragraph F would define *''necessary''* and *''primarily supports''* in relation to a water facility or water right.

Paragraph 1—Water Facilities. This paragraph contains subparagraphs a through h. Paragraph 1a would explain what constitutes a water facility; paragraph 1b would require that water facilities on NFS lands must be expressly authorized in a permit; paragraph 1c would provide that the United States can place conditions on water facilities deemed necessary to protect public property, public safety, and natural resources on NFS lands; paragraph 1d would provide that only water facilities that are necessary for and that primarily support the operation of a ski area on NFS lands be included in a ski area permit; paragraph 1e would provide that any change in water facilities must be expressly authorized by amendment to a permit; paragraph 1f would provide that a separate special use authorization is required for water

facilities on NFS lands if they do not primarily support operation of the ski area; paragraph 1g would be incorporated as needed and would document restrictions on withdrawal and use of water when applicable; and paragraph 1h would be added for ski areas in California, which has both prior appropriation and riparian systems, and would provide that a ski area permit does not extinguish or otherwise effect a transfer of rights, title, or interests of the United States as a riparian or littoral landowner.

These requirements for water facilities would be added to clarify the meaning of terms; provide for the imposition of terms and conditions that the Forest Service deems necessary to protect public property, public safety, and natural resources; clarify what may and what may not be authorized by a ski area permit; and expressly require approval of changes to water facilities by the Authorized Officer and documentation of that approval through amendment to the permit.

Paragraphs 1b, d, and f would limit the scope of water facilities that could be authorized under a ski area permit. These requirements are consistent with several focus group recommendations, including recognizing differences between water facilities on and off NFS lands and water facilities inside and outside the permit boundary, requiring advance notice of changes in authorized water facilities, and imposing terms that will protect public resources.

Paragraph 1g would document any water withdrawal restrictions required by a regulation or policy, an adjudication, or a settlement agreement or based on a decision document and is consistent with the recommendation to recognize impacts on other water use or users.

Paragraph 1h, which addresses the dual water systems in California, is consistent with the recommendation to recognize different requirements in different jurisdictions.

Paragraph 2—Water Rights. Paragraph 2 clarifies that the term ''water right'' means a right to use water that is recognized under State law under the prior appropriation doctrine.

Paragraph 3—Acquisition and Maintenance of Water Rights. Paragraph 3a would define the term ''NFS ski area water right'' to mean a water right that is for water facilities that would divert or pump water from sources located on NFS lands, either inside or outside the permit boundary, for use that primarily supports operation of the ski area.

Paragraph 3b would provide that NFS ski area water rights shall be acquired in accordance with applicable State law; that the holder shall maintain NFS ski area water rights, including federally owned NFS ski area water rights, for the term of the permit and any subsequent permit; that the holder shall have the responsibility to submit water rights applications and filings that are necessary to protect NFS ski area water rights in accordance with State law; and that the holder shall bear the cost of acquiring, maintaining, and perfecting NFS ski area water rights, including federally owned NFS ski area water rights.

Paragraph 3c would provide that NFS ski area water rights that are jointly or solely owned by the United States shall remain in Federal ownership. Additionally, paragraph 3c would provide that if the holder's ski area permit utilizes NFS ski area water rights acquired in the name of or transferred to the United States or held jointly with the United States, the holder shall have the responsibility to submit any applications or other filings that are necessary to protect those water rights as the agent of the United States in accordance with State law. Furthermore, paragraph 3c would provide that notwithstanding the holder's obligation to maintain federally owned NFS ski area water rights, the United States reserves the right to take any action necessary to maintain and protect those water rights, including submitting any applications or other filings that may be necessary to protect those water rights.

Paragraph 3d would provide that if a water facility corresponding to an NFS ski area water right was or is initiated, developed, certified, permitted, or adjudicated by the holder without a special use authorization, then the water facility is in trespass; that the owner of the NFS ski area water right shall apply for authorization of the water facility; and that if the application is denied, the owner shall promptly remove the water facility and petition in accordance with State law to remove the point of diversion and water use from NFS lands or abandon the NFS ski area water right.

Under paragraph 3, NFS ski area water rights that are not owned by the United States could be owned by the holder, provided that ownership by the holder is consistent with applicable State law as it applies to other parties within the State. In contrast to the 2012 clause, paragraph 3 would not require transfer of water rights to the United States under the terms of prior permits. Paragraph 3 responds to several focus group recommendations regarding transfer of water rights to the United States.

Paragraph 4—Non-Severability of Certain Water Rights. Paragraph 4a would provide that when the United States owns any NFS ski area water rights, the Forest Service shall not take action during the term of the permit that would adversely affect availability of those water rights to support the operation of the ski area unless deemed necessary by the Forest Service to satisfy legal requirements. Paragraph 4a would commit the Forest Service for the term of the permit to utilizing any NFS ski area water rights obtained in the name of the United States for ski area operations. Paragraph 4a would address concerns raised by NSAA regarding the 2011 ski area water rights clause that the Agency must assure continued availability of ski area water rights owned solely by the United States.

Paragraph 4b would provide that when the holder has an interest in any NFS ski area water rights, or water rights that the holder has purchased or leased from a party other than a prior holder that are changed or exchanged to provide for diversion from sources on NFS lands within the permit boundary for use that primarily supports operation of the ski area authorized by this permit (''changed or exchanged water rights''), the holder shall not take any action during the term of the permit that would adversely affect availability of those water rights to support the operation of the ski area unless approved in writing in advance by the Authorized Officer. Paragraph 4b would commit the holder to utilizing any changed or exchanged water rights and NFS ski area water rights owned by the holder for ski area operations. Paragraph 4b addresses focus group recommendations that water rights needed for ski area operations be committed to that use for the long term. Furthermore, non-severability is necessary to meet the objective of sustained use under MUSYA and is necessary to ensure the long-term viability of ski areas. Without the requisite water rights and associated water facilities, ski areas cannot operate.

Paragraph 5—Transfer of Certain Water Rights. Paragraph 5a would provide that upon termination or revocation of the permit, the holder shall transfer the holder's interest in any NFS ski area and changed or exchanged water rights to a subsequent holder and that the current holder shall retain the full amount of any consideration paid for those water rights. Paragraph 5b would provide that if the ski area is not reauthorized, the holder shall promptly petition in accordance with State law to remove the point of diversion and water use from NFS lands for any changed or exchanged water rights or NFS ski area water rights owned solely by the holder

or shall relinquish those water rights. Paragraph 5b would further provide that in the case of any water rights owned jointly by the holder and the United States, the holder shall relinquish its ownership interest to the United States.

The restrictions in paragraph 5 help ensure that water remains available to fulfill the MUSYA purpose of providing the recreational opportunity of skiing to the American public. It is a reasonable exercise of the Agency's power over use and occupancy of NFS lands and of its mandate to provide sustainable recreation opportunities to require that water rights developed on NFS lands for ski area purposes be transferred to subsequent ski area owners through the sale of the ski area. While water rights are granted by the State agencies or courts, the beneficial use and the diversion necessary to their establishment rests on the Forest Service's discretionary decision to grant a ski area permit, and the Agency's discretionary decision to allow use of NFS lands for water facilities. The Agency's authority to deny a special use permit for a ski area or a water facility is sufficiently broad to allow the Agency to condition those authorizations by requiring the holder to sell its water rights to the subsequent holder.

If the ski area is not reauthorized, it is reasonable to require the holder to remove the point of diversion and water use for water rights owned solely by the holder or, if the holder prefers, to relinquish those water rights. The basis of the Agency's authorization of ski area water facilities is facilitation of ski area operations. Once that use ends, there is no basis for leaving the point of diversion and water use on NFS lands: Water facilities cannot be maintained on NFS lands without a special use permit (36 CFR 251.50(a)).

The transfer provisions in paragraph 5 treat privately owned water rights in the same manner as other privately owned assets covered by a ski area permit are treated under existing regulations and ski area permit provisions. Both privately owned water rights and privately owned improvements are tied to the ski area permit when the use is still authorized and must be removed or relinquished when the use is no longer authorized. A ski area permit terminates when the authorized improvements are sold, and the purchaser shall obtain a ski area permit to operate them (36 CFR 251.59). A ski area permit provides that when the use is not reauthorized, the holder shall either remove the privately owned improvements or they become the property of the United States. In addition, requiring transfer of privately owned water rights to the subsequent permit holder responds to a focus group concern regarding adequacy of water rights if a prospective holder has not acquired sufficient water rights and the current holder retains or sells water rights that have been historically used at the ski area.

There were several focus group recommendations to give an initial option to the succeeding permit holder to purchase privately owned water rights, a second option to the local government to purchase these water rights, and a third option to the United States to purchase these water rights. There are several problems with this approach. It would not ensure continuation of the ski area by keeping water rights tied to the authorized use. Rather, this approach would only require the ski area to make an offer to sell, when the desired result is the transfer of water rights needed to operate the ski area. Assuming the initial option is not exercised, there is no guarantee that the local government would ensure that the water rights remain with the land, and if the second option is not exercised, that the Federal Government would have resources to purchase the water rights.

Paragraph 6—Documentation of Transfer. Paragraph 6 would provide that when the holder is obligated to transfer the holder's interest in any NFS ski area or changed or exchanged water rights to the holder of a subsequent permit, the holder or the holder's heirs or assigns shall execute a quit claim deed to that effect. Furthermore, this paragraph would provide that the holder grants the Authorized Officer a limited power of attorney to execute documents necessary to accomplish this purpose. The Agency has broad authority to impose terms and conditions in special use permits to protect the public interest. A limited power of attorney to effectuate transfers of water rights is appropriate, given the history of holders acquiring and retaining water rights in their name despite permit terms to the contrary and the inability to effectuate transfers of water rights absent the limited power of attorney if the holder refuses to do so.

Paragraph 7—Waiver. Paragraph 7 would provide that the holder waives any claims for compensation against the United States for any water rights that the holder transfers, removes, or relinquishes as a result of the provisions in the proposed clause; any claims for compensation in connection with imposition of restrictions on severing any water rights; and any claims for compensation in connection with imposition of any conditions on installation, operation, maintenance, and removal of water facilities. While the Forest Service does not believe that this clause will result in a taking of private property, the waiver provision will shield the United States from claims involving implementation of the proposed clause. The waiver provision is also constitutional. Although the Fifth Amendment to the United States Constitution prohibits the taking of private property for public use without just compensation, constitutional rights, including those protected by the Fifth Amendment, can be waived. *See, e.g., Boykin* v. *Alabama,* 395 U.S. 238, 243 (1969); *Bistline* v. *United States,* 640 F.2d 1270, 1273–75 (Ct. Cl. 1981).

Paragraph 8—Inventory of Necessary Water Rights. Paragraph 8 would require the inventory of necessary ski area water rights, including NFS ski area water rights owned solely by the United States (paragraph 8a); those owned solely by the holder (paragraph 8b); those owned jointly by the United States and the holder (paragraph 8c); changed or exchanged water rights; and water rights for diversions from non-NFS lands for use on NFS lands within the permit boundary, which are owned solely by the holder (paragraph 8d). The inventory with the above classification would support the focus group recommendation to treat water rights on NFS lands differently from water rights off NFS lands. The inventory also supports the focus group recommendation to assess the sufficiency of water during project analysis, including consideration of current ski area operations.

Paragraph 9—Performance Bond. Paragraph 9 would require the holder to maintain a performance bond for the removal of privately owned ski area improvements when the holder solely owns NFS ski area water rights. A performance bond would comply with FSM 6560. This paragraph would provide surety for the protection of NFS lands if a ski area is not reauthorized, and the holder chooses to remove the point of diversion and water use from NFS lands for any NFS ski area water rights owned solely by the holder.

Acknowledgment of Agreement. This paragraph would be inserted at the end of the permit and would provide that the holder has read and agrees to all the terms and conditions of the permit, including the limited power of attorney to transfer water rights in paragraph 6.

Clause D–31. Water Facilities and Water Rights—Ski Areas in Riparian States

The Forest Service is proposing a new ski area water rights clause for use in States that have a riparian system.

Under the riparian water rights clause, the United States retains all rights, title, and interests as a riparian or littoral landowner.

Instructions for the Riparian Water Rights Clause. The instructions would provide direction to permit administrators on when to use the riparian water rights clause. The instructions would limit clause D–31 to ski areas in the riparian States of Michigan, New Hampshire, and Vermont; supersede all ski area water rights clauses in the Directive System in riparian States; provide for inclusion of clause D–31 when a ski area permit is reissued or modified per 36 CFR 251.61 in a riparian State; and provide that before issuing a new or modified ski area permit in a riparian State, Authorized Officers shall ensure that the holder is in compliance with all water facility and water use requirements in clause D–31.

The instructions would provide direction on use of an optional provision when restrictions on water withdrawal are required by the following: A regulation or policy; an adjudication; a settlement agreement; or based on a decision document supported by an environmental analysis.

The instructions would provide for the following: That water facilities that are necessary for and that primarily support the operation of the ski area on NFS land may be included in a ski area permit; all water facilities that meet these criteria, regardless of whether they are for diversions on NFS lands inside or outside the permit boundary, should be included in the ski area permit; define what it means to be necessary for and primarily support the operation of a ski area; and that any other water facilities must be authorized under a separate permit. Additionally, the instructions would provide that before authorizing a permit amendment for a new water facility at a ski area, the Authorized Officer shall assure that sufficient water is available to operate the water facility.

Paragraph 1—Water Facilities. Paragraph 1a would define ''necessary'' and ''primarily supports'' in relation to a water facility. Paragraph 1b would explain what constitutes a water facility; paragraph 1c would require that water facilities on NFS land must be expressly authorized in a permit; paragraph 1d would provide that the United States can place conditions on water facilities deemed necessary to protect public property, public safety, and natural resources on NFS lands; paragraph 1e would provide that only water facilities that are necessary for and that primarily support the operation of a ski area may be included in a ski area permit; paragraph 1f would provide that any change in water facilities must be expressly authorized by a permit amendment; and paragraph 1g would require a separate special use permit to initiate, develop, certify, or permit any water facility on NFS lands that does not primarily support operation of the ski area. These requirements mirror the water facilities requirements in clause D–30 to the extent applicable.

Paragraph 2—Water Rights. Paragraph 2 would provide that the ski area permit does not convey, dispose of, extinguish, or otherwise effect a transfer of any right, title, or interest of the United States as a riparian or littoral landowner, and that the United States retains all rights, title, and interests it has as a riparian or littoral landowner. Paragraph 2 is appropriate for use in ski area permits in eastern States that follow riparian law, where water rights are appurtenant to the land. Paragraph 2 is also consistent with the focus group recommendation that the proposed clause recognize legal differences among jurisdictions.

Paragraph 3—Water Use. Paragraph 3 would document any restrictions on withdrawal and use of water required by a regulation or policy, an adjudication, or a settlement agreement, or based on a decision document supported by environmental analysis. Paragraph 3 is consistent with the focus group recommendation to recognize impacts on other water use or users.

FSM 6560—Bonding Administration

A definition for a performance bond for a ski area permit would be added to FSM 6560.5. A performance bond for a ski area permit would be defined as ''a bond to guarantee repair of surface resource disturbance, removal of equipment, removal of any privately owned improvements, and forest restoration.''

4. Regulatory Certifications

Environmental Impact

This proposed directive would revise national Forest Service policy governing water rights in ski area permits. Forest Service regulations at 36 CFR 220.6(d)(2) exclude from documentation in an environmental assessment or environmental impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' The Agency has concluded that this proposed directive falls within this category of actions and that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement.

Regulatory Impact

This proposed directive has been reviewed under USDA procedures and Executive Order (E.O.) 12866 on regulatory planning and review. The Office of Management and Budget (OMB) has determined that this proposed directive is significant and therefore subject to OMB review under E.O. 12866. Consequently, as required, a Cost Benefit Analysis was prepared. However, the proposed directive is not economically significant because it would not have an annual effect of $100 million or more on the economy, nor would it adversely affect productivity, competition, jobs, the environment, public health and safety, or State or local governments. Moreover, the proposed directive would not alter the budgetary impact of entitlement, grant, or loan programs or the rights and obligations of beneficiaries of those programs or interfere with an action taken or planned by another agency.

The Agency has considered the proposed directive in light of the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). Pursuant to a threshold Regulatory Flexibility Act analysis, the Agency has determined that as defined by the Act because the proposed directive would: Impose modest record-keeping requirements on them; not affect their competitive position in relation to large entities; and not affect their cash flow, liquidity, or ability to remain in the market. The proposed directive would likely have a positive economic effect on current and future holders and local communities close to ski areas because the proposed directive would provide for long-term sustainability of ski areas. The basis for this determination is enumerated in the threshold Regulatory Flexibility Act analysis.

No Takings Implications

The Agency has analyzed the proposed directive in accordance with the principles and criteria contained in E.O. 12630 and determined that the proposed directive would not pose the risk of a taking of private property. The waiver provision is constitutional, because constitutional rights, including those protected by the Fifth Amendment, can be waived. Including requirements regarding non-severability and transfer of water rights in reissued or modified permits, rather than in existing permits, does not effect a taking of private property. While the Forest Service does not believe that this clause

will result in a taking of private property, the waiver provision will shield the United States from claims involving implementation of the proposed clause. The Forest Service has broad authority to include appropriate terms and conditions in ski area permits. A ski area permit is a voluntary transaction, and a holder can decline the permit and retain ownership interest in water rights or accept the permit subject to its new conditions.

Civil Justice Reform

The Agency has reviewed the proposed directive under E.O. 12988 on civil justice reform. If the proposed directive were adopted, (1) all State and local laws and regulations that conflict with the proposed directive or that would impede its full implementation would be preempted; (2) no retroactive effect would be given to the proposed directive; and (3) it would not require administrative proceedings before parties file suit in court challenging its provisions.

Federalism and Consultation and Coordination With Indian Tribal Governments

The Agency has considered the proposed directive under the requirements of E.O. 13132 on federalism and has concluded that the proposed directive conforms to the federalism principles. The proposed directive would not impose any compliance costs on the States; and have substantial direct effects on the States or the relationship between the Federal Government and the States; or the distribution of power and responsibilities among the various levels of government. Therefore, the Agency has determined that no further assessment of federalism implications is necessary at this time.

The proposed directive does not have tribal implications as defined by E.O. 13175, entitled ''Consultation and Coordination with Indian Tribal Governments,'' and therefore advance consultation with Tribes is not required. Consultation will be concurrent with this **Federal Register** notice.

Energy Effects

The Agency has reviewed the proposed directive under E.O. 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' The Agency has determined that the proposed directive does not constitute a significant energy action as defined in the E.O.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), the Agency has assessed the effects of the proposed directive on State, local, and Tribal governments and the private sector. The proposed directive would not compel the expenditure of $100 million or more by any State, local, or Tribal government or anyone in the private sector. Therefore, a statement under section 202 of the act is not required.

Controlling Paperwork Burdens on the Public

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995, (44 U.S.C. 3501 *et seq.*), the information collection requirements included in this proposed rule have been submitted to the Office of Management and Budget.

The bonding requirement in the proposed directive would be implemented using Standard Form 25, Performance Bond, which has been approved by OMB and assigned control number 9000–0045. Use of form SF–25 Performance Bond is new for the Forest Service special uses program. Additionally, the proposed directive involves a revision to the inventory of water rights associated with operation of the ski area by adding separate charts for changed or exchanged water rights (para. d) and water rights for diversions from non-NFS lands for use on NFS lands within the permit boundary (para. e). Furthermore, there is a new requirement to document restrictions on withdrawal and use of water, if applicable. Upon approval of the final rule, the burden associated with this information collection will be incorporated into OMB control number 0596–0082, *Special Uses* for utilization of form FS–2700–5b, *Ski Area Term Special Use Permit.* However, other than the collection of information required for the bonding requirement, the inventory of water rights, and the documentation of restrictions on withdrawal and use of water, all other information collection requirements associated with special use authorizations, including the ski area term special use permit, are already covered by control number 0596–0082.

The following summarizes the information collection requirement associated with the proposed bonding requirement, the inventory of water rights, and the documentation of restrictions on the withdrawal and use of water:

OMB Control Number: 0596—NEW.

Estimated Burden per Response: 2 Hours.

Type of Respondents: ski area permit holders.

Estimated Annual Number of Respondents: 40.

Estimated Annual Average Number of Responses per Respondent: 1.5.

Estimated Total Annual Burden on Respondents: 120 hours.

Comment is invited on (1) whether this collection of information is necessary for the stated purposes and proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden for collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the package submitted to OMB for approval.

5. Access to the Proposed Directive

The Forest Service organizes its Directive System by alphanumeric codes and subject headings. The intended audience for this direction is Forest Service employees charged with issuing and administering ski area permits. To view the proposed directive, visit the Forest Service's Web site at *http://www.fs.fed.us/specialuses.* Only the sections of the FSH and FSM that are the subject of this notice have been posted, i.e., FSH 2709.11, Special Uses Handbook, Chapter 50, Standard Forms and Supplemental Clauses, Section 52.4, and FSM 6560.5, Bonding Administration.

Dated: June 17, 2014.

Thomas L. Tidwell,

Chief, U.S. Forest Service.

[FR Doc. 2014–14548 Filed 6–20–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Advisory Committee Meeting

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice of advisory committee meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, this constitutes notice of the upcoming meeting of the Grain Inspection, Packers and Stockyards Administration (GIPSA) Grain Inspection Advisory Committee (Advisory Committee). The Advisory Committee meets annually to advise the GIPSA Administrator on the programs and services that GIPSA delivers under the U.S. Grain Standards Act. Recommendations by the Advisory Committee help GIPSA better meet the needs of its customers who operate in a dynamic and changing marketplace.

DATES: July 15, 2014, 8:00 a.m. to 4:30 p.m.; and July 16, 2014, 8:00 a.m. to Noon.

ADDRESSES: The Advisory Committee meeting will take place at GIPSA's National Grain Center, 10383 N. Ambassador Drive, Kansas City, Missouri 64153.

Requests to orally address the Advisory Committee during the meeting or written comments may be sent to: Administrator, GIPSA, U.S. Department of Agriculture, 1400 Independence Avenue SW., STOP 3601, Washington, DC 20250–3601. Requests and comments may also be faxed to (202) 690–2173.

FOR FURTHER INFORMATION CONTACT: Terri L. Henry by phone at (202) 205–8281 or by email at *Terri.L.Henry@usda.gov*.

SUPPLEMENTARY INFORMATION: The purpose of the Advisory Committee is to provide advice to the GIPSA Administrator with respect to the implementation of the U.S. Grain Standards Act (7 U.S.C. 71–87k). Information about the Advisory Committee is available on the GIPSA Web site at *http://www.gipsa.usda.gov/fgis/adcommit.html.*

The agenda will include an overview of international activities, quality control initiatives, moisture meters, market overview, optical scanning for rice brokens, Field Management Division updates and initiatives, standards and market needs, and inspector performance.

For a copy of the agenda please contact Terri L. Henry by phone at (202) 205–8281 or by email at *Terri.L.Henry@usda.gov*.

Public participation will be limited to written statements unless permission is received from the Committee Chairperson to orally address the Advisory Committee. The meeting will be open to the public.

Persons with disabilities who require alternative means of communication of program information or related accommodations should contact Terri L. Henry at the telephone number listed above.

Susan B. Keith,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2014–14613 Filed 6–20–14; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–836, A–489–815, A–570–914, A–580–859, C–570–915]

Light-Walled Rectangular Pipe and Tube From Mexico, Turkey, the People's Republic of China, and the Republic of Korea: 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 (AD) orders on light-walled rectangular pipe and tube (light-walled pipe and tube) from Mexico, Turkey, the People's Republic of China (PRC), and the Republic of Korea (Korea) would likely lead to continuation or recurrence of dumping, and that revocation of the countervailing duty (CVD) order on light-walled pipe and tube from the PRC would likely lead to continuation or recurrence of a countervailable subsidy. The U.S. International Trade Commission (the ITC) 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. Accordingly, the Department is publishing this notice of the continuation of these AD and CVD orders.

DATES: *Effective Date:* June 23, 2014.

FOR FURTHER INFORMATION CONTACT: Dena Crossland or Angelica Mendoza, AD/CVD Operations Office VI (AD), or Jennifer Meek or Nancy Decker, AD/CVD Operations Office I (CVD), Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3362 or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 2, 2013, the Department of Commerce (the Department) initiated the first five-year (''sunset'') reviews of the AD orders on light-walled pipe and tube from Mexico, Turkey, the PRC, and Korea [1] (collectively, the *AD Orders*) and the first sunset review of the countervailing duty order on light-walled pipe and tube from the PRC [2] (*CVD Order*) pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (the Act).[3] As a result of these sunset reviews, the Department found that revocation of the *AD Orders* would likely lead to continuation or recurrence of dumping and that revocation of the *CVD Order* would likely lead to continuation or recurrence of countervailable subsidies and, therefore, notified the ITC of the magnitude of the margins of dumping and the subsidy rates likely to prevail should the *AD Orders* and the *CVD Order* be revoked.[4]

On June 13, 2014, the ITC published its determination, pursuant to sections 751(c)(1) and 752(a) of the Act, that revocation of the *AD Orders* and the *CVD Order* would likely lead to continuation or recurrence of material injury within a reasonably foreseeable time.[5]

Scope of the Orders

The merchandise subject to the orders is certain welded carbon quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm. The term carbon-quality steel includes both carbon steel and

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[1] *See Light-Walled Rectangular Pipe and Tube from Mexico, the People's Republic of China, and the Republic of Korea: Antidumping Duty Orders; Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Notice of Amended Final Determination of Sales at Less Than Fair Value,* 73 FR 45403, 45405 (August 5, 2008); *Notice of Antidumping Duty Order: Light-Walled Rectangular Pipe and Tube From Turkey,* 73 FR 31065 (May 30, 2008).

[2] *See Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Notice of Countervailing Duty Order,* 73 FR 45405 (August 5, 2008).

[3] *See Initiation of Five-Year (''Sunset'') Review,* 78 FR 19647 (April 2, 2013).

[4] *See Final Results of Expedited Sunset Reviews of Antidumping Duty Orders: Light-Walled Rectangular Pipe and Tube From Mexico, Turkey, the People's Republic of China, and the Republic of Korea,* 78 FR 47671 (August 6, 2013) and *Light-Walled Rectangular Pipe and Tube From the People's Republic of China: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order,* 78 FR 48416 (August 8, 2013).

[5] *See Light-Walled Rectangular Pipe from China, Korea, Mexico and Turkey; Determinations,* 79 FR 33950 (June 13, 2014); *see also* ITC Publication 4470 (June 2014) entitled *Light-Walled Rectangular Pipe and Tube from China, Korea, Mexico, and Turkey* (Inv. Nos. 701–TA–449 and 731–TA–1118–1121 (Review)).

alloy steel which contains only small amounts of alloying elements. Specifically, the term carbon-quality includes products in which none of the elements listed below exceeds the quantity by weight respectively indicated: 1.80 percent of manganese, or 2.25 percent of silicon, or 1.00 percent of copper, or 0.50 percent of aluminum, or 1.25 percent of chromium, or 0.30 percent of cobalt, or 0.40 percent of lead, or 1.25 percent of nickel, or 0.30 percent of tungsten, or 0.10 percent of molybdenum, or 0.10 percent of niobium, or 0.15 percent vanadium, or 0.15 percent of zirconium. The description of carbon-quality is intended to identify carbon-quality products within the scope. The welded carbon-quality rectangular pipe and tube subject to the *Orders* is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7306.61.50.00 and 7306.61.70.60. 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 ITC that revocation of the *AD Orders* and the *CVD Order* would likely lead to continuation or recurrence of dumping and 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 Orders* and the *CVD Order.*

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 the *AD Orders* and the *CVD Order* 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 sunset reviews of these orders not later than 30 days prior to the fifth anniversary of the effective date of this continuation.

These sunset reviews and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: June 13, 2014.

Lynn Fischer Fox,

Deputy Assistant Secretary for Policy and Negotiations.

[FR Doc. 2014–14604 Filed 6–20–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–929]

Small Diameter Graphite Electrodes From the People's Republic of China: Continuation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) and the International Trade Commission (the ITC) have determined that revocation of the antidumping duty (AD) order on small diameter graphite electrodes from the People's Republic of China (PRC) would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States. Therefore, the Department is publishing a notice of continuation of this AD order.

DATES: *Effective Date:* June 23, 2014.

FOR FURTHER INFORMATION CONTACT: Michael Romani or Minoo Hatten, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0198 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 2, 2014, the Department published the initiation of the first sunset review of the AD order on small diameter graphite electrodes from the PRC pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.218(c).[1] As a result of its review, the Department determined that revocation of the AD order on small diameter graphite electrodes from the PRC would likely lead to continuation or recurrence of dumping, and notified the ITC of the magnitude of the margins likely to prevail should the order be revoked.[2] On June 6, 2014, pursuant to section 75l(c) of the Act, the ITC determined that revocation of the AD order on small diameter graphite electrodes from the PRC would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

Scope of the Order

The merchandise covered by the order includes all small diameter graphite electrodes of any length, whether or not finished, of a kind used in furnaces, with a nominal or actual diameter of 400 millimeters (16 inches) or less, and whether or not attached to a graphite pin joining system or any other type of joining system or hardware. The merchandise covered by the order also includes graphite pin joining systems for small diameter graphite electrodes, of any length, whether or not finished, of a kind used in furnaces, and whether or not the graphite pin joining system is attached to, sold with, or sold separately from, the small diameter graphite electrodes. Small diameter graphite electrodes and graphite pin joining systems for small diameter graphite electrodes are most commonly used in primary melting, ladle metallurgy, and specialty furnace applications in industries including foundries, smelters, and steel refining operations. Small diameter graphite electrodes and graphite pin joining systems for small diameter graphite electrodes that are subject to the order are currently classified under the HTSUS subheadings 8545.11.0010,[4] 3801.10,[5] and 8545.11.0020.[6] The HTSUS numbers are provided for convenience and customs purposes, but the written description of the scope is dispositive.

Continuation of the Order

As a result of the determinations by the Department and the ITC that revocation of the AD order would likely lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 75l(d)(2) of the Act and 19

[1] *See Initiation of Five-Year ("Sunset") Review,* 79 FR 110 (January 2, 2014).

[2] *See Small Diameter Graphite Electrodes From the People's Republic of China: Final Results of the Expedited Sunset Review of the Antidumping Duty Order,* 79 FR 26208 (May 7, 2014).

[3] *See Small Diameter Graphite Electrodes From China,* 79 FR 32750 (June 6, 2014).

[4] The scope described in the order refers to the HTSUS subheading 8545.11.0000. We note that, starting in 2010, imports of small diameter graphite electrodes are classified in the HTSUS under subheading 8545.11.0010 and imports of large diameter graphite electrodes are classified under subheading 8545.11.0020.

[5] *See Small Diameter Graphite Electrodes From the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order,* 77 FR 47596 (August 9, 2012) and accompanying Issues and Decision Memorandum at Comment 6 (the scope of the order is amended to include imports classifiable under HTSUS 3801.10, *i.e.,* un-finished small diameter graphite electrodes).

[6] *See Small Diameter Graphite Electrodes From the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order and Rescission of Later-Developed Merchandise Anticircumvention Inquiry,* 78 FR 56864 (September 16, 2013) and accompanying Issues and Decision Memorandum at Comments 1 and 2 (the scope of the order is amended to include large diameter graphite electrodes, specifically those of 17 inches produced by Jilin Carbon classifiable under HTSUS 8545.11.0020).

CFR 351.218(a), the Department hereby orders the continuation of the AD order on small diameter graphite electrodes from the PRC. Customs and Border Protection (CBP) will continue to collect AD 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 the orders will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), the Department intends to initiate the next five-year review of this order not later than 30 days prior to the fifth anniversary of the effective date of this continuation notice.

This sunset review and this 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).

Dated: June 16, 2014.

Lynn Fischer Fox,

Deputy Assistant Secretary for Policy and Negotiations.

[FR Doc. 2014–14602 Filed 6–20–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Reestablishment of the Renewable Energy and Energy Efficiency Advisory Committee and Solicitation of Nominations for Membership

AGENCY: Renewable Energy and Energy and Energy Efficiency Advisory Committee: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of Reestablishment of the Renewable Energy and Energy Efficiency Advisory Committee and Solicitation of Nominations for Membership.

SUMMARY: Pursuant to provisions of the Federal Advisory Committee Act, 5 U.S.C. App., the Department of Commerce announces the reestablishment of the Renewable Energy and Energy Efficiency Advisory Committee (the Committee). The Committee shall advise the Secretary of Commerce regarding the development and administration of programs and policies to expand the competitiveness of U.S. exports of renewable energy and energy efficiency goods and services, in accordance with applicable United States regulations. The Committee's work on energy efficiency will focus on technologies, services, and platforms that provide system-level energy efficiency to electricity generation, transmission, and distribution. These include smart grid technologies and services, as well as equipment and systems that increase the resiliency of power infrastructure. For the purposes of this Committee, covered goods and services will not include vehicles, feedstock for biofuels, or energy efficiency as it relates to consumer goods. Non-fossil fuels that are considered renewable fuels (e.g., liquid biofuels and pellets) are included. This notice also requests nominations for membership.

DATES: Nominations for members must be received on or before 4:00 p.m. Eastern Daylight Time (EDT) on August 15, 2014.

Nominations: The Secretary of Commerce invites nominations to the committee, of U.S. citizens who will represent U.S. companies in the renewable energy and energy efficiency sector that trade internationally, or U.S. trade associations or other U.S. private sector organizations with activities focused on the competitiveness of U.S. exports of renewable energy and energy efficiency goods and services. No member may represent a company that is majority owned or controlled by a foreign government entity or foreign government entities. Nominees meeting the eligibility requirements will be considered based upon their ability to carry out the goals of the Committee as articulated above. If you are interested in applying or nominating someone else to become a member of the Committee, please provide the following information:

(1) Sponsor letter on the company's, trade association's or organization's letterhead containing the name, title, and relevant contact information (including phone, fax, and email address) of the individual requesting consideration;

(2) An affirmative statement that the nominee will be able to meet the expected time commitments of Committee work. Committee work includes (1) attending in-person committee meetings roughly four times per year (lasting one day each), (2) undertaking additional work outside of full committee meetings including subcommittee conference calls or meetings as needed, and (3) frequently drafting, preparing, or commenting on proposed recommendations to be evaluated at Committee meetings;

(3) Short biography of nominee, including credentials;

(4) Brief description of the company, trade association, or organization to be represented and its business activities; company size (number of employees and annual sales); and export markets served;

(5) An affirmative statement that the nominee is not a Federally registered lobbyist, and that the nominee understands that if appointed, he/she will not be allowed to continue to serve as a Committee member if the nominee becomes a Federally registered lobbyist;

(6) An affirmative statement that the nominee meets all Committee eligibility requirements. Please do not send company, trade association, or organization brochures or any other information.

Nominations may be emailed to *Ryan.Mulholland@trade.gov* or faxed to the attention of Ryan Mulholland at 202–482–5665, or mailed to Ryan Mulholland, Office of Energy & Environmental Industries, Room 4053, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, and must be received before August 15, 2014. Nominees selected for appointment to the Committee will be notified by return mail.

FOR FURTHER INFORMATION CONTACT: Ryan Mulholland, Office of Energy & Environmental Industries, Room 4053, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; phone 202–482–4693; fax 202–482–5665; email *Ryan.Mulholland@trade.gov.*

Dated: June 17, 2014.

Edward A. O'Malley,

Director, Office of Energy and Environmental Industries.

[FR Doc. 2014–14546 Filed 6–20–14; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XK26

Marine Mammals; File No. 13430

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

ACTION: Notice; Receipt of Application for Permit Amendment.

SUMMARY: Notice is hereby given that NMFS National Marine Mammal Laboratory, (Responsible Party: Dr. John Bengtson, Director), Seattle, WA, has applied for an amendment to Scientific Research Permit No. 13430–01.

DATES: Written, telefaxed, or email comments must be received on or before July 23, 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 home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 13430 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov*. Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Amy Sloan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 13430 is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

Permit No. 13430, issued on February 17, 2010 (75 FR 8303), authorizes the permit holder to take Pacific harbor seals (*Phoca vitulina*), California sea lions (*Zalophus californianus*), and northern elephant seals (*Mirounga angustirostris*) within coastal waters and on pinniped rookeries and haul outs of Washington and Oregon during aerial, vessel, and ground surveys of pinnipeds; capture of pinnipeds for collection of tissue samples, attachment of scientific instruments and application of marks (flipper tags, brands, etc.); and harassment of marine mammals, including Eastern Distinct Population Segment Steller sea lions (*Eumetopias jubatus*) and Southern Resident killer whales (*Orcinus orca*), during underwater playback experiments. The permit also allows for a limited number of research related mortality of marine mammals. The permit is valid through January 31, 2015.

The permit holder requests an amendment to extend the expiration date to January 31, 2020, and modify one protocol. The permit holder proposes to add use of an alternate injectable sedative to reduce stress in harbor seals and California sea lions that may be caused by procedures that have prolonged handling times, such as instrument attachment. The protocols currently include administering valium; the change would be to use midazolam (and its reversal agent, flumazenil) in lieu of valium at the discretion of the attending veterinarian.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an environmental assessment (EA) was prepared analyzing the effects on the human environment of issuing Permit No. 13430. Based on the analyses in the EA, NMFS determined that issuance of the permit would not significantly impact the quality of the human environment and that preparation of an environmental impact statement was not required. NMFS will determine whether that EA should be supplemented prior to making a final determination about potential impacts of issuing the amendment.

Concurrent with the publication of this notice in the **Federal Register,** NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 17, 2014.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–14527 Filed 6–20–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD346

Mid-Atlantic Fishery Management Council (MAFMC); 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) Bluefish Advisory Panel (AP) will meet to develop a Fishery Performance Report for the Bluefish fishery in preparation for the Council and the Council's Scientific and Statistical Committee review of specifications that have been set for the 2015 fishing year.

DATES: The meeting will be held on Friday, July 11, 2014, from 9 a.m. to 12 noon.

ADDRESSES: The meeting will be held via webinar with a listening station also available at the Council address below. Webinar link: *http://mafmc.adobeconnect.com/bluefish/.*

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 Advisory Panel will develop a Fishery Performance Report for consideration by the Council and the Council's SSC as they review bluefish management measures established for the 2015 fishing year.

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 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: June 17, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–14528 Filed 6–20–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD180

Marine Mammals; File No. 18534

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that a permit has been issued to the Alaska SeaLife Center (Responsible Party, Tara Reimer, Ph.D.) 301 Railway Avenue, P.O. Box 1329, Seward, AK 99664 to conduct research on captive Steller sea lions (*Eumetopias jubatus*).

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301)713–0376.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: On March 27, 2014, notice was published in the **Federal Register** (79 FR 17135) that a request for a permit to conduct research on captive Steller sea lions had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 18534–00 authorizes the Alaska SeaLife Center to conduct studies on captive Steller sea lions from the Eastern Distinct Population Segment to (1) investigate reproductive physiology and survival, growth, and physiology of captive-bred offspring; and (2) deploy instruments to develop and validate methods for monitoring wild Steller sea lions. Research on up to 18 captive sea lions may include: Anesthesia and sedation; administration of Evan's blue dye and deuterium oxide; biological sampling; dietary supplements; mass and morphometric measurements; ultrasound and radiographs; video and audio recordings; and attachment and proximity to instrumentation. Steller sea lions may be transported to and from approved facilities. The permit authorizes four research-related mortalities over the course of the permit. No research will occur on wild populations. The permit expires May 31, 2019.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: June 17, 2014.

Tammy C. Adams,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–14552 Filed 6–20–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC784

Takes of Marine Mammals Incidental to Specified Activities; Rockaway Delivery Lateral Project Off New York, June 2014 Through October 2014

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

ACTION: Notice; issuance of an Incidental Harassment Authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to Transcontinental Gas Pipe Line Company, LLC (Transco) to take marine mammals, by harassment, incidental to expanding a natural gas pipeline system off the coast of New York.

DATES: Effective June 1, 2014, through October 31, 2014.

ADDRESSES: An electronic copy of the application, authorization, and associated documents may be obtained by visiting the internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

FOR FURTHER INFORMATION CONTACT: Shane Guan, National Marine Fisheries Service, Office of Protected Resources, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to authorize, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if, after notice of a proposed authorization to the public for review and public comment: (1) We make certain findings; and (2) the taking is limited to harassment.

NMFS shall grant authorization for the incidental taking of small numbers of marine mammals if we find that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). The authorization must set forth the permissible methods of taking; other means of effecting the least practicable adverse impact on the species or stock and its habitat (i.e., mitigation); and requirements pertaining to the monitoring and reporting of such taking. NMFS have defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On March 21, 2013, NMFS received an application from Transco for the taking of marine mammals incidental to the Rockaway delivery lateral project (Project) off the coast of New York over a 1-year period beginning in April 2014. We received a revised application from Transco on May 13, 2013, which reflected updates to the proposed mitigation measures, proposed monitoring measures, and incidental take requests for marine mammals. Further revisions were made to the request in October 2013 due to a change in the project schedule and the application was considered complete and adequate on November 9, 2013. On April 14, Transco amended their take

request based on a shift in the offshore construction schedule.

Transco plans to expand its pipeline system to meet immediate and future demand for natural gas in the New York City market area. This project will provide an additional delivery point to National Grid's (an international electricity and gas company) local distribution companies, giving National Grid the flexibility to redirect supplies during peak demand periods. The in-water portion of the project, which will require pile driving, may result in the incidental taking of seven species of marine mammals by behavioral harassment.

Description of the Specified Activities

The specific Project activity will be to install a sub-sea natural gas pipeline extending from the existing Lower New York Bay Lateral in the Atlantic Ocean to an onshore delivery point on the Rockaway Peninsula. The work will include the following:

- Horizontal directional drilling
  - Beginning onshore and exiting offshore
  - Includes excavation of the horizontal directional drilling exit pit and pile driving activities
- Offshore construction and support vessels
  - Various vessels would be used throughout the in-water work
- Sub-sea dual hot-tap installation of the existing Lower New York Bay Lateral
  - Includes use of diver-controlled hand-jetting to clear sediment around the existing pipeline
- Offshore pipeline construction
  - Includes offshore pipe laying and subsea jet-sled trenching
- Anode bed installation and cable crossing
  - Includes use of divers and hand-jetting to clear sediment around the locations of the anode bed and existing power cable crossing
- Hydrostatic test water withdrawal and discharge
  - Would occur four times during the course of in-water construction.
- Post-installation and final (as-built) hydrographic survey
  - Includes the use of a multibeam echo sounder and high resolution side scan sonar
- Subsea trench and HDD exit pit backfill
  - Includes the use of a small-scale crane-supported suction dredge for the trench
  - Includes the use of diver-controlled hand jetting and/or clamshell dredge for the HDD exit pit
- Operation and maintenance

Only the pile driving activities associated with horizontal directional drilling offshore construction are expected to result in the take of marine mammals by Level B harassment. Other aspects of the project are discussed in more detail in Transco's IHA application (*http://www.nmfs.noaa.gov/pr/permits/incidental.htm/#applications*). No vessels will use dynamic positioning (a system to maintain position and heading), and only two vessels—a crew boat and picket boat—will make weekly trips to the Project area from shore. Elevated sound levels that may result in harassment are not expected from the clamshell dredge because the dredge will be anchored and dynamic positioning will not be used. Dredging and trenching may result in a temporary, localized increase in turbidity, but are not expected to rise to the level of harassment. A complete description of all in-water Project activities is provided in Transco's application (*http://www.nmfs.noaa.gov/pr/permits/incidental.htm/#applications*).

Vibratory Hammer Installation and Removal

Vibratory hammers are commonly used in steel pile installation and removal when the sediment conditions allow for this method. Transco will likely use the MKT V 52 model of vibratory hammer for the Project. The vibratory hammer is considered a continuous sound source because it continuously drives the pile into the substrate until the desired depth is reached. Transco will use a vibratory hammer to install about 70 piles (5 sets of temporary goal posts and up to 60 temporary fender piles). All piles will be 14- to 16-inch diameter steel pipe piles. Two vibratory hammers will be on site, but only one hammer will be used at a time. Each pile should take about 1 to 2 seconds to install per foot of depth driven, with each pile driven to a depth of about 25 to 30 feet below the seafloor. Therefore, each pile will take up to 60 seconds of continuous pile driving to install. All piles should be installed during a 1-week period, with less than 12 hours of pile driving operation. The goal posts and fenders would remain in the offshore environment for the duration of the horizontal directional drilling portion of construction (3 to 4 months). Extraction of all piles at the end of the construction period should take about as long as installation.

Location of the Specified Activity

The Project will be located mostly in nearshore waters (within approximately 3 miles of the Atlantic Ocean), southeast of the Rockaway Peninsula in Queens County, New York. A linear segment of underwater land measuring approximately 2.15 miles will be required for offshore pipe lay and trenching activities from the interconnect with Transco's pipeline to the proposed horizontal directional drilling exit point in the nearshore area, seaward of Jacob Riis Park (see Figure 1 of Transco's application). The Project area is located within the greater New York Bight region, with construction occurring within approximately 2.86 miles from the Jacob Riis Park shoreline. Vessels associated with the Project will travel between the pipe yard in Elizabeth, New Jersey, to the offshore construction site. The greater Project area, therefore, is described as the waters between the pipe yard and construction site and the waters offshore of Jacob Riis Park where construction will occur. However, pile driving activities will only take place around the horizontal directional drilling exit point in the nearshore area. All work will occur in water depths between 25 and 50 feet.

Duration of the Specified Activity

Pile driving activities were originally proposed to begin in April 2014 and expected to be complete in August 2014. However, Transco adjusted their construction schedule so that pile installation will begin in June 2014 and pile removal will occur in September 2014. The IHA is valid through October 2014 to allow for construction delays. Total installation time for all piles is expected to total less than 1 day of operation and would occur during a 1-week period. Total operating time for the extraction of all piles at the end of the construction period is expected to take a similar amount of time (1 day total over a 1-week period).

Metrics Used in This Document

This section was included in the notice of proposed IHA (78 FR 78824, December 27, 2013) as a brief explanation of the sound measurements frequently used in the discussions of acoustic effects in this document and that information has not changed.

Predicted Sound Levels From Vibratory Pile Driving

No source levels were available for 14- to 16-inch diameter steel pipe piles at water depths of approximately 33 feet. The most applicable source levels available are for 12-inch diameter steel

pipe piles in water depths of approximately 16 feet. In-water measurements for the Mad River Slough Project in Arcata, California, indicate that installation of a 12-inch steel pipe pile in about 16 feet of water measured 10 meters from the source generated 155 dB re 1 uPa RMS. To account for the increased diameter of the piles planned for use during the Project, a change in water depth, and a different location than where the reference levels were recorded, Transco increased the source levels from the Mad River Slough Project by 5 dB. The 5 dB increase was chosen due to an overall lack of current information available for reference levels of steel pipe piles of a similar size being driven with a vibratory hammer in similar water depths. Transco expects that this increase overestimates the actual source level from the vibratory hammer.

Description of Marine Mammals in the Area of the Specified Activity

Thirteen marine mammal species under our jurisdiction may occur in the proposed Project area, including four mysticetes (baleen whales), six odontocetes (toothed cetaceans), and three pinnipeds (seals). Three of these species are listed as endangered under the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*), including: The humpback (*Megaptera novaeangliae*), fin (*Balaenoptera physalus*), and North Atlantic right (*Eubalaena glacialis*) whales.

However, based on occurrence information, stranding records, and seasonal distribution, it is unlikely that humpback whales, fin whales, minke whales, Atlantic white-sided dolphins, short-finned pilot whales, or long-finned pilot whales will be present in the Project area during the winter in-water construction period. Each of these species is discussed in detail in section 3 of Transco's IHA application (*http://www.nmfs.noaa.gov/pr/permits/incidental.htm/#applications*). In summary, humpback whales are typically found in other regions of the east coast and there have been no reported observations within the vicinity of the Project area in recent years; fin whales prefer deeper offshore waters and there have been no reported observations within the vicinity of the Project area in recent years; minke whales are prevalent in other regions there have been no reported observations within the vicinity of the Project area in recent years; Atlantic white-sided dolphins generally occur in areas east and north of the Project area; and short-finned and long-finned pilot whales prefer deeper pelagic waters. Accordingly, we did not consider these species in greater detail and only authorized take for the seven species requested. After the proposed IHA was published (78 FR 78824, December 27, 2013), Transco amended their application due to a change in construction schedule. Their new schedule, which has pile installation occurring in June 2014 and pile removal occurring in September 2014, does not overlap with North Atlantic right whale season (November to April). Therefore, after consultation with NMFS, Transco amended their marine mammal take request and eliminated the request for incidental take of North Atlantic right whales. NMFS further determined that incidental take of harp seals from June through September is also highly unlikely because of its distribution.

Table 2 presents information on the abundance, distribution, and conservation status of the marine mammals that may occur in the area from June through September. While harbor porpoise are most likely in the project area during winter months, they are dispersed as far south as New Jersey during the spring and fall. Similarly, short-beaked common dolphins are most likely in the area from January to May, but may still be passing through the area during the summer and fall.

TABLE 2—ABUNDANCE ESTIMATES, MEAN DENSITY, AND ESA STATUS OF MARINE MAMMALS THAT MAY OCCUR IN THE PROPOSED PROJECT AREA DURING JUNE THROUGH SEPTEMBER

Common name	Scientific name	Stock	ESA [a]	Time of year most likely expected in region	Abundance estimate
Odontocetes:					
Harbor porpoise	*Phocoena phocoena*	Gulf of Maine/Bay of Fundy		Jan–March	89,054
Bottlenose dolphin	*Tursiops truncatus*	Western North Atlantic Northern Migratory.		July–Sept	7,147
Short-beaked common dolphin.	*Delphinus delphis*	Western North Atlantic		Jan–May	52,893
Pinnipeds:					
Gray seal	*Halichoerus grypus*	Western North Atlantic		Sept–May	348,900
Harbor seal	*Phoca vitulina*	Western North Atlantic		Sept–May	99,340

Further information on the biology and local distribution of these species can be found in section 3 of Transco's application (see **ADDRESSES**), and the NMFS Marine Mammal Stock Assessment Reports, which are available online at: *http://www.nmfs.noaa.gov/pr/sars/*.

Potential Effects of the Specified Activity on Marine Mammals

This section of the proposed IHA (78 FR 78824, December 27, 2013) included a summary and discussion of the ways that the types of stressors associated with the specified activity (pile driving activities) have been observed to impact marine mammals. That information has not changed and is not repeated here. In summary, the potential effects of sound from the proposed activities may include one or more of the following: Tolerance; masking of natural sounds; behavioral disturbance; non-auditory physical effects; and temporary or permanent hearing impairment (Richardson *et al.,* 1995). However, it is unlikely that there would be any cases of temporary or permanent hearing impairment resulting from these activities.

Anticipated Effects on Marine Mammal Habitat

This section of the proposed IHA (78 FR 78824, December 27, 2013) described the anticipated effects of pile driving activities on marine mammal habitat; that information has not changed and is not repeated here. In summary, because of the short duration of the activity, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-

term consequences for individual marine mammals or their populations.

Comments and Responses

NMFS published a proposed authorization and request for public comments in the **Federal Register** on December 27, 2013 (78 FR 78824). During the 30-day public comment period, NMFS only received comments from the Marine Mammal Commission (Commission). All comments are addressed below and have been compiled and posted online at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*.

Comment 1: The Commission recommended that NMFS require Transco to (1) provide estimated source levels associated with other pipeline construction activities (i.e., horizontal directional drilling, pipe laying, and pipe burial); and (2) estimate the number of takes associated with those activities based on the Level B harassment threshold of 120 dB.

Response: Only two construction elements involve noise as a concern for marine mammals: Vibratory pile driving and vessel operations. Both of these activities were discussed in detail in Transco's application (see **ADDRESSES**) and were addressed in the proposed IHA (78 FR 78824, December 27, 2013). Noise levels generated by activities such as pipe laying and pipe burial are generally very low (Richardson et al., 1995) and do not reach the level set forth in NMFS' noise exposure criteria that would result in take. There is no underwater construction involved with these activities and any noise generation would be conducted on a vessel. Horizontal directional drilling will begin onshore and exit offshore, and include excavation of the exit pit via clamshell dredge and vibratory installation and removal of piles. The clamshell dredge will be anchored in place and dynamic positioning will not be used. Excavation does not involve a sound source that has the potential to result in incidental take of marine mammals. No drilling will occur from the offshore HDD location. Further information on each project activity is also provided in Transco's application (see **ADDRESSES**).

Comment 2: The Commission recommended that NMFS require Transco to estimate the number of takes by accounting for the number of days (i.e., seven days) that the proposed activities would occur in summer (for pile driving) and fall (for pile removal).

Response: NMFS agrees that the number of days of pile driving should be considered when estimating take. In addition, only summer and fall densities were considered to estimate take since pile driving activities will no longer take place during spring or winter months. The take estimates, summarized in Table 3 of this document, have been adjusted to account for the number of days of pile installation in the summer and removal in the fall.

Comment 3: The Commission recommended that NMFS require Transco to increase its estimated numbers of takes for North Atlantic right whales and short-beaked common dolphins to the mean group size for each season in which takes are expected to occur.

Response: As noted in the Description of Marine Mammals section of this document, Transco amended their take request after publication of the proposed IHA and NMFS believes that take of North Atlantic right whales is unlikely considering the new construction schedule. NMFS disagrees that estimated numbers of takes for short-beaked common dolphins should be increased to reflect the mean group size (which is in the hundreds) due to their seasonal presence around the construction area and the short duration of pile driving activities. Short-beaked common dolphins are most likely to be found offshore New York between January and May and prefer oceanic waters. During summer and fall months (when pile installation and removal will occur), short-beaked common dolphins are expected to be much further north near Georges Bank. NMFS authorized take of this species based on the estimated density for summer and fall months and does not expect large aggregations of short-beaked common dolphins in the area.

Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, we must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses (where relevant).

To reduce the potential for disturbance from acoustic stimuli associated with the activities, Transco will implement the following mitigation measures for marine mammals:

(1) Vibratory pile driving only;

(2) Pile driving during daylight hours only;

(3) Shutdown procedures;

(4) Soft-start (ramp-up) procedures; and

(5) Discharge control.

Separately, Transco acknowledges the vessel activity and speed restrictions that are already in place along the east coast for the north Atlantic right whale. While the Seasonal Management Area is in effect (November-April), vessel operators will comply with the established regulations. The change in construction schedule (prompted by the seasonal distribution of ESA-listed Atlantic sturgeon) also reduces the overlap of pile driving activities with the North Atlantic right whale season (November-April) and the likelihood of harp seals in the area.

Vibratory Pile Driving Only

Transco will use a vibratory hammer instead of an impact hammer for all pile driving activities in order to reduce in-water sound levels while installing and removing up to 70 temporary steel pipe piles. The sound source level for the vibratory hammer is less than the source level for an impact hammer, and by avoiding use of an impact hammer Transco removes the potential for Level A harassment of marine mammals.

Pile Driving During Daylight Hours Only

Pile driving installation and removal will only be conducted when lighting and weather conditions allow the protected species observers to visually monitor the entire Level B harassment area through the use of binoculars or other devices.

Soft-Start (Ramp-Up) Procedures

Transco will implement soft-start procedures at the beginning of each pile driving session (i.e., at the beginning of each day and after a lapse of activity for at least 30 minutes). Contractors will initiate the vibratory hammer for 15 seconds at 40 to 60 percent reduced energy, followed by a 1-minute waiting period. This procedure will be repeated two additional times before reach full energy.

Shutdown Procedures

Protected species observers will monitor the entire Level B harassment area for marine mammals displaying abnormal behavior. Such behavior may include aggressive signals related to noise exposure (e.g., tail/flipper slapping or abrupt directed movement), avoidance of the sound source, or an obvious startle response (e.g., rapid change in swimming speed, erratic surface movements, or sudden diving associated with the onset of a sound source). At NMFS' recommendation, if a protected species observer sees any

abnormal behavior, this information will be related to the construction manager and the vibratory hammer will be shutdown until the animal has moved outside of the Level B harassment area.

Control of Discharge

All in-water construction activities will comply with federal regulations to control the discharge of operational waste such as bilge and ballast waters, trash and debris, and sanitary and domestic waste that could be generated from all vessels associated with the Project. All Project vessels will also comply with the U.S. Coast Guard requirements for the prevention and control of oil and fuel spills (see Transco's application for more detail).

NMFS has carefully evaluated the applicant's proposed mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).
2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of in-water pile driving activities, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
3. A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of in-water pile driving activities, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of in-water pile driving activity, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).
5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.
6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's proposed measures, as well as other measures considered by NMFS, NMFS has determined that the aforementioned mitigation measures provide the means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an incidental take authorization for an activity, section 101(a)(5)(D) of the MMPA states that we must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for an authorization must include the suggested means of accomplishing the necessary monitoring and reporting that would result in increased knowledge of the species and our expectations of the level of taking or impacts on populations of marine mammals present in the proposed action area.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

1. An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;
2. An increase in our understanding of how many marine mammals are likely to be exposed to levels of in-water pile driving activity that we associate with specific adverse effects, such as behavioral harassment, TTS, or PTS;
3. An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:
   - Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
   - Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
   - Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;
4. An increased knowledge of the affected species; and
5. An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

Visual Monitoring

Two NMFS-approved protected species observers will survey the Level B harassment area (~3 miles) for marine mammals 30 minutes before, during, and 30 minutes after all vibratory pile driving activities. The observers will be stationed on a picket boat, located about 1.5 miles from the pile hammer. The picket boat will circle the pile hammer at a 1.5-mile distance so that the entire Level B harassment area could be surveyed. Information recorded during each observation within the Level B harassment area will be used to estimate numbers of animals potentially taken and will include the following:

- Numbers of individuals observed;
- Frequency of observation;
- Location within the Level B harassment area (i.e., distance from the sound source);
- Vibratory pile driving status (i.e., soft-start, active, post pile driving, etc.); and
- Reaction of the animal(s) to pile driving (if any) and observed behavior within the Level B harassment area, including bearing and direction of travel.

If the Level B harassment area is obscured by fog or poor lighting conditions, vibratory pile driving will be delayed until the area is visible. If the Level B harassment area becomes

obscured by fog or poor lighting conditions while pile driving activities are occurring, pile driving will be shut down until the area is visible again.

Reporting

Transco will provide NMFS with a draft monitoring report within 90 days of the conclusion of monitoring. This report will include the following:

- A summary of the activity and monitoring plan (i.e., dates, times, locations);
- A summary of mitigation implementation;
- Monitoring results and a summary that addresses the goals of the monitoring plan, including the following:
  - Environmental conditions when observations were made;
  - Water conditions (i.e., Beaufort sea-state, tidal state)
  - Weather conditions (i.e., percent cloud cover, visibility, percent glare)
  - Survey-specific data:
  - Date and time survey initiated and terminated;
  - Date, time, number, species, and any other relevant data regarding marine mammals observed (for pre-activity, during activity, and post-activity surveys);
  - Description of the observed behaviors (in both the presence and absence of activities):
  - If possible, the correlation to underwater sound level occurring at the time of any observable behavior
  - Estimated exposure/take numbers during activities
- An assessment of the implementation and effectiveness of prescribed mitigation and monitoring measures.

Transco will submit a final report within 30 days after receiving NMFS' comments on the draft report. If NMFS has no comments, the draft report will be considered final.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner not permitted by the authorization (if issued), such as an injury, serious injury, or mortality (e.g., ship-strike, gear interaction, and/or entanglement), Transco shall immediately cease the specified activities and immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and the Northeast Regional Stranding Coordinator at 978–281–9300 (*Mendy.Garron@noaa.gov*). The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Transco shall not resume its activities until we are able to review the circumstances of the prohibited take. We will work with Transco to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. Transco may not resume their activities until notified by us via letter, email, or telephone.

In the event that Transco discovers an injured or dead marine mammal, and the lead visual observer determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as we describe in the next paragraph), Transco shall immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and the Northeast Regional Stranding Coordinator at 978–281–9300 (*Mendy.Garron@noaa.gov*). The report must include the same information identified in the paragraph above this section. Activities may continue while we review the circumstances of the incident. We would work with Transco to determine whether modifications in the activities are appropriate.

In the event that Transco discovers an injured or dead marine mammal, and the lead visual observer determines that the injury or death is not associated with or related to the authorized activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Transco would report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and the Northeast Regional Stranding Coordinator at 978–281–9300 (*Mendy.Garron@noaa.gov*), within 24 hours of the discovery. Transco would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to us.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

This section of the proposed IHA (78 FR 78824, December 27, 2013) described the methods used to estimate marine mammal density; that information has not changed except for the fact that pile driving activities will no longer take place during spring or winter months. Therefore, the marine mammal densities for the winter and spring seasons are no longer applicable and only summer and fall densities were considered. Transco estimated potential take by multiplying the area of the zone of influence (the Level B harassment area) by the local animal density. This provides an estimate of the number of animals that might occupy the Level B harassment area at any given moment during vibratory pile driving activities. Further information on these calculations and how they were applied to each species is also provided in section 6.3 of Transco's application (*see* **ADDRESSES**). Based on a comment from the Marine Mammal Commission, the number of days of pile driving was also considered when estimating take.

NMFS' current acoustic exposure criteria are provided in Table 2 below. Based on these thresholds, Transco estimated the number of marine mammals that may be exposed to noise that rises to the level of take. Table 3 shows the authorized take for Transco's specified activity, based on the estimated seasonal densities for pile installation and removal and the number of days of activity (up to seven for installation and seven for removal). Table 3 was adjusted from the proposed IHA to account for the new construction schedule and the Marine Mammal Commission's comment.

Non-explosive sound		
Criterion	Criterion definition	Threshold
Level A Harassment (injury)	Permanent Threshold Shift (PTS) (Any level above that which is known to cause TTS).	180 dB re 1 microPa-m (cetaceans)/190 dB re 1 microPa-m (pinnipeds) root mean square (rms).
Level B Harassment	Behavioral Disruption (for impulse noises)	160 dB re 1 microPa-m (rms).
Level B Harassment	Behavioral Disruption (for continuous noises)	120 dB re 1 microPa-m (rms).

TABLE 3—ESTIMATED DENSITIES AND AUTHORIZED MARINE MAMMAL TAKE FOR THE SPECIFIED ACTIVITY

Common species name	Est. summer density (per 100 km^2) [1]	Est. fall density (per 100 km^2) [1]	Est. daily summer take by level B harassment	Est. daily fall take by level B harassment	Total take authorized	Abundance of stock	% of stock potentially affected	Pop. trend
Gray seal	N/A	N/A	14	14	196	348,900	0.06	increasing.
Harbor seal	156.41	156.41	69	69	966	99,340	0.97	N/A.
Bottlenose dolphin	26.91	3.70	12	2	98	7,147	1.37	N/A.
Short-beaked common dolphin.	3.59	5.28	2	3	35	52,893	0.06	N/A.
Harbor porpoise	0.00	3.20	0	2	14	99,340	0.01	N/A.

[1] Source: Navy OPAREA Density Estimates (NODE) for the Northeast OPAREAS: Boston, Narragansett Bay, and Atlantic City (2007).
N/A = Not available

Analysis and Preliminary Determinations

Negligible Impact

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (i.e., population-level effects). An estimate of the number of Level B harassment takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

We do not anticipate that any injuries, serious injuries, or mortalities will occur as a result of Transco's Project, and we are not authorizing injury, serious injury, or mortality for this Project. We have determined, provided that the aforementioned mitigation and monitoring measures are implemented, that the impact of conducting pile driving activities off Rockaway Peninsula, from June 2014 through September 2014, may result, at worst, in a modification in behavior and/or low-level physiological effects (Level B harassment) of certain species of marine mammals. There are no known important feeding areas or haul-outs within the project area. While these species may make behavioral modifications, including temporarily vacating the area during the operation of the pile hammer to avoid the resultant acoustic disturbance, the availability of similar habitat surrounding the project area and the short and sporadic duration of the specified activities, have led us to determine that this action will not adversely affect annual rates of recruitment or survival.

Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (i.e., 24 hour cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). While vibratory pile driving will occur over 2 consecutive days, this is still considered a short overall duration and it will only occur during daylight hours.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the required monitoring and mitigation measures, NMFS finds that the total marine mammal take from Transco's specified activity will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

The take numbers for each marine mammal species we are authorizing are small (all estimates are less than two percent) relative to the affected stock sizes. Accordingly, NMFS finds that small numbers of marine mammals will be taken.

Impact on Availability of Affected Species for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks will not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Transco originally requested, and NMFS proposed, the incidental take of North Atlantic right whale, which is listed as endangered under the Endangered Species Act. Under section 7 of the Act, the Federal Energy Regulatory Commission (FERC; the federal agency responsible for permitting Transco's construction) initiated formal consultation with our Northeast Regional Office on the Project. We (i.e., National Marine Fisheries Service, Office of Protected Resources, Permits and Conservation Division), also initiated formal consultation under section 7 of the Act with the Northeast Regional Office to obtain a Biological Opinion (Opinion) evaluating the effects of issuing an incidental harassment

authorization for threatened and endangered marine mammals and, if appropriate, authorizing incidental take. However, following Transco's amendment to their request, the Permits and Conservation Division and the Northeast Regional Office concluded that take of North Atlantic right whale is unlikely. Therefore, the Project is not expected to result in the take of any threatened or endangered marine mammal species.

National Environmental Policy Act (NEPA)

NMFS participated as a cooperating agency on the FERC's Rockaway Delivery Lateral Project Environmental Impact Statement (EIS), which was published on March 10, 2014 (79 FR 13295) and is available here: *https://www.ferc.gov/industries/gas/enviro/eis/2014/02-28-14-eis.asp.* NMFS determined that the EIS is adequate and appropriate to meet our responsibilities under NEPA for the issuance of an IHA. NMFS adopted FERC's FEIS on May 27, 2014.

Dated: June 18, 2014.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–14563 Filed 6–20–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Substantive Submissions Made During Prosecution of the Trademark Application

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. § 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before August 22, 2014.

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

- *Email: InformationCollection@uspto.gov.* Include ''0651–0054 comment'' in the subject line of the message.
- *Mail:* Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Catherine Cain, Attorney Advisor, Office of the Commissioner for Trademarks, United States Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313–1451, by telephone at 571–272–8946, or by email to *Catherine.Cain@uspto.gov.* Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The United States Patent and Trademark Office (USPTO) administers the Trademark Act, 15 U.S.C. § 1051 *et seq.,* which provides for the Federal registration of trademarks, service marks, collective trademarks and service marks, collective membership marks, and certification marks. Individuals and businesses that use or intend to use such marks in commerce may file an application to register their mark with the USPTO.

Such individuals and businesses may also submit various communications to the USPTO, including providing additional information needed to process a request to delete a particular filing basis from an application or to divide an application identifying multiple goods and/or services into two or more separate applications. Applicants may seek a six-month extension of time to file a statement that the mark is in use in commerce or submit a petition to revive an application that abandoned for failure to submit a timely response to an office action or a timely statement of use or extension request. In some circumstances, an applicant may expressly abandon an application by filing a written request for withdrawal of the application.

The rules implementing the Act are set forth in 37 CFR Part 2. These rules mandate that each register entry include the mark, the goods and/or services in connection with which the mark is used, ownership information, dates of use, and certain other information. The USPTO also provides similar information concerning pending applications. The register and pending application information may be accessed by an individual or by businesses to determine the availability of a mark. By accessing the USPTO's information, parties may reduce the possibility of initiating use of a mark previously adopted by another. The Federal trademark registration process may thereby reduce the number of filings between both litigating parties and the courts.

II. Method of Collection

The forms in this collection are available in electronic format through the Trademark Electronic Application System (TEAS), which may be accessed on the USPTO Web site. TEAS Global Forms are available for the items where a TEAS form with dedicated data fields is not yet available. Applicants may also submit the information in paper form by mail, fax, or hand delivery.

III. Data

OMB Number: 0651–0054.

Form Number(s): PTO Forms 1553, 1581, 2194, 2195, 2200, and 2202.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses or other for-profits; not-for-profit institutions.

Estimated Number of Respondents: 292,706 per year.

Estimated Time per Response: The USPTO estimates that it will take the public from 5 minutes (0.083 hours) to 30 minutes (0.50 hours), depending on the complexity of the situation, to gather the necessary information, prepare the appropriate documents, and submit the information to the USPTO.

Estimated Total Annual Respondent Burden Hours: 63,981.

Estimated Total Annual Respondent Cost Burden: $24,888,609. The USPTO expects that the information in this collection will be prepared by attorneys at an estimated rate of $389 per hour. Therefore, the USPTO estimates that the respondent cost burden for this collection will be approximately $24,888,609 per year.

Item No.	Item	Estimated time for response (minutes)	Estimated annual responses	Estimated annual burden hours
1	Trademark/Service Mark Allegation of Use (Statement of Use/Amendment to Allege Use) (Paper).	25	1,704	710
1	Trademark/Service Mark Allegation of Use (Statement of Use/Amendment to Allege Use) (TEAS).	20	80,733	26,911
2	Request for Extension of Time to File a Statement of Use (Paper)	12	1,819	363.8
2	Request for Extension of Time to File a Statement of Use (TEAS)	10	180,047	30,007.83
3	Petition to Revive Abandoned Application—Failure to Respond Timely to Office Action (Paper).	20	348	116
3	Petition to Revive Abandoned Application—Failure to Respond Timely to Office Action (TEAS).	15	18,548	4,637
4	Petition to Revive Abandoned Application—Failure to File Timely Statement of Use or Extension Request (Paper).	15	34	8.5
4	Petition to Revive Abandoned Application—Failure to File Timely Statement of Use or Extension Request (TEAS).	12	159	31.8
5	Request to Delete Section 1(b) Basis, Intent to Use (Paper)	10	26	4.33
5	Request to Delete Section 1(b) Basis, Intent to Use (TEAS)	5	1,300	108.33
6	Request for Express Abandonment (Withdrawal) of Application (Paper)	10	100	16.67
6	Request for Express Abandonment (Withdrawal) of Application (TEAS)	5	4,900	408.33
7	Request to Divide Application (Paper)	15	39	9.75
7	Request to Divide Application (TEAS Global)	10	1,922	320.33
8	Response to Intent-to-Use (ITU) Divisional Unit Office Action (Paper)	30	1	.5
8	Response to Intent-to-Use (ITU) Divisional Unit Office Action (TEAS Global)	30	1	.5
9	Response to Petition to Revive Deficiency Letter (Paper)	20	5	1.67
9	Response to Petition to Revive Deficiency Letter (TEAS Global)	15	250	62.5
10	Petition to the Director Under Trademark Rule 2.146 (Paper)	25	12	5
10	Petition to the Director Under Trademark Rule 2.146 (TEAS Global)	20	600	200
11	Due Diligence Petition Under Trademark Rule 2.66 (Paper)	25	2	.83
11	Due Diligence Petition Under Trademark Rule 2.66 (TEAS Global)	20	130	43.33
12	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (Paper).	30	1	.5
12	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (TEAS Global).	30	25	12.5
TOTALS			292,706	63,981

Estimated Total Annual (Non-Hour) Respondent Cost Burden: $37,707,606. There are no capital start-up, maintenance or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) cost burden in the form of postage costs and filing fees.

Applicants incur postage costs when submitting information to the USPTO by mail through the United States Postal Service. The USPTO estimates that the majority of the paper forms are submitted to the USPTO via first-class mail at a rate of 49 cents per ounce. Therefore, the USPTO estimates that with 4,091 total paper submissions, the postage costs in this collection will be $2,006.

The filing fees for several items in this collection are charged per class of goods and/or services; therefore, the filing fees will vary for each respondent depending on the number of classes. The total filing fees of $37,705,600 shown here are based on the minimum fee of one class for those items for which a fee is required.

Item No.	Item	Responses (yr) (a)	Filing fees (b)	Total cost (yr) (a × b)
1	Trademark/Service Mark Allegation of Use (Statement of Use/Amendment to Allege Use) (Paper).	1,704	$100.00	$170,400.00
2	Trademark/Service Mark Allegation of Use (Statement of Use/Amendment to Allege Use) (TEAS).	80,733	100.00	8,073,300.00
2	Request for Extension of Time to File a Statement of Use (Paper)	1,819	150.00	272,850.00
2	Request for Extension of Time to File a Statement of Use (TEAS)	180,047	150.00	27,007,050.00
3	Petition to Revive Abandoned Application—Failure to Respond Timely to Office Action (Paper).	348	100.00	34,800.00
3	Petition to Revive Abandoned Application—Failure to Respond Timely to Office Action (TEAS).	18,548	100.00	1,854,800.00
4	Petition to Revive Abandoned Application—Failure to File Timely Statement of Use or Extension Request (Paper).	34	100.00	3,400.00
4	Petition to Revive Abandoned Application—Failure to File Timely Statement of Use or Extension Request (TEAS).	159	100.00	15,900.00
5	Request to Delete Section 1(b) Basis, Intent to Use (Paper)	26	0.00	0.00
5	Request to Delete Section 1(b) Basis, Intent to Use (TEAS)	1,300	0.00	0.00

Item No.	Item	Responses (yr) (a)	Filing fees (b)	Total cost (yr) (a × b)
6	Request for Express Abandonment (Withdrawal) of Application (Paper)	100	0.00	0.00
6	Request for Express Abandonment (Withdrawal) of Application (TEAS)	4,900	0.00	0.00
7	Request to Divide Application (Paper)	39	100.00	3,900.00
7	Request to Divide Application (TEAS Global)	1,922	100.00	192,200.00
8	Response to Intent-to-Use (ITU) Divisional Unit Office Action (Paper)	1	0.00	0.00
8	Response to Intent-to-Use (ITU) Divisional Unit Office Action (TEAS Global)	1	0.00	0.00
9	Response to Petition to Revive Deficiency Letter (Paper)	5	0.00	0.00
9	Response to Petition to Revive Deficiency Letter (TEAS Global)	250	0.00	0.00
10	Petition to the Director Under Trademark Rule 2.146 (Paper)	12	100.00	1,200.00
10	Petition to the Director Under Trademark Rule 2.146 (TEAS Global)	600	100.00	60,000.00
11	Due Diligence Petition Under Trademark Rule 2.66 (Paper)	2	100.00	200.00
11	Due Diligence Petition Under Trademark Rule 2.66 (TEAS Global)	130	100.00	13,000.00
12	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (Paper).	1	100.00	100.00
12	Petition to Revive with Request to Delete Section 1(b) Basis or to Delete ITU Goods/Services After NOA (TEAS Global).	25	100.00	2,500.00
TOTALS		292,706		37,705,600

IV. 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.

The USPTO is soliciting public comments to: (a) Evaluate 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) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: June 17, 2014.

Susan K. Fawcett,

Records Officer, USPTO, Office of the Chief Information Officer.

[FR Doc. 2014–14511 Filed 6–20–14; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0229]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Consideration will be given to all comments received by July 23, 2014.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Exceptional Family Member Program, DD Form 2792, Family Member Medical Summary, and DD Form 2792–1, Special Education/Early Intervention Summary. OMB Control Number: 0704–0411.

Type of Request: Revision.

Number of Respondents: 44,555.

Responses per Respondent: 1.

Annual Responses: 44,555.

Average Burden per Response: 27 minutes.

Annual Burden Hours: 20,050.

Needs And Uses: This information collection requirement is necessary to screen members of military families to determine if they have special medical (DD Form 2792) and/or educational (DD Form 2792–1) conditions so that these conditions can be taken into consideration when the Service member is being assigned to a new location with his/her family. The information is used by the personnel system to identify special considerations for future assignments. Local and state school and early intervention personnel complete DD Form 2792–1 for children requiring special educational services. The DD Form 2792 and DD Form 2792–1 are also used by TRICARE Managed Care Support Contractors to support a family member's application for further entitlements, and other Service-specific programs that require registration in the Exceptional Family Member Program. The DD Form 2792 and DD Form 2792–1 associated with this information collection, may be voluntarily submitted by a perspective civilian employee to the civilian personnel office to identify family members who have special needs in order to advise the civilian employee of the availability of services in the location where they will be potentially employed. The DD Form 2792–1 must be completed if the civilian employee intends to enroll his or her child in a school funded by the DoD.

Affected Public: Individuals or households; State and local education personnel.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD Information Management Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: June 18, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–14564 Filed 6–20–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal Nos. 14–16]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

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 14–16 with attached transmittal, policy justification and Sensitivity of Technology.

Dated: June 18, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE: 5001–06–P

DEFENSE SECURITY COOPERATION AGENCY
201 12TH STREET SOUTH, STE 203
ARLINGTON, VA 22202-5408

JUN 16 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. 14-16, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Singapore for defense articles and services estimated to cost $251 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

BILLING CODE: 5001–06–C

Transmittal No. 14–16

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:* Singapore

(ii) *Total Estimated Value:*

Major Defense Equipment* ..	$ 3 million
Other	$248 million
Total	$251 million

(iii) *Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:* follow-on support and services for Singapore's Continental United States (CONUS) detachment PEACE CARVIN II (F–16) based at Luke Air Force Base (AFB) for a five-year period. MDE consists of 80 CATM–9M Captive Air Training Missiles. Also included: Jet fuel, containers, publications and technical

documentation, tactics manuals and academic instruction, maintenance, clothing and individual equipment, execution and support of CONUS exercise deployments, airlift and aerial refueling, support equipment, spare and repair parts, repair and return, personnel training and training equipment, U.S. Government and contractor technical and logistics support services, and other related elements of logistical and program support.

(iv) *Military Department:* Air Force (NCZ)

(v) *Prior Related Cases, if any:*

FMS case SAA–$192M–24Feb06
FMS case NCX–$107M–20Sep06
FMS case NAS–$187M–25Mar08
FMS case NCY–$202M–01Oct09
FMS case SAC–$98M–30Oct09

(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:* 16 June 2014

* as defined in Section 47(6) of the Arms Export Control Act.

Policy Justification

Singapore—F–16 Pilot Training

The Government of Singapore has requested a possible sale of follow-on support and services for Singapore's Continental United States (CONUS) detachment PEACE CARVIN II (F–16) based at Luke Air Force Base (AFB) for a five-year period. MDE consists of 80 CATM–9M Captive Air Training Missiles. Also included: Jet fuel, containers, publications and technical documentation, tactics manuals and academic instruction, maintenance, clothing and individual equipment, execution and support of CONUS exercise deployments, airlift and aerial refueling, support equipment, spare and repair parts, repair and return, personnel training and training equipment, U.S. Government and contractor technical and logistics support services, and other related elements of logistical and program support. The estimated cost is $251 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 friendly country that has been, and continues to be, an important force for economic progress in Southeast Asia.

Singapore needs this training and equipment to support its F–16 aircraft. The continuation of this training program will enable Singapore to develop mission-ready and experienced F–16 pilots. The well-established pilot proficiency training program at Luke Air Force Base will support professional interaction and enhance operational interoperability with U.S. 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 Corporation in Tucson, Arizona. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government and contractor representatives to Singapore.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 14–16

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 CATM–9M Captive Air Training Missile (CATM) is a captive version of the AIM–9M–8/9 Sidewinder used for training purposes only. The CATM does not include the rocket motor or warhead but does include the AIM–9M–8/9 Sidewinder Active Optical Target Detector, Gyro Optics Assembly within the Guidance Control Section, Infrared Countermeasures, and Detection and Rejection Circuitry.

2. The equipment hardware, software, and maintenance are classified Confidential. Pilot training is classified Secret. Manuals and technical documentation are classified Secret. Performance and operating information is classified Secret.

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 which might reduce weapon system effectiveness or be used in the development of a system with similar or 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 U.S. 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 Singapore.

[FR Doc. 2014–14588 Filed 6–20–14; 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 is publishing this notice to announce that it is renewing the charter for the Department of Defense Board of Actuaries (''the Board'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: This Board's charter is being renewed under the provisions of 10 U.S.C. 183 and 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(a).

The Board is a statutory Federal advisory committee that shall provide the Secretary of Defense and the Deputy Secretary of Defense through, the Under Secretary of Defense for Personnel and Readiness (USD (P&R)), independent advice and recommendations on matters relating to the DoD Military Retirement Fund, the DoD Education Benefits Fund, and other funds as the Secretary of Defense shall specify.

The Board shall report to the Secretary of Defense and the Deputy Secretary of Defense through the USD (P&R). The USD(P&R) may act upon the Board's advice and recommendations.

The DoD, through the Office of the USD(P&R), shall provide support, as deemed necessary, for the Board's performance and functions, 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 established DoD policies and procedures.

The Board shall be comprised of three members who are appointed by the Secretary or the Deputy Secretary of Defense from among qualified professional actuaries who are members of the Society of Actuaries. Their membership shall be renewed by the

Secretary of Defense or the Deputy Secretary of Defense on an annual basis.

Board members shall serve for a term of 15 years, except that a member of the Board appointed to fill a vacancy occurring before the end of the term for which the predecessor was appointed shall serve only until the end of such term. A member may serve after the end of the member's term until a successor takes office. A member of the Board may be removed by the Secretary of Defense only for misconduct or failure to perform functions vested in the Board.

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, and shall, under the authority of 10 U.S.C. 183(b)(4), serve with compensation, to include travel and per diem for official travel. A member of the Board who is not an employee of the United States is entitled to receive pay at the daily equivalent of the annual rate of basic pay of the highest rate of basic pay then currently being paid under the General Schedule of subchapter III of chapter 53 of title 5, United State Code, for each day the member is engaged in the performance of the duties of the Board. Board members appointed by the Secretary of Defense or Deputy Secretary of Defense, who are full-time or permanent part-time Federal employees, shall be appointed pursuant to 41 CFR 102–3.130(a) to serve as regular government employee (RGE) members.

The DoD shall provide non-voting technical advisors to assist the Board in execution of its duties. The following individuals shall designate one DoD employee from each fund under the Board's purview (the DoD Military Retirement Fund, the DoD Education Benefits Fund, and other funds specified by the Secretary of Defense for purposes of 10 U.S.C. 183) to serve as a non-voting advisor to assist the Board.

a. the Under Secretary of Defense (Comptroller)/Chief Financial Officer;

b. the Assistant Secretary of Defense for Readiness and Force Management, through the Deputy Assistant Secretary of Defense for Military Personnel Policy;

c. the Assistant Secretary of Defense for Reserve Affairs; and

d. the Department of Defense General Counsel.

Each Board member is appointed to provide advice to the government on the basis of his or her best judgment without representing any particular point of view and in a manner that is free from conflict of interest.

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 USD (P&R), 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. Subcommittees and their members cannot 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 one-to-four years, with annual renewals, 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 or consultants, under the authority of 5 U.S.C. 3109 to serve as SGE members. Subcommittee members appointed by the Secretary of Defense, who are full-time or permanent part-time Federal employees, shall be appointed pursuant to 41 CFR 102–3.130(a) to serve as RGE members. Under the authority of 10 U.S.C. 183(b)(4), these special government employee members shall serve with compensation, to include travel and per diem for official travel.

All subcommittees operate under the provisions of FACA, the Sunshine Act, governing Federal statutes and regulations, and established DoD policies and procedures.

The Board's 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 is required to be in attendance at all meetings of the Board and its subcommittees for the entire duration of each and every meeting. However, in the absence of the Board's DFO, a properly approved Alternate DFO, duly appointed to the Board according to established DoD policies and procedures, shall attend the entire duration of all meetings of the Board and its subcommittees.

The DFO, or the Alternate DFO, shall call all 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; and chair meetings when directed to do so by the USD (P&R).

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to Department of Defense Board of Actuaries 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 Department of Defense Board of Actuaries. All written statements shall be submitted to the DFO for the Department of Defense Board of Actuaries, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Department of Defense Board of Actuaries 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 Department of Defense Board of Actuaries. 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: June 18, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–14568 Filed 6–20–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

President's Council of Advisors on Science and Technology

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of partially-closed meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for a partially closed meeting of the President's Council of Advisors on Science and Technology (PCAST), and describes the functions of the Council.

Notice of this meeting is required under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2.

DATES: July 11, 2014, 9:00 a.m. to 12:00 p.m.

ADDRESSES: National Academy of Sciences (Lecture Room), 2101 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Information regarding the meeting agenda, time, location, and how to register for the meeting is available on the PCAST Web site at: *http://whitehouse.gov/ostp/pcast.* A live video webcast and an archive of the webcast after the event are expected to be available at *http://whitehouse.gov/ostp/pcast.* The archived video will be available within one week of the meeting. Questions about the meeting should be directed to Dr. Ashley Predith by email at: *apredith@ostp.eop.gov,* or telephone: (202) 456–4444. Please note that public seating for this meeting is limited and is available on a first-come, first-served basis.

SUPPLEMENTARY INFORMATION: The President's Council of Advisors on Science and Technology (PCAST) is an advisory group of the nation's leading scientists and engineers, appointed by the President to augment the science and technology advice available to him from inside the White House, cabinet departments, and other Federal agencies. See the Executive Order at *http://www.whitehouse.gov/ostp/pcast.* PCAST is consulted about and provides analyses and recommendations concerning a wide range of issues where understandings from the domains of science, technology, and innovation may bear on the policy choices before the President. PCAST is co-chaired by Dr. John P. Holdren, Assistant to the President for Science and Technology, and Director, Office of Science and Technology Policy, Executive Office of the President, The White House; and Dr. Eric S. Lander, President, Broad Institute of the Massachusetts Institute of Technology and Harvard.

Type of Meeting: Open and Closed.

Proposed Schedule and Agenda: The President's Council of Advisors on Science and Technology (PCAST) is scheduled to meet in open session on July 11, 2014 from 9:00 a.m. to 12:00 p.m.

Open Portion of Meeting: During this open meeting, PCAST is scheduled to discuss its work on antibiotic resistance and on nanotechnology. PCAST will also hear from speakers who will remark on oceans policy. Additional information and the agenda, including any changes that arise, will be posted at the PCAST Web site at: *http://whitehouse.gov/ostp/pcast.*

Closed Portion of the Meeting: PCAST may hold a closed meeting of approximately one hour with the President on July 11, 2014, which must take place in the White House for the President's scheduling convenience and to maintain Secret Service protection. This meeting will be closed to the public because such portion of the meeting is likely to disclose matters that are to be kept secret in the interest of national defense or foreign policy under 5 U.S.C. 552b(c)(1).

Public Comments: It is the policy of the PCAST to accept written public comments of any length, and to accommodate oral public comments whenever possible. The PCAST expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

The public comment period for this meeting will take place on July 11, 2014 at a time specified in the meeting agenda posted on the PCAST Web site at *http://whitehouse.gov/ostp/pcast.* This public comment period is designed only for substantive commentary on PCAST's work, not for business marketing purposes.

Oral Comments: To be considered for the public speaker list at the meeting, interested parties should register to speak at *http://whitehouse.gov/ostp/pcast,* no later than 12:00 p.m. Eastern Time on July 3, 2014. Phone or email reservations will not be accepted. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of up to 30 minutes. If more speakers register than there is space available on the agenda, PCAST will randomly select speakers from among those who applied. Those not selected to present oral comments may always file written comments with the committee. Speakers are requested to bring at least 25 copies of their oral comments for distribution to the PCAST members.

Written Comments: Although written comments are accepted continuously, written comments should be submitted to PCAST no later than 12:00 p.m. Eastern Time on July 3, 2014 so that the comments may be made available to the PCAST members prior to this meeting for their consideration. Information regarding how to submit comments and documents to PCAST is available at *http://whitehouse.gov/ostp/pcast* in the section entitled ''Connect with PCAST.''

Please note that because PCAST operates under the provisions of FACA, all public comments and/or presentations will be treated as public documents and will be made available for public inspection, including being posted on the PCAST Web site.

Meeting Accommodations: Individuals requiring special accommodation to access this public meeting should contact Dr. Ashley Predith at least ten business days prior to the meeting so that appropriate arrangements can be made.

Issued in Washington, DC, on June 17, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–14582 Filed 6–20–14; 8:45 am]

BILLING CODE 6504–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9912–59–Region–5: EPA–R05–OPPT–2014–0360]

TSCA Sections 402(a), 402(c), and 406(b) Program Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On May 19, 2014, the Environmental Protection Agency (EPA) determined that the Bois Forte Band of Chippewa (Bois Forte) had submitted a complete application under section 404 of the Toxic Substances Control Act (TSCA) requesting authorization to administer and enforce the requirements for TSCA sections 402(a), 402(c), and 406(b) in accordance with the provisions of TSCA for trust lands located within the exterior boundaries of the reservation. These programs ensure that: Individuals engaged in certain work that may disturb lead-based paint, including but not limited to abatement and renovation, are properly trained; that training programs are accredited; that contractors engaged in such activities are certified; that owners and occupants of target housing and/or child-occupied facilities are provided information concerning potential hazards of lead-based paint exposure before certain renovations are begun; and that the required work is performed in accordance with work practice standards. This notice announces receipt of the Bois Forte Band of Chippewa's application and request for authorization to administer the program in lieu of the federal program. EPA has determined that the Bois Forte application is complete, and is now

providing a 45-day public comment period and opportunity to request a public hearing.

DATES: Comments, identified by docket identification (ID) number EPA–R05–OPPT–2014–0360, must be received on or before August 7, 2014. In addition, a public hearing request must be submitted on or before July 8, 2014.

ADDRESSES: Comments and requests for a public hearing may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION** section in this notice. To ensure proper receipt by EPA, it is imperative that you identify docket ID number EPA–R05–OPPT–2014–0360 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Emma Avant, Land and Chemicals Division (LCD), Toxics Section, U.S. Environmental Protection Agency, 77 W. Jackson Boulevard, Chicago, IL 60604; telephone number: (312) 886–7899; email address: *avant.emma@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be specifically of interest to firms and individuals engaged in lead-based paint activities and/or renovation and remodeling activities involving pre-1978 housing on the Bois Forte Reservation. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get additional information, including copies of this document or other related documents?

1. *Electronically.* EPA has established an official record for this action under docket ID number EPA–R05–OPPT–2014–0360. The official record consists of the documents specifically referenced in this action, this notice, the Bois Forte TSCA program authorization application, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business information (CBI).

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

2. *In person:* You may view this document and related documents by visiting the Bois Forte Tribal Government Environmental Services Office, 5344 Lakeshore Drive, P.O. Box 16, Nett Lake, Minnesota 55772, contact telephone number (218) 757–3543, or EPA Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, contact telephone number (312) 886–7899.

C. How and to whom do I submit comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket ID number EPA–R05–OPPT–2014–0360 in the subject line on the first page of your response.

1. *By mail:* Submit your comments and hearing requests to: Emma Avant, LCD, Toxics Section, U.S. Environmental Protection Agency, 77 W. Jackson Boulevard, Chicago, IL 60604.

2. *By person or courier:* Deliver your comments and hearing requests to: EPA Region 5, LCD, Toxics Section, 77 W. Jackson Blvd., Chicago, IL 60604. The Regional office is open from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays. The telephone number for the regional office is (312) 886–6003.

3. *Electronically:* You may submit your comments and hearing requests electronically by email to: *avant.emma@epa.gov* or through *http://www.regulations.gov,* or mail your computer disk to the address identified above. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in Microsoft Word or ASCII file format.

D. How should I handle CBI information that I want to submit to the agency?

You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any 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 version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What should I consider as I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments.

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background

A. What action is the agency taking?

On July 14, 2010, the Bois Forte Band of Chippewa (Bois Forte or the Tribe), located in St. Louis and Koochiching Counties in Northern Minnesota, submitted an application under section 404 of TSCA requesting authorization to administer and enforce requirements for: Lead-based paint activities (such as abatement) in accordance with section 402(a) of TSCA; renovation, repair and painting (referred to as ''RRP''), in accordance with section 402(c) of TSCA; and pre-renovation education in accordance with section 406(b) of TSCA. These programs contain procedures and requirements for the accreditation of lead-based paint activities and RRP training programs, procedures and requirements for the certification of individuals and firms

engaged in lead-based paint activities or RRP activities, and work practice standards for performing such activities, and ensure that owners and occupants of target housing are provided information concerning potential hazards of lead-based paint exposure before certain lead-based paint activities or RRP activities are begun. Subsequently, Bois Forte supplemented the application on August 30, 2010, September 23, 2011, January 31, 2012, February 23, 2012, and July 13, 2013. After reviewing all the application materials, EPA now considers the Tribe's application to be complete.

The Tribe's application requests authorization to administer and enforce these requirements on lands held in trust for the Tribe within the reservation boundaries. The Tribe has not, at this time, requested authorization to administer and enforce these programs on non-member owned fee lands within the reservation boundaries. If EPA authorizes the Tribal program, EPA will continue to administer and enforce the requirements on non-member owned fee lands within the reservation boundaries. The Tribe may, however, apply to administer and enforce these requirements for all lands located within the exterior boundaries of the reservation at some future time, but must meet all statutory and regulatory requirements under section 404(b) of TSCA, 15 U.S.C. 2684(b) and 40 CFR part 745 subpart Q.

The Bois Forte Reservation includes five land areas, four of which currently include lands held in trust for the Tribe. The Lake Vermillion land area, approximately 2803 acres located near the town of Tower, Minnesota, and the Sugar Bush and Indian Point land areas, approximately 83 acres and 60 acres, respectively, both located near the town of Orr, Minnesota, consist entirely of trust land for which the Tribe will administer and enforce the program. The Nett Lake land area, comprising of 103,000 acres surrounding Nett Lake, and the vast majority of the Bois Forte Reservation land and members, includes both trust land, where the Tribe will administer and enforce the program, and non-member owned fee land, where the Tribe will not. The Deer Creek land area, approximately 23,000 acres currently includes no trust lands; at this time the Tribe will not administer the program on the Deer Creek land area. There are a total of approximately 100 pre-1978 housing properties on trust lands where the Tribe will administer and enforce the program. Because the program addresses lead-based paint found in housing constructed prior to 1978, the only scenarios under which additional housing will come into the universe of regulated properties are: (1) Pre-1978 housing is moved onto trust land, and (2) new lands are placed into trust upon which pre-1978 housing exists.

The Tribe's proposed program includes one provision for which the Tribal program is more stringent than the federal program. The Tribe's definition of ''target housing'' includes all buildings on Tribal trust lands. The federal program only applies to ''target housing,'' as defined by section 401(17) of TSCA, 15 U.S.C. 2681, which includes housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any zero-bedroom dwelling. As noted below in Section IV of this notice, if approved, EPA may exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of the Bois Forte Lead Program that is consistent with federal program requirements. Therefore, if approved, EPA will not enforce the Bois Forte Lead Program for violations arising at buildings not included in the federal definition of ''target housing.''

In order for EPA to authorize the Bois Forte program, it must determine that the application includes information sufficient for EPA to find Bois Forte eligible for treatment in the same manner as a state (TAS). For the TSCA lead program, TAS requirements are found in 40 CFR 745.324(b)(4), and include, among other things, that the tribe is recognized by the Secretary of the Interior; has an existing government exercising substantial governmental duties and powers; has adequate civil regulatory jurisdiction over the subject matter and entities regulated; and is reasonably expected to be capable of administering the federal program for which it is seeking authorization. In determining that the Tribe's application is complete, EPA believes that the Tribe has demonstrated that it can meet each of these requirements for TAS under this program.

Pursuant to section 404(b) of TSCA, 15 U.S.C. 2684(b) and 40 CFR part 745, subpart Q, EPA provides notice and an opportunity for a public hearing on a state or tribal program application before approving the program. Therefore, by this notice EPA is soliciting public comment on whether the Bois Forte application meets the requirements for EPA approval. This notice also provides an opportunity to request a public hearing on the application. If a hearing is requested, EPA will issue a **Federal Register** notice announcing the date, time and place of the hearing and EPA's final decision on the application will also then be published in the **Federal Register**.

B. What is the agency's authority for taking this action?

On October 28, 1992, the Housing and Community Development Act of 1992, Public Law 102–550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681–2692), entitled *Lead Exposure Reduction.* In the **Federal Register** of August 29, 1996 (61 FR 45813) (FRL–5389–9), April 22, 2008 (73 FR 21758) (FRL–8355–7), and June 1, 1998 (63 FR 29908) (FR–5751–7), respectively, EPA promulgated final TSCA section 402(a), 402(c), and 406(b) regulations governing lead-based paint activities (abatement) training, certification and work practice standards; renovation, repair and painting (RRP) training, certification and work practice standards; and pre-renovation education (PRE) requirements in target housing and/or child-occupied facilities. These programs establish requirements for training individuals conducting lead-based paint activities and RRP activities; accrediting lead-based paint activities and RRP activities training providers; and for lead-based paint activities and RRP work practices. The program also ensures that owners and occupants of target housing and child-occupied facilities are provided information concerning potential hazards of lead-based paint exposure before certain renovations are conducted. In addition to providing general information on the health hazards associated with exposure to lead, the lead hazard information pamphlet advises owners and occupants to take appropriate precautions to avoid exposure to lead-contaminated dust and debris that are sometimes generated during renovations. EPA believes that distribution of the pamphlet will help to reduce the exposures that cause serious lead poisonings, especially in children under age 6, who are particularly susceptible to the hazards of lead. Under section 404 of TSCA, 15 U.S.C. 2684, a state or tribe may seek authorization from EPA to administer and enforce its own lead-based paint activities, RRP and/or pre-renovation education program in lieu of the federal program. The regulations governing the authorization of a state or tribal program under both sections 402 and 406 of TSCA are codified at 40 CFR part 745,

subpart Q. A state or tribe that chooses to apply for program authorization must submit a complete application to the appropriate regional EPA office for review. Those applications will be reviewed by EPA within 180 days of receipt of the complete application. To receive EPA approval, a state or tribe must demonstrate that its program is at least as protective of human health and the environment as the federal program, and provides for adequate enforcement under section 404(b) of TSCA, 15 U.S.C. 2684(b). EPA's regulations at 40 CFR part 745, subpart Q provide the detailed requirements a state or tribal program must meet in order to obtain EPA approval.

III. Tribal Program Description Summary

The following is the Tribe's proposed TSCA Lead-Based Paint program summary, which the Bois Forte Tribe prepared as a required part of its application:

The Bois Forte has adopted by Resolution # 6–2011, the ordinance entitled *Bois Forte Lead Program* in order to provide clear and specific authority and guidance for regulating renovation requirements, and pre-renovation notification requirements and lead-based paint activities, including assessment, inspection, and abatement of lead-based paint on the Bois Forte Reservation. Penalties for non-compliance are established. The ordinance targets all buildings located on the Bois Forte Reservation.

The ordinance is designed to be at least as protective as the federal law and provide for adequate enforcement of all provisions through a schedule of flexible remedies. This is accomplished through a combination of Tribe-specific requirements (training accreditation) that are identical to the federal regulations and through incorporation by reference of other required federal elements (certification of individuals, pre-renovation notification activities, renovation, and definitions of lead-based paint hazards). Also incorporated by reference are the federal definitions with the notable expansion of the definition of target housing to include all reservation buildings.

The ordinance contains enforcement and compliance requirements consisting of a schedule of flexible remedies and an appeals process.

The Bois Forte Reservation Lead Program request for federal delegation of authority is a natural application of tribal sovereign power over environmental regulatory activities on the Tribe's lands for the health, welfare, and safety of community members.

EPA believes that the Tribe's program description, above, together with the rest of the application, demonstrates adequate civil regulatory jurisdiction over the matter and entities regulated.

IV. Federal Overfilling

Section 404(b) of TSCA makes it unlawful for any person to violate, or fail or refuse to comply with, any requirement of an approved state or tribal program. Therefore, if EPA approves the Bois Forte Lead Program application, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of the Bois Forte Lead Program to the extent that such requirement is consistent with federal law.

List of Subjects

Environmental Protection, Hazardous Substances, Lead, Renovation Notification, Reporting and Recordkeeping requirements.

Dated: June 10, 2014.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2014–14591 Filed 6–20–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R09–OAR–2012–0634; FRL–9912–72–Region–9]

Notice of Decision To Issue Clean Air Act PSD Permit for Sierra Pacific Industries-Anderson Division

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final agency action.

SUMMARY: This notice announces that the Environmental Protection Agency (EPA) Region 9 issued a final permit decision for a Clean Air Act Prevention of Significant Deterioration (PSD) permit to Sierra Pacific Industries for the Sierra Pacific Industries-Anderson Division (SPI-Anderson) facility.

DATES: EPA Region 9 issued a final PSD permit decision for the SPI-Anderson facility April 25, 2014. The PSD permit is effective on June 6, 2014. Pursuant to section 307(b)(1) of the Clean Air Act, 42 U.S.C. 7607(b)(1), judicial review of this final permit decision, to the extent it is available, may be sought by filing a petition for review in the United States Court of Appeals for the Ninth Circuit within 60 days of June 23, 2014.

ADDRESSES: Documents relevant to the above-referenced permit are available for public inspection during normal business hours at the following address: U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901. To arrange for viewing of these documents, call Shaheerah Kelly at (415) 947–4156.

FOR FURTHER INFORMATION CONTACT: Shaheerah Kelly, Permits Office (Air-3), U.S. Environmental Protection Agency, Region 9, (415) 947–4156, *kelly.shaheerah@epa.gov*. Key portions of the administrative record for this decision (including the final permit, all public comments, EPA's responses to the public comments, and additional supporting information) are available through a link at Region 9's Web site, *www.epa.gov/region09/air/permit/r9-permits-issued.html#psd,* or at *www.regulations.gov* (Docket ID #EPA–R09–OAR–2011–0978). Anyone who wishes to review the EPA Environmental Appeals Board (EAB or Board) decision described below or documents in the EAB's electronic docket for its decision related to this matter can obtain them at *http://www.epa.gov/eab/*.

Notice Of Final Action And Supplementary Information: On April 25, 2014, EPA Region 9 issued its final permit decision (PSD Permit No. SAC 12–01) to SPI authorizing the construction and operation of a new 31 megawatt biomass and natural gas-fired cogeneration unit and auxiliary equipment at the SPI-Anderson facility in Anderson, California. EPA Region 9 had issued a previous decision regarding this project, on February 19, 2013. After petitions for review of that decision were filed with the EAB, the Board remanded the permit to EPA Region 9 in part and directed EPA Region 9 to reopen the permit proceedings to hold a public hearing, issue a final permit decision and respond to any new comments received during the hearing. *See, In re Sierra Pacific Industries (Anderson Processing Facility),* PSD Appeal Nos. 13–01 to 13–04, slip op. at 67 (EAB July 18, 2013). The EAB denied review of all other issues.

Following these events, we revised the PSD permit by including GHG emission limits and related requirements, as requested by SPI. Following the U.S. Court of Appeals for the District of Columbia vacatur of EPA's deferral of biogenic carbon dioxide emissions from PSD requirements, *see, Ctr. for Biological Diversity* v. *EPA,* 722 F.3d 401 (D.C. Cir. 2013), in August 2013, SPI-Anderson submitted to EPA a supplemental PSD application for GHG emissions. EPA Region 9 revised the PSD permit to include GHG emission limits and related requirements; we also revised certain other conditions (primarily related to monitoring, performance testing, and recordkeeping) to address minor technical issues we had identified since February 2013. We provided notice of public comment of the proposed PSD permit and a public

hearing per 40 CFR 124 on November 8, 2013. In response to the EAB remand, we held a public hearing on December 10, 2013. We accepted public comments on the proposed PSD permit from November 8, 2013 until January 10, 2014.

On April 25, 2014, we issued the final PSD permit, our responses to public comments, and other key documents relevant to the final PSD permit in accordance with 40 CFR 52.21 and 40 CFR part 124. In our correspondence and notifications regarding the final PSD permit, we stated that the final permit decision will become effective 30 days after the service of notice of the decision unless our decision is appealed to the EAB pursuant to 40 CFR 124.19. Three petitions were submitted to the EAB. On June 5, 2014, the EAB dismissed these petitions for review of the final PSD permit decision for lack of jurisdiction.

EPA Region 9 has completed the remand proceedings in response to the EAB's Order, pursuant to 40 CFR 124.19(l)(2), and is issuing the final permit decision granting PSD Permit No. SAC 12–01 to SPI for the SPI-Anderson facility. All conditions of the PSD permit issued on April 25, 2014 are final and effective on June 6, 2014.

Dated: June 9, 2014.

Deborah Jordan,

Director, Air Division, Region IX.

[FR Doc. 2014–14596 Filed 6–20–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2014–0135; FRL–9912–73–OW]

Extension of Request for Scientific Views for Updated National Recommended Water Quality Criteria for the Protection of Human Health

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of the request for scientific views.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period for the draft updated national recommended water quality criteria for the protection of human health announced in a previous notice entitled ''Updated National Recommended Water Quality Criteria for the Protection of Human Health.'' In response to stakeholder requests, the EPA is extending the period of time in which the Agency will accept scientific views for an additional 30 days.

DATES: Scientific views must be received on or before August 13, 2014. The comment period was originally scheduled to end on July 14, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2014–0135, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Mail:* Water Docket, Environmental Protection Agency, 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. Attention Docket ID No. EPA–HQ–OW–2014–0135.
- *Hand Delivery:* Water Docket, EPA Docket Center, EPA WJC West Building Room 3334, 1301 Constitution Ave. NW., Washington, DC, 20004, Attention Docket EPA–HQ–OW–2014–0135. Deliveries to the docket are accepted only during their normal hours of operation: 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. For access to docket materials, call (202) 566–2426, to schedule an appointment.
- *Email: ow-docket@epa.gov;* Attention Docket No. EPA–HQ–OW–2014–0135. To ensure that EPA can properly respond to comments, commenters should cite the section(s) or chemical(s) in draft updates to which each comment refers. Commenters should use a separate paragraph for each issue discussed, and must submit any references cited in their comments. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment. Electronic files should avoid any form of encryption and should be free of any defects or viruses.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2014–0135. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov*. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Water Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

FOR FURTHER INFORMATION CONTACT: Heidi Bethel at U.S. EPA, Office of Water, Health and Ecological Criteria Division (Mail Code 4304T), 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone: (202) 566–2054; or email: *bethel.heidi@epa.gov*.

SUPPLEMENTARY INFORMATION: On May 13, 2014, the EPA announced the availability of draft updated national recommended water quality criteria for the protection of human health in a previous notice entitled ''Updated National Recommended Water Quality Criteria for the Protection of Human Health'' in the **Federal Register** (79 FR 27303). EPA updated its national recommended water quality criteria for human health for ninety-four chemical pollutants to reflect the latest scientific information and current EPA policies. The draft updated criteria are based on EPA's current methodology for deriving human health criteria as described in ''Methodology for Deriving Ambient Water Quality Criteria for the Protection of Human Health (2000)'' and do not establish new policy. EPA's recommended water quality criteria

provide technical information for States and authorized Tribes to establish water quality standards under the Clean Water Act to protect human health.

The original comment deadline was July 14, 2014. This action extends the comment period for 30 days. Written scientific views must now be received by August 13, 2014.

Dated: June 13, 2014.

Elizabeth Southerland,

Director, Office of Science and Technology.

[FR Doc. 2014–14597 Filed 6–20–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE AND TIME: Thursday, June 26, 2014 AT 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes for June 12, 2014

Audit Division Recommendation Memorandum on the Democratic Party of Illinois (DPIL) (A11–15)

Draft Advisory Opinion 2014–04: Enterprise Holdings, Inc.

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shelley E. Garr, Acting Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shelley E. Garr,

Acting Secretary and Clerk of the Commission.

[FR Doc. 2014–14723 Filed 6–19–14; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 18, 2014.

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166–2034:

1. *M&P Community Bancshares, Inc., 401(k) Employee Stock Ownership Plan,* Newport, Arkansas; to acquire additional shares of M&P Community Bancshares, Inc., and thereby indirectly acquire additional voting shares of Merchants & Planters Bank, both in Newport, Arkansas.

Board of Governors of the Federal Reserve System, June 17, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–14556 Filed 6–20–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities; Correction

This notice corrects a notice (FR Doc. 2014–14219) published on pages 34754 and 34755 of the issue for Wednesday, June 18, 2014.

Under the Federal Reserve Bank of Minneapolis heading, the entry for Minnwest Corporation, Minnetonka, Minnesota, is revised to read as follows:

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291.

1. *Minnwest Corporation,* Minnetonka, Minnesota; to acquire 100 percent of the voting shares of HiLine Credit Corporation, Morris, Minnesota, by merging with and into its wholly owned nonbank subsidiary, Minnwest Finance, Inc., Minnetonka, Minnesota, and thereby engage in extending credit and servicing loans, pursuant to section 225.28(b)(1), and the leasing of personal or real property, pursuant to section 225.28(b)(3), both of Regulation Y.

Comments on this application must be received by July 3, 2014.

Board of Governors of the Federal Reserve System, June 18, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–14555 Filed 6–20–14; 8:45 am]

BILLING CODE 6210–01–P

GOVERNMENT ACCOUNTABILITY OFFICE

Appointments to the Medicare Payment Advisory Commission (MedPAC)

AGENCY: Government Accountability Office (GAO).

ACTION: Notice of appointments.

SUMMARY: The Balanced Budget Act of 1997 established the Medicare Payment Advisory Commission (MedPAC) and gave the Comptroller General responsibility for appointing its members. This notice announces the appointment of three new members and the reappointment of two existing members.

DATES: Appointments are effective May 1, 2014.

ADDRESSES:

GAO: 441 G Street NW., Washington, DC 20548.

MedPAC: 601 New Jersey Avenue NW., Suite 9000, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT:

GAO: Office of Public Affairs, (202) 512–4800.

MedPAC: Mark E. Miller, Ph.D., (202) 220–3700.

SUPPLEMENTARY INFORMATION: To fill this year's vacancies I am announcing the following:

Newly appointed members are Kathy Buto, MPA; Francis ''Jay'' Crosson, MD, Group Vice President, American Medical Association in Chicago, Illinois; and Warner Thomas, MBA, President and CEO of the Ochsner Health System in New Orleans, Louisiana. Their terms will expire in April 2017.

The reappointed members, whose terms will also expire in April 2017, are Willis D. Gradison, Jr., MBA, formerly a

Scholar in Residence in the Health Sector Management Program at Duke University's Fuqua School of Business, and William J. Hall, MD, Director of the Center for Healthy Aging at the University of Rochester School of Medicine.

In addition, Commissioner Jon B. Christianson, Ph.D., Professor in the Division of Health Policy and Management at the School of Public Health at the University of Minnesota in Minneapolis has been designated as Vice Chair of the Commission. [42 U.S.C. 1395b–6.]

Gene L. Dodaro,

Comptroller General of the United States.

[FR Doc. 2014–14500 Filed 6–20–14; 8:45 am]

BILLING CODE 1610–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

Melanie Cokonis, Southern Research Institute: Based on the report of an investigation conducted by Southern Research Institute (SRI) and additional analysis conducted by ORI in its oversight review, ORI found that Ms. Melanie Cokonis, former Research Technician, SRI, engaged in research misconduct in research supported by National Institute of Allergy and Infectious Diseases (NIAID), National Institutes of Health (NIH), contracts N01–AI–30047 (HHSN2722011000009C) and N01–AI–70042 (HHSN272200700042C), and National Human Genome Research Institute (NHGRI), NIH, grant U54 HG005034.

ORI found that the Respondent engaged in research misconduct by falsifying assay data that were submitted in reports to NIH. Specifically, ORI found that Respondent knowingly falsified data for cytoprotection assays with antiviral compounds and provided the false data for inclusion in reports submitted to NIH for contracts N01–AI–30047 and N01–AI–70042 and grant U54 HG005034. Respondent transferred raw data from 8X12 SoftmaxPro matrix files into spreadsheets and then falsified the numbers for cell control, virus control, drug cytotoxicity, drug only, and/or cells+ virus+ drug wells to make 206 assays appear to have been successfully performed when they were not.

Ms. Cokonis has voluntarily agreed for a period of three (3) years, beginning on May 29, 2014:

(1) To exclude herself from any contracting or subcontracting with any agency of the United States Government and from eligibility or involvement in nonprocurement programs of the United States Government referred to as ''covered transactions'' pursuant to HHS' Implementation (2 CFR part 376 *et seq*) of OMB Guidelines to Agencies on Governmentwide Debarment and Suspension, 2 CFR part 180 (collectively the ''Debarment Regulations''); and

(2) To exclude herself voluntarily from serving in any advisory capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

FOR FURTHER INFORMATION CONTACT: Acting Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8800.

Donald Wright,

Acting Director, Office of Research Integrity.

[FR Doc. 2014–14627 Filed 6–20–14; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Breast Cancer in Young Women, Centers for Disease Control and Prevention: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Advisory Committee on Breast Cancer in Young Women, Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS), has been renewed for a 2-year period through June 17, 2016.

For information, contact Temeika L. Fairley, Ph.D., Designated Federal Officer, Advisory Committee on Breast Cancer in Young Women, HHS, CDC, 4770 Buford Highway NE., Mailstop K52, Atlanta, Georgia 30341, telephone 770/488–4518, fax 770/488–4760.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Gary J. Johnson,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2014–14616 Filed 6–20–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Healthcare Infection Control Practices Advisory Committee (HICPAC)

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announce the following meeting for the aforementioned committee:

Times and Dates:

9:00 a.m.–5:00 p.m., July 17, 2014

9:00 a.m.–12:00 p.m., July 18, 2014

Place: CDC, Global Communications Center, Building 19, Auditorium B3, 1600 Clifton Road, Atlanta, Georgia, 30333

Status: Open to the public, limited only by the space available. Please register for the meeting at *www.cdc.gov/hicpac.*

Purpose: The Committee is charged with providing advice and guidance to the Director, Division of Healthcare Quality Promotion, the Director, National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), the Director, CDC, the Secretary, Department of Health and Human Services regarding (1) the practice of healthcare infection prevention and control; (2) strategies for surveillance, prevention, and control of infections, antimicrobial resistance, and related events in settings where healthcare is provided; and (3) periodic updating of CDC guidelines and other policy statements regarding prevention of healthcare-associated infections and healthcare-related conditions.

Matters for Discussion: The agenda will include updates on the Draft Guideline to Prevent Surgical Site Infections; the Draft Guideline to Prevent Infections in Neonatal Intensive Care Units; CDC's activities for prevention of antimicrobial resistant healthcare associated infections; updates on prevention and surveillance of catheter-associated urinary tract infections; and HICPAC core infection prevention and control practices.

Agenda items are subject to change as priorities dictate.

Contact Person For More Information: Erin Stone, M.S., HICPAC, Division of Healthcare Quality Promotion, NCEZID, CDC, 1600 Clifton Road NE., Mailstop A–07, Atlanta, Georgia 30333, Telephone: (404) 639–4045, Email: *hicpac@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices

pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Gary J. Johnson,

Acting Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. 2014–14617 Filed 6–20–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Federal Strategic Action Plan on Services for Victims of Human Trafficking: Enhancing the Health Care System's Response to Human Trafficking.

OMB No.: New Collection.

Description: In 2013, the U.S. Department of Health and Human Services co-chaired an inter-agency process with the Departments of Justice and Homeland Security to create the first Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States. The Plan addresses the needs for the implementation of coordinated, effective, culturally appropriate and trauma informed care for victims of human trafficking. The purpose of this initiative is to develop a pilot training project that will strengthen the health systems' response to human trafficking in four key ways:

1. Increase knowledge about human trafficking among health care providers;

2. Build the capacity of health care providers to deliver culturally appropriate and trauma-informed care to victims of human trafficking;

3. Increase the identification of victims of human trafficking; and

4. Increase services to survivors of human trafficking.

The evaluation is an impact evaluation, measuring immediate outcomes, e.g., from pre-intervention to post-intervention, as well as intermediate outcomes at a 3 month post intervention.

Respondents: The target audience for training and evaluation will be 300 health care providers from hospitals, clinics, and private health practices. The health care providers will be from federal, state/territorial, and local health departments, the Veterans' Administration, professional associations, and tribal institutions.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Training	300	1	2.0	600.00
Pre-training	300	1	.40	120.00
Post-training	300	1	.40	120.00
Email Follow-up	60	1	.40	120.00
Telephone Follow-up	60	1	.40	24.00
Telephone Follow-up	60	1	.40	984.00

Estimated Total Annual Burden Hours:

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *infocollection@acf.hhs.gov.*

OMB Comment:

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2014–14577 Filed 6–20–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Health Profession Opportunity Grants (HPOG) program.

OMB No.: 0970–0394.

Description: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS) is proposing data collection activities as part of the Health Profession Opportunity Grants (HPOG) program. The proposed data collection activities described in this notice will provide data for the Impact Studies of the Health Profession Opportunity Grants (HPOG-Impact) and the National Implementation Evaluation of the Health Profession Opportunity Grants to Serve TANF Recipients and Other Low-Income Individuals (HPOG–NIE).

The goal of HPOG-Impact is to evaluate the effectiveness of approaches used by 20 of the HPOG grantees to provide TANF recipients and other low-income individuals with opportunities for education, training and advancement within the health care field. HPOG-Impact also is intended to evaluate variation in participant impact that may be attributable to different HPOG program components and models. The impact study design is a classic experiment in which eligible applicants will be randomly assigned to a treatment group that is offered participation in HPOG and a control group that is not permitted to enroll in HPOG. In a subset of sites, eligible applicants will be randomized into two treatment arms (a basic and an enhanced version of the intervention) and a control group.

The goal of HPOG–NIE is to describe and assess the implementation, systems change, and outcomes and other important information about the operations of the 27 HPOG grantees

focused on TANF recipients and other low-income individuals. To achieve these goals, it is necessary to collect information about the composition and intensity of services received, participant characteristics and HPOG experiences, and participant outputs and outcomes.

HPOG-Impact and HPOG–NIE are two projects within the broader portfolio of research that OPRE is utilizing to assess the success of the career pathways programs and models. This strategy includes a multi-pronged research and evaluation approach for the HPOG program to better understand and assess the activities conducted and their results as well as the Innovative Strategies for Improving Self-Sufficiency (ISIS) project. In order to maximize learning across the portfolio, survey development for the HPOG and ISIS baseline and follow up surveys is being coordinated, and the majority of the data elements collected in these surveys are similar.

Three data collection efforts related to HPOG research were approved by OMB, including approval of a Performance Reporting System (PRS) (approved September 2011), for collection of additional baseline data for the HPOG-Impact study (approved October 2012), and for collection of data for the National Implementation Evaluation (approved August 2013). Additionally, two data collection efforts for ISIS were approved (November 2011 and August 2013), and a new request is being submitted at the same time as this request (under OMB #0970–0397).

This **Federal Register** Notice provides the opportunity to comment on proposed new information collection activities for HPOG-Impact and HPOG–NIE: (1) *The HPOG-Impact second follow-up survey (at 36 months post-random assignment) of both treatment and control group members.* The purpose of the HPOG-Impact 36 month follow-up survey is to follow-up with study participants to document their education and training experiences, employment experiences, and parenting practices and child outcomes for participants with children. (2) *A HPOG–NIE screening questionnaire and semi-structured discussion guide for use in interviews with grantees about their use of performance measurement information.*

Data collection activities to submit in a future information collection request include: A third follow-up survey for HPOG-Impact study participants approximately 60 months after study enrollment.

Previously approved collection activities under 0970–0394 will continue this new request, including additional data collection using the following previously approved instruments: The Performance Reporting System (PRS); the HPOG-Impact 15-month follow-up survey of treatment and control group members; and the HPOG–NIE 15-month Participant Follow-Up survey.

Respondents: Individuals enrolled in HPOG interventions and control group members; HPOG program managers and staff.

Annual Burden Estimates

ESTIMATED TOTAL ANNUAL BURDEN HOURS

[This information collection request is for a three-year period]

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Previously Approved Instruments					
PRS	32	11	4	31.2	1,373
HPOG-Impact 15-month Participant Follow-Up survey	5,600	1,867	1	0.7	1,307
HPOG-Impact 15-month Control Group Member Follow-Up survey	2,800	933	1	0.6	560
HPOG-NIE 15-month Participant Follow-Up survey	600	200	1	0.7	140
Current Request for Approval					
HPOG-Impact 36-month Participant Follow-Up survey	5,600	1,867	1	1	1,867
HPOG-Impact 36-month Control Group Member Follow-Up survey	2,800	933	1	1	933
HPOG-NIE Performance Measurement Screening Questionnaire	49	16	1	.2	3
HPOG-NIE Performance Measurement Semi-Structured Discussion Guide	20	7	1	1	7

Estimated Annual Response Burden Hours: 6190.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Karl Koerper,

Reports Clearance Officer.

[FR Doc. 2014–14565 Filed 6–20–14; 8:45 a.m.]

BILLING CODE 4184–09–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity: Comment Request

Title: Innovative Strategies for Increasing Self-Sufficiency: Follow-Up Data Collections.

OMB No.: 0970–0397.

Description: The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing a data collection activity as part of the Innovative Strategies for Increasing Self-Sufficiency (ISIS) evaluation. ISIS is an evaluation of 9 promising career pathways strategies to promote education, employment, and self-sufficiency. The major goal of ISIS is to increase the empirical knowledge about the effectiveness of programs for low-income individuals and families to achieve educational credentials, attain employment and advance to positions that enable self-sufficiency.

ISIS is one project within the broader portfolio of research that OPRE is utilizing to assess the success of the career pathways programs and models. In addition to ISIS, this strategy includes a multi-pronged research and evaluation approach for the Health Profession Opportunity Grants (HPOG) Program to better understand and assess the activities conducted and their results. In order to maximize learning across this portfolio, survey development for the HPOG and ISIS baseline and follow up surveys is being coordinated, and the majority of the data elements collected in these surveys are similar.

Two data collection efforts have been approved for ISIS, including one for baseline data collection (approved November 2011), a second for data collection activities to document program implementation, data collection activities for an initial follow-up survey of participants to be administered approximately 15 months after random assignment, and data collection through in-depth interviews for a small sample of study participants (approved August 2013). Additionally, three related data collection efforts for HPOG research were approved by OMB under OMB #0970–0394. These include approval of a Performance Reporting System (PRS) (approved September 2011), for collection of additional baseline data for the HPOG-Impact study (approved October 2012), and for collection of data for the National Implementation Evaluation (approved August 2013). Additionally, a new request is being submitted at the same time as this request.

This **Federal Register** Notice provides the opportunity to comment on a proposed new information collection activity for ISIS—a second follow-up survey for ISIS participants approximately 36 months after program enrollment. The purpose of the survey is to follow-up with study participants to document their education and training experiences, employment experiences, and parenting practices and child outcomes for participants with children.

Data collection activities to submit in a future information collection request include a third follow-up survey for ISIS study participants approximately 60 months after study enrollment.

Previously approved collection activities under 0970–0397 will continue under this new request, including additional data collection using the following previously approved instruments: The Basic Information Form; the Self-Administered Questionnaire; 15-Month Follow-Up Survey; 15-Month Follow-Up Survey Tracking Letters; Study Participant In-depth Interview Guide; and Study Participant Check-in Call the estimated number of study participants for the 15-Month Survey and in-depth interviews is reduced from the previous OMB submission. Total sample size targets were reduced at a number of ISIS program sites to reflect actual study enrollment experiences. The number of in-depth interviews projected was also reduced to incorporate experiences to date recruiting participants.

Respondents: Individuals enrolled in the ISIS study.

ANNUAL BURDEN ESTIMATES

[This information collection request is for a three-year period]

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Previously Approved Instruments					
Baseline data collection: Basic Information Form	24	8	1	.25	2
Baseline data collection: Self-administered Questionnaire	24	8	1	.33	3
15 Month Follow-up Survey	2,900	967	1	0.833	805
15-Month Follow-up Survey Tracking Letters	1,782	594	3	0.083	148
Study Participant In-depth Interview Guide	144	48	1	1	48
Study Participant Check-in Call	144	48	1	.16	8
Current Request for Approval					
36-Month Follow-up Survey	7,386	2,462	1	1	2,462
36-Month Follow-up Survey Tracking Letters	7,386	2,462	6	0.083	1,226

Estimated Total Annual Burden Hours: 4,702.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Karl Koerper,

Reports Clearance Officer.

[FR Doc. 2014–14566 Filed 6–20–14; 8:45 am]

BILLING CODE 4184–09–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0670]

Authorization of Emergency Use of an In Vitro Diagnostic Device for Detection of Novel Influenza A (H7N9) Virus; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the issuance of an Emergency Use Authorization (EUA) (the Authorization) for an in vitro diagnostic device for detection of the novel influenza A (H7N9) virus (detected in China in 2013). FDA is issuing this Authorization under the Federal Food, Drug, and Cosmetic Act (the FD&C Act), as requested by Arbor Vita Corporation. The Authorization contains, among other things, conditions on the emergency use of the authorized in vitro diagnostic device. The Authorization follows the April 19, 2013, determination by the Secretary of Health and Human Services (HHS) that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of U.S. citizens living abroad and that involves the novel influenza A (H7N9) virus. On the basis of such determination, the Secretary of HHS also declared on April 19, 2013, that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for detection of the novel influenza A (H7N9) virus subject to the terms of any authorization issued under the FD&C Act. The Authorization, which includes an explanation of the reasons for issuance, is reprinted in this document.

DATES: The Authorization is effective as of April 25, 2014.

ADDRESSES: Submit written requests for single copies of the EUA to the Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4338, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the Authorization may be sent. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the Authorization.

FOR FURTHER INFORMATION CONTACT: Luciana Borio, Assistant Commissioner for Counterterrorism Policy, Office of Counterterrorism and Emerging Threats, and Acting Deputy Chief Scientist, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4340, Silver Spring, MD 20993–0002, 301–796–8510 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb–3) as amended by the Project BioShield Act of 2004 (Pub. L. 108–276) and the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (Pub. L. 113–5) allows FDA to strengthen the public health protections against biological, chemical, nuclear, and radiological agents. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations. With this EUA authority, FDA can help assure that medical countermeasures may be used in emergencies to diagnose, treat, or prevent serious or life-threatening diseases or conditions caused by biological, chemical, nuclear, or radiological agents when there are no adequate, approved, and available alternatives.

Section 564(b)(1) of the FD&C Act provides that, before an EUA may be issued, the Secretary of HHS must declare that circumstances exist justifying the authorization based on one of the following grounds: (1) A determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a biological, chemical, radiological, or nuclear agent or agents; (2) a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to U.S. military forces of attack with a biological, chemical, radiological, or nuclear agent or agents; (3) a determination by the Secretary of HHS that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of U.S. citizens living abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such agent or agents; [1] or (4) the identification of a material threat by the Secretary of Homeland Security pursuant to section 319F–2 of the Public Health Service Act (PHS Act) (42 U.S.C. 247d–6b) sufficient to affect national security or the health and security of U.S. citizens living abroad.

Once the Secretary of HHS has declared that circumstances exist justifying an authorization under section 564 of the FD&C Act, FDA may authorize the emergency use of a drug, device, or biological product if the Agency concludes that the statutory criteria are satisfied. Under section 564(h)(1) of the FD&C Act, FDA is required to publish in the **Federal Register** a notice of each authorization, and each termination or revocation of an authorization, and an explanation of the reasons for the action. Section 564 of the FD&C Act permits FDA to authorize the introduction into interstate commerce of a drug, device, or biological product intended for use when the Secretary of HHS has declared that circumstances exist justifying the authorization of emergency use. Products appropriate for emergency use may include products and uses that are not approved, cleared, or licensed under sections 505, 510(k), or 515 of the FD&C Act (21 U.S.C. 355, 360(k), and 360e) or section 351 of the PHS Act (42 U.S.C. 262). FDA may issue an EUA only if, after consultation with the HHS Assistant Secretary for Preparedness and Response, the Director of the National Institutes of Health, and the Director of the Centers for Disease Control and Prevention (to the extent feasible and appropriate given the applicable circumstances),

[1] As amended by the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (Public Law 113–5), the Secretary of HHS may make a determination of a public health emergency, or a significant potential for a public health emergency, under section 564 of the FD&C Act. The Secretary of HHS is no longer required to make a determination of a public health emergency under section 319 of the PHS Act (42 U.S.C. 247d) to support a determination made under section 564 of the FD&C Act.

FDA [2] concludes: (1) That an agent referred to in a declaration of emergency or threat can cause a serious or life-threatening disease or condition; (2) that, based on the totality of scientific evidence available to FDA, including data from adequate and well-controlled clinical trials, if available, it is reasonable to believe that: (A) The product may be effective in diagnosing, treating, or preventing (i) such disease or condition; or (ii) a serious or life-threatening disease or condition caused by a product authorized under section 564 of the FD&C Act, approved or cleared under the FD&C Act, or licensed under section 351 of the PHS Act, for diagnosing, treating, or preventing such a disease or condition caused by such an agent; and (B) the known and potential benefits of the product, when used to diagnose, prevent, or treat such disease or condition, outweigh the known and potential risks of the product, taking into consideration the material threat posed by the agent or agents identified in a declaration under section 564(b)(1)(D) of the FD&C Act, if applicable; (3) that there is no adequate, approved, and available alternative to the product for diagnosing, preventing, or treating such disease or condition; and (4) that such other criteria as may be prescribed by regulation are satisfied.

[2] The Secretary of HHS has delegated the authority to issue an EUA under section 564 of the FD&C Act to the Commissioner of Food and Drugs.

No other criteria for issuance have been prescribed by regulation under section 564(c)(4) of the FD&C Act. Because the statute is self-executing, regulations or guidance are not required for FDA to implement the EUA authority.

II. EUA Request for an In Vitro Diagnostic Device for Detection of the Novel Influenza A (H7N9) Virus

On April 19, 2013, under section 564(b)(1)(C) of the FD&C Act, the Secretary of HHS determined that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of U.S. citizens living abroad and that involves the novel influenza A (H7N9) virus. Also on April 19, 2013, under section 564(b)(1) of the FD&C Act, and on the basis of such determination, the Secretary of HHS declared that circumstances exist justifying the authorization of emergency use of in vitro diagnostics for detection of the novel influenza A (H7N9) virus, subject to the terms of any authorization issued under section 564 of the FD&C Act. The Secretary of HHS also specified that this declaration is a declaration of an emergency with respect to in vitro diagnostics as defined under the Public Readiness and Emergency Preparedness (PREP) Act Declaration for Pandemic Influenza Diagnostics, Personal Respiratory Protection Devices, and Respiratory Support Devices signed by then Secretary Michael Leavitt on December 17, 2008 (73 FR 78362, December 22, 2008). Notice of the determination and the declaration of the Secretary were published in the **Federal Register** on April 30, 2013 (78 FR 25273). On April 9, 2014, Arbor Vita Corporation submitted a complete request for, and on April 25, 2014, FDA issued, an EUA for the A/H7N9 Influenza Rapid Test subject to the terms of this authorization.

III. Electronic Access

An electronic version of this document and the full text of the Authorization are available on the Internet at *http://www.regulations.gov.*

IV. The Authorization

Having concluded that the criteria for issuance of the Authorization under section 564(c) of the FD&C Act are met, FDA has authorized the emergency use of an in vitro diagnostic device for detection of the novel influenza A (H7N9) virus (detected in China in 2013) subject to the terms of the Authorization. The Authorization in its entirety (not including the authorized versions of the fact sheets and other written materials) follows and provides an explanation of the reasons for its issuance, as required by section 564(h)(1) of the FD&C Act.

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration
Silver Spring, MD 20993

April 25, 2014

Peter Lu, M.D.
President and CEO
Arbor Vita Corporation
6611 Dumbarton Circle
Fremont, CA 94555

Dear Dr. Lu:

This letter is in response to your request that the Food and Drug Administration (FDA) issue an Emergency Use Authorization (EUA) for emergency use of the Arbor Vita Corporation's A/H7N9 Influenza Rapid Test for the presumptive detection of novel influenza A (H7N9) virus (detected in China in 2013) in patients with signs and symptoms of respiratory infection in conjunction with epidemiological risk factors, pursuant to section 564 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. § 360bbb-3).

On April 19, 2013, pursuant to section 564(b)(1)(C) of the Act (21 U.S.C. § 360bbb-3(b)(1)(C)), the Secretary of Health and Human Services (HHS) determined that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such an agent or agents - in this case, novel influenza A (H7N9) virus.[1] Pursuant to section 564(b)(1) of the Act (21 U.S.C. § 360bbb-3(b)(1)), and on the basis of such determination, the Secretary of HHS then declared that circumstances exist justifying the authorization of the emergency use of *in vitro* diagnostics for the detection of influenza A (H7N9) virus, subject to the terms of any authorization issued under 21 U.S.C. § 360bbb-3(a).[2]

Having concluded that the criteria for issuance of this authorization under section 564(c) of the Act (21 U.S.C. § 360bbb-3(c)) are met, I am authorizing the emergency use of the A/H7N9 Influenza Rapid Test (as described in the scope section of this letter (Section II)) by Department of Defense (DoD) network laboratories in the U.S. and outside the U.S. or other U.S. government laboratories outside the U.S. in certain patients (as described in the scope section of this letter (Section II)) or by foreign laboratories for the presumptive detection of influenza A (H7N9) virus (detected in China in 2013), subject to the terms of this authorization.

[1] As amended by the Pandemic and All-Hazards Preparedness Reauthorization Act, Pub. L. No. 113-5, under section 564(b)(1)(C) of the Act the Secretary may make a determination of a public health emergency, or of a significant potential for a public health emergency.

[2] U.S. Department of Health and Human Services. Determination and Declaration Regarding Emergency Use of in Vitro Diagnostics for Detection of the Avian Influenza A (H7N9) Virus. 78 Fed. Reg. 25273 (April 30, 2013).

I. Criteria for Issuance of Authorization

I have concluded that the emergency use of the A/H7N9 Influenza Rapid Test for the presumptive detection of influenza A (H7N9) virus (detected in China in 2013) in the specified population meets the criteria for issuance of an authorization under section 564(c) of the Act, because I have concluded that:

1. The influenza A (H7N9) virus (detected in China in 2013) can cause influenza, a serious or life-threatening disease or condition to humans infected with this virus;

2. Based on the totality of scientific evidence available to FDA, it is reasonable to believe that the A/H7N9 Influenza Rapid Test may be effective in diagnosing influenza A (H7N9) virus (detected in China in 2013) in the specified population, and that the known and potential benefits of the A/H7N9 Influenza Rapid Test, when used for diagnosing influenza A (H7N9) virus (detected in China in 2013) infection in the specified population, outweigh the known and potential risks of such product; and

3. There is no adequate, approved, and available alternative to the emergency use of the A/H7N9 Influenza Rapid Test for diagnosing influenza A (H7N9) virus (detected in China in 2013) in the specified population.[3]

II. Scope of Authorization

I have concluded, pursuant to section 564(d)(1) of the Act, that the scope of this authorization is limited to the use of the authorized A/H7N9 Influenza Rapid Test for the presumptive detection of influenza A (H7N9) virus (detected in China in 2013) in patients with signs and symptoms of respiratory infection in conjunction with epidemiological risk factors. This test is intended for use by DoD network laboratories in the U.S. and outside the U.S. or other U.S. government laboratories outside the U.S. for testing U.S. citizens living and traveling abroad in China and other affected areas and for U.S. military, Department of State, and other U.S. governmental agency personnel stationed and working in China and other affected areas who may potentially be exposed to influenza A (H7N9) virus (detected in China in 2013) or be exposed to individuals who may carry the influenza A (H7N9) virus (detected in China in 2013), or by foreign laboratories.

The Authorized A/H7N9 Influenza Rapid Test:

The A/H7N9 Influenza Rapid Test is an immunoassay in a lateral flow device configuration for the *in vitro* qualitative detection of A (H7N9) influenza virus (detected in China in 2013) in nasal swab specimens from patients presenting influenza-like illness (ILI) of respiratory infection in conjunction with epidemiological risk factors. The test detects the nonstructural protein 1 (NS1) of influenza A (H7N9) virus (detected in China in 2013). The test may react with NS1 protein antigen of other Asian avian influenza viruses, such as A/H9N2, A/H5N1, and A/H10N8.

[3] No other criteria of issuance have been prescribed by regulation under section 564(c)(4) of the Act.

The A/H7N9 Influenza Rapid Test has three components: Test Cassette, External Positive Control, and Lysis Buffer. The Test Cassette is a lateral flow device in which the input sample is lysed and applied to the Test Cassette to produce a red line that is read visually.

The A/H7N9 Influenza Rapid Test includes the following assay controls:

- **Built-in Controls**
  1. **Internal control line** (C) that functions as a run control to ensure proper functioning of the buffer reagents, capillary flow, and functional integrity of the test strip within the cassette.
  2. **A second control**, Line 1 contains monoclonal antibodies that detect NS1 protein from all influenza A strains (Pan-influenza A).

- **External Controls**
  1. **Positive Control**: recombinant influenza A (H7N9) NS1 protein in dried form (non-pathogenic)
  2. **Negative Controls**: Lysis Buffer

The above described A/H7N9 Influenza Rapid Test, when labeled consistently with the labeling authorized by FDA, entitled "A/H7N9 Influenza Rapid Test Instructions for Use" (available at http://www.fda.gov/MedicalDevices/ Safety/EmergencySituations/ucm161496.htm), which may be revised with written permission of FDA, is authorized to be distributed to and used by the DoD network laboratories in the U.S. and outside the U.S. or other U.S. government laboratories outside the U.S. under this EUA for testing U.S. citizens living and traveling abroad in China and other affected areas and U.S. military, Department of State, and other U.S. governmental agency personnel stationed and working in China and other affected areas who may potentially be exposed to influenza A (H7N9) virus (detected in China in 2013) or be exposed to individuals who may carry the influenza A (H7N9) virus (detected in China in 2013), or distributed to and used by foreign laboratories under this EUA, despite the fact that it does not meet certain requirements otherwise required by federal law.

The above described A/H7N9 Influenza Rapid Test is authorized to be accompanied by the following information pertaining to the emergency use, which is authorized to be made available to health care professionals and patients:

- **Fact Sheet for Health Care Providers: Interpreting A/H7N9 Influenza Rapid Test Results**

- **Fact Sheet for Patients: Understanding Results from the A/H7N9 Influenza Rapid Test**

As described in section IV below, Arbor Vita Corporation is also authorized to make available additional information relating to the emergency use of the authorized A/H7N9 Influenza Rapid Test that is consistent with, and does not exceed, the terms of this letter of authorization.

I have concluded, pursuant to section 564(d)(2) of the Act, that it is reasonable to believe that the known and potential benefits of the authorized A/H7N9 Influenza Rapid Test in the specified

population, when used for presumptive detection of influenza A (H7N9) virus (detected in China in 2013), outweigh the known and potential risks of such a product.

I have concluded, pursuant to section 564(d)(3) of the Act, based on the totality of scientific evidence available to FDA, that it is reasonable to believe that the authorized A/H7N9 Influenza Rapid Test may be effective in the diagnosis of influenza A (H7N9) virus (detected in China in 2013) infection pursuant to section 564(c)(2)(A) of the Act. The FDA has reviewed the scientific information available, including the information supporting the conclusions described in Section I above, and concludes that the authorized A/H7N9 Influenza Rapid Test, when used to diagnose influenza A (H7N9) virus (detected in China in 2013) infection in the specified population, meets the criteria set forth in section 564(c) of the Act concerning safety and potential effectiveness.

The emergency use of the authorized A/H7N9 Influenza Rapid Test under this EUA must be consistent with, and may not exceed, the terms of this letter, including the scope and the conditions of authorization set forth below. Subject to the terms of this EUA and under the circumstances set forth in the Secretary of HHS's determination under section 564(b)(1)(C) described above and the Secretary of HHS's corresponding declaration under section 564(b)(1), the A/H7N9 Influenza Rapid Test described above is authorized to diagnose influenza A (H7N9) virus (detected in China in 2013) infection in the specified population in conjunction with epidemiological risk factors.

This EUA will cease to be effective when the declaration of emergency is terminated under section 564(b)(2) of the Act or when the EUA is revoked under section 564(g) of the Act.

III. Waiver of Certain Requirements

I am waiving the following requirements for the A/H7N9 Influenza Rapid Test during the duration of this emergency use authorization:

- Current good manufacturing practice requirements, including the quality system requirements under 21 CFR Part 820 with respect to the design, manufacture, packaging, labeling, storage, and distribution of the A/H7N9 Influenza Rapid Test.

- Labeling requirements for cleared, approved, or investigational devices, including labeling requirements under 21 CFR 809.10 and 809.30, except for the intended use statement (21 CFR 809.10(a)(2), (b)(2)), adequate directions for use (21 U.S.C. 352(f)), (21 CFR 809.10(b)(5), (7), and (8)), any appropriate limitations on the use of the device including information required under 21 CFR 809.10(a)(4), and any available information regarding performance of the device, including requirements under 21 CFR 809.10(b)(12).

IV. Conditions of Authorization

Pursuant to section 564 of the Act, I am establishing the following conditions on this authorization:

Arbor Vita Corporation

A. Arbor Vita Corporation will distribute the authorized A/H7N9 Influenza Rapid Test with the authorized labeling, as may be revised with written permission of FDA, only to DoD network laboratories in the U.S. and outside the U.S., other U.S. government laboratories outside the U.S., or foreign laboratories.

B. Arbor Vita Corporation will provide to the appropriate DoD network laboratories in the U.S. and outside the U.S. and other U.S. government laboratories outside the U.S. the authorized A/H7N9 Influenza Rapid Test Fact Sheet for Health Care Providers and the authorized A/H7N9 Influenza Rapid Test Fact Sheet for Patients.

C. Arbor Vita Corporation will make available on its website the authorized A/H7N9 Influenza Rapid Test Fact Sheet for Health Care Providers and the authorized A/H7N9 Influenza Rapid Test Fact Sheet for Patients.

D. Arbor Vita Corporation will inform state and/or local public health authority(ies) of this EUA, including the terms and conditions herein.

E. All advertising and promotional descriptive printed matter relating to the use of the A/H7N9 Influenza Rapid Test shall clearly and conspicuously state that:

- This test has not been FDA cleared or approved;
- This test has been authorized by FDA under an Emergency Use Authorization;
- This test has been authorized for use only by DoD network laboratories in the U.S. and outside the U.S., other U.S. government laboratories outside the U.S., or foreign laboratories;
- This test has been authorized only for the detection of influenza A (H7N9) virus (detected in China in 2013) and not for any other viruses or pathogens; and
- This test is only authorized for the duration of the HHS declaration of emergency that justifies this authorization, unless the authorization is revoked sooner.

F. No advertising or promotional descriptive printed matter relating to the use of the authorized A/H7N9 Influenza Rapid Test may represent or suggest that this test is safe or effective for the diagnosis of influenza A (H7N9) virus (detected in China in 2013).

G. Arbor Vita Corporation will ensure that appropriate DoD network laboratories in the U.S. and outside the U.S. or other U.S. government laboratories outside the U.S. using the authorized A/H7N9 Influenza Rapid Test have a process in place for reporting test results to health care professionals and U.S. federal, state, and/or local public health authorities, as appropriate.

H. Arbor Vita Corporation will track adverse events and report to FDA as required under 21 CFR Part 803.

I. Through a process of inventory control, Arbor Vita Corporation will maintain records of device usage.

J. Arbor Vita Corporation will collect information on the performance of the assay, and report to FDA any suspected occurrence of false positive or false negative results of which Arbor Vita Corporation becomes aware.

K. Arbor Vita Corporation is authorized to make available additional information relating to the emergency use of the authorized A/H7N9 Influenza Rapid Test that is consistent with, and does not exceed, the terms of this letter of authorization.

L. Only Arbor Vita Corporation may request changes to the authorized A/H7N9 Influenza Rapid Test Fact Sheet for Health Care Providers or the authorized A/H7N9 Influenza Rapid Test Fact Sheet for Patients. Such requests will be made by contacting FDA concerning FDA review and approval.

DoD Network Laboratories in the U.S. and outside the U.S. and Other U.S. Government Laboratories outside the U.S.

M. DoD network laboratories in the U.S. and outside the U.S. and other U.S. government laboratories outside the U.S. will include with reports of the results of the A/H7N9 Influenza Rapid Test the authorized Fact Sheet for Health Care Providers and the authorized Fact Sheet for Patients.

N. DoD network laboratories in the U.S. and outside the U.S. and other U.S. government laboratories outside the U.S. will have a process in place for reporting test results to health care professionals and federal, state, and/or local public health authorities, as appropriate.

O. DoD network laboratories in the U.S. and outside the U.S. and other U.S. government laboratories outside the U.S. will collect information on the performance of the assay, and report to Arbor Vita Corporation any suspected occurrence of false positive or false negative results of which they become aware.

P. DoD network laboratories in the U.S. and outside the U.S. and other U.S. government laboratories outside the U.S. will clearly and conspicuously state on reports of the results of the A/H7N9 Influenza Rapid Test that this test is only authorized for the diagnosis of influenza A (H7N9) virus (detected in China in 2013) and not for seasonal influenza A, B, or any other pathogen.

Arbor Vita Corporation, DoD Network Laboratories in the U.S. and outside the U.S., and Other U.S. Government Laboratories outside the U.S.

Q. Arbor Vita Corporation, DoD network laboratories in the U.S. and outside the U.S., and other U.S. government laboratories outside the U.S. will ensure that any records associated with this EUA are maintained until notified by FDA. Such records will be made available to FDA for inspection upon request.

Page 7 – Dr. Lu, Arbor Vita Corporation

The emergency use of the authorized A/H7N9 Influenza Rapid Test as described in this letter of authorization must comply with the conditions above and all other terms of this authorization.

V. Duration of Authorization

This EUA will be effective until the declaration of emergency is terminated under section 564(b)(2) of the Act or the EUA is revoked under section 564(g) of the Act.

Margaret A. Hamburg, M.D.
Commissioner of Food and Drugs

Enclosures

Dated: June 16, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–14547 Filed 6–20–14; 8:45 am]

BILLING CODE 4164–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; ''AIDSRRC Independent SEP''.

Date: July 15, 2014.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 3256, 6700B Rockledge Drive, Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Vasundhara Varthakavi, Ph.D., DVM, Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, Room 3256, 6700–B Rockledge Drive, Bethesda, MD 20892–7616, 301–496–2550, *varthakaviv@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: June 17, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–14520 Filed 6–20–14; 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: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; International Collaborations in Infectious Diseases Research (U01 & U19).

Date: July 15, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 3126, 6700B Rockledge Drive Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Annie Walker-Abbey, Scientific Review Officer, Scientific Review Program, NIAID/NIH/DHHS, 6700B Rockledge Drive, RM 3126, MSC–7616 Bethesda, MD 20892–7616, 301–451–2671, *aabbey@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: June 17, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–14519 Filed 6–20–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 USC, as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; PAR–

12–297: Mechanism for Time-Sensitive Drug Abuse Research (R21).

Date: June 30, 2014.

Time: 12:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Hiromi Ono, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4238, MSC 9550, Bethesda, MD 20892, 301–402–6020, *hiromi.ono@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Conflicts SEP: Cohort Studies of HIV/AIDS and Substance Use (U01).

Date: July 16, 2014.

Time: 10:30 a.m. to 11:00 a.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Nadine Rogers, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4229, MSC 9550, Bethesda, MD 20892–9550, 301–402–2105, *rogersn2@nida.nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Cohort Studies of HIV/AIDS and Substance Use (U01).

Date: July 16, 2014.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Nadine Rogers, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4229, MSC 9550, Bethesda, MD 20892–9550, 301–402–2105, *rogersn2@nida.nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; R13 Conference Grant Review (PA12–212).

Date: July 17, 2014.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Virtual Meeting).

Contact Person: Minna Liang, Ph.D., Scientific Review Officer, Grants Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4226, MSC 9550, Bethesda, MD 20892–9550, 301–435–1432, *liangm@nida.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: June 17, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–14521 Filed 6–20–14; 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; SUDEP Review Panel.

Date: July 15, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Kinzie Hotel, 20 West Kinzie Street, Chicago, IL 60654.

Contact Person: William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, 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; Brian Initiative (F0A 009).

Date: July 15–16, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Raul A. Saavedra, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223, *saavedrr@ninds.nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; BRAIN: Technologies for Large-Scale Recording.

Date: July 24–25, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–435–6033, *rajarams@mail.nih.gov*.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Summer Course & Res Educ.

Date: August 13, 2014.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: JoAnn McConnell, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–5324, *mcconnej@ninds.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: June 17, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–14524 Filed 6–20–14; 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; Biobehavioral Predictors of Midlife Transitions.
Date: July 31, 2014.
Time: 1:00 p.m. to 4:30 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: Kimberly Firth, Ph.D., Scientific Review Officer, National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7702, *firthkm@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 17, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–14518 Filed 6–20–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel; July 15, 2014, 10:00 a.m. to July 15, 2014, 5:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on June 16, 2014, 79 FR 34331.

The meeting will start at 9:00 a.m. and end at 5:00 p.m. The meeting date and location remain the same. The meeting is closed to the public.

Dated: June 17, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–14516 Filed 6–20–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Overflow: Bacterial Pathogenesis.
Date: July 3, 2014.
Time: 1:00 p.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Marci Scidmore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301–435–1149, *marci.scidmore@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Radiation Therapy and Biology.
Date: July 10–11, 2014.
Time: 9:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Bo Hong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–435–5879, *hongb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Therapeutics and Drug Development.
Date: July 11, 2014.
Time: 1:00 p.m. to 2:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Lambratu Rahman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–451–3493, *rahmanl@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Non-HIV Diagnostics, Food Safety, Sterilization/Disinfection and Bioremediation.
Date: July 17–18, 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: Gagan Pandya, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Rm. 3200, MSC 7808, Bethesda, MD 20892, 301–435–1167, *pandyaga@mai.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Therapeutics.
Date: July 17, 2014.
Time: 3:00 p.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Malaya Chatterjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, (301) 806–2515, *chatterm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Physiology and Pathobiology of Cardiovascular and Respiratory Systems.
Date: July 21–22, 2014.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications and/or proposals.
Place: The St. Regis Washington DC, 923 16th Street NW., Washington, DC 20006.
Contact Person: Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7812, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA: AG14–017 Planning Grants for Alzheimer's Disease Translational Centers for Predictive Drug Development.
Date: July 21, 2014.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Marriott Courtyard, 5520 Wisconsin Ave, Chevy Chase, MD 20815.
Contact Person: Laurent Taupenot, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4811, MSC 7850, Bethesda, MD 20892, 301–435–1203, *taupenol@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Infectious Diseases and Microbiology.
Date: July 22–23, 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, (Virtual Meeting).
Contact Person: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, 301–996–5819, *zhengli@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Nephrology.
Date: July 22–23, 2014.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Atul Sahai, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2188, MSC 7818, Bethesda, MD 20892, 301–435–1198, *sahaia@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Molecular Neuroscience.
Date: July 22, 2014.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Carol Hamelink, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7850, Bethesda, MD 20892, (301) 213–9887, *hamelinc@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: June 17, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–14515 Filed 6–20–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of 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 Center for Advancing Translational Sciences Special Emphasis Panel; RNA Nanotechnology Conference.
Date: July 17, 2014.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892.
Contact Person: Guo He Zhang, Ph.D., M.P.H., Scientific Review Officer, Office of Grants Management & Scientific Review, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., 1 Dem., Room 1064, MSC 4874, Bethesda, MD 20892–4874, 301–435–0812, *zhanggu@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: June 17, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–14517 Filed 6–20–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA–DK–13–013 Human Islet Research Network Coordinating Center (HIRN–CC).
Date: July 17, 2014.
Time: 2:00 p.m. to 4:30 p.m.
Agenda: To review and evaluate cooperative agreement applications.
Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 759, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–2242, *jerkinsa@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: June 17, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–14523 Filed 6–20–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; GOMED U01: Grand Opportunity in Medications Development for Substance-Related Disorders (U01).
Date: July 9, 2014.
Time: 8:30 a.m. to 2:00 p.m.
Agenda: To review and evaluate cooperative agreement applications.
Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.
Contact Person: Jose F. Ruiz, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, Room 4228, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 451–3086, *ruizjf@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Strategic Alliances for Medications Development to Treat Substance Use Disorders (R01) (PAR–13–334).
Date: July 9, 2014.
Time: 2:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Jose F. Ruiz, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, Room 4228, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 451–3086, *ruizjf@nida.nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Medications Development Centers of Excellence Cooperative Program (U54).

Date: July 9–10, 2014.

Time: 4:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Jose F. Ruiz, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, Room 4228, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 451–3086, *ruizjf@nida.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: June 17, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–14522 Filed 6–20–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Center for Substance Abuse Treatment; Amendment of Meeting Notice

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 Treatment (CSAT) National Advisory Council will meet June 25, 2014, 2:00–3:30 p.m. in a closed teleconference meeting.

Public Notice was published in the **Federal Register** on June 12, 2014, Volume 79, Number 115, Page 34333, Document number 2014–13670, Citation number 79 FR 33770, announcing that the Center for Substance Abuse Treatment's National Advisory Council would be convening an open teleconference meeting on June 19, 2014 at SAMHSA, 1 Choke Cherry Road, Rockville, MD 20857, for the purpose of reviewing grant applications reviewed by SAMHSA's Initial Review Groups.

Correction: The Center for Substance Abuse Treatment's National Advisory Council will convene a closed teleconference meeting on June 25, 2014, 2:00–3:30 p.m. The meeting will include discussions and evaluations of grant applications reviewed by SAMHSA's Initial Review Groups, and involve an examination of confidential financial and business information as well as personal information concerning the applicants. Therefore, the meeting will be closed to the public as determined by the SAMHSA Administrator, in accordance with Title 5 U.S.C. § 552b(c)(4) and (6) and (c)(9)(B).

A summary of the meeting and a roster of Council members may be obtained as soon as possible after the meeting, by accessing the SAMHSA Committee Web site at *https://nac.samhsa.gov/CSATcouncil/index.aspx* or by contacting the CSAT National Advisory Council Designated Federal Official, Ms. Cynthia Graham (see contact information below).

Committee Name: SAMHSA's Center for Substance Abuse Treatment National Advisory Council.

Date/Time/Type: June 25, 2014, 2:00–3:30 p.m. CLOSED.

Place: SAMHSA Building, 1 Choke Cherry Road, Rockville, Maryland 20857.

Contact: Cynthia Graham, M.S., Designated Federal Officer, SAMHSA CSAT National Advisory Council, 1 Choke Cherry Road, Room 5–1035, Rockville, Maryland 20857,

Telephone: (240) 276–1692,

Fax: (240) 276–1690,

Email: *cynthia.graham@samhsa.hhs.gov.*

Cathy J. Friedman,

Public Health Analyst, SAMHSA.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

[FR Doc. 2014–14529 Filed 6–20–14; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No.USCG–2014–0482]

Commercial Fishing Safety Advisory Committee; Vacancies

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Commercial Fishing Safety Advisory Committee. The Commercial Fishing Safety Advisory Committee provides advice and makes recommendations to the Coast Guard and the Department of Homeland Security on various matters relating to the safe operation of commercial fishing industry vessels.

DATES: Applicants must submit a cover letter and resume in time to reach the Designated Federal Officer on or before July 25, 2014.

ADDRESSES: Applicants should submit a cover letter and resume via one of the following methods:

- *By Mail:* Commandant (CG–CVC), Attn: Fishing Vessel Safety, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr Avenue SE., Washington, DC 20593–7501.
- *By Fax:* 202–372–8377.
- *By Email: jack.a.kemerer@uscg.mil.*

FOR FURTHER INFORMATION CONTACT: Mr. Jack Kemerer, Alternate Designated Federal Officer, telephone 202–372–1249, fax 202–372–8377, or email *jack.a.kemerer@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Commercial Fishing Safety Advisory Committee is a federal advisory committee authorized under Title 46, United States Code, section 4508, as amended by section 604 of the Coast Guard Authorization Act of 2010, (Pub. L. 111–281) and chartered under the *Federal Advisory Committee Act,* Title 5, United States Code, Appendix, (Pub. L. 92–463, 86 Statute 770, as amended). The Commercial Fishing Safety Advisory Committee provides advice on issues related to the safety of commercial fishing industry vessels regulated under Chapter 45 of Title 46, United States Code, which includes uninspected fish catching vessels, fish processing vessels, and fish tender vessels (See Title 46 United States Code section 4508).

The Commercial Fishing Safety Advisory Committee meets at least once a year. It may also meet for other extraordinary purposes. Its subcommittees or working groups may communicate throughout the year to prepare for meetings or develop proposals for the committee as a whole to address specific tasks.

The Commercial Fishing Safety Advisory Committee shall consist of 18 members with particular expertise, knowledge, and experience regarding the commercial fishing industry as follows:

(a) Ten (10) members who shall represent the commercial fishing industry and who—(1) reflect a regional and representational balance; and (2) have experience in the operation of vessels to which Chapter 45 of Title 46, United States Code applies, or as crew

member or processing line worker on a fish processing vessel;

(b) Three (03) members who shall represent the general public, including, whenever possible—(1) An independent expert or consultant in maritime safety; (2) a marine surveyor who provides services to vessels to which Chapter 45 of Title 46, United States Code applies; and (3) a person familiar with issues affecting fishing communities and families of fishermen; and

(c) One member each of whom shall represent—(1) Naval architects and marine engineers; (2) manufacturers of equipment for vessels to which Chapter 45 of Title 46, United States Code applies; (3) education or training professionals related to fishing vessel, fish processing vessel, or fish tender vessel safety or personnel qualifications; (4) underwriters that insure vessels to which Chapter 45 of Title 46, United States Code applies; and (5) owners of vessels to which Chapter 45 of title 46, United States Code applies.

The Coast Guard will consider applications for seven (07) positions that expire or become vacant in October 2014 in the following categories:

(a) Commercial Fishing Industry representatives (*four* positions);

(b) General Public, a marine surveyor who provides services to commercial fishing vessels (*one* position);

(c) A representative of manufacturers of equipment for commercial fishing vessels (*one* position); and

(d) A representative of owners of commercial fishing vessels (*one* position).

Each member serves for a term of three years. An individual may be appointed to a term as a member more than once. All members serve at their own expense and receive no salary from the Federal Government, although travel reimbursement and per diem may be provided for called meetings.

Registered lobbyists are not eligible to serve on Federal Advisory Committees. Registered lobbyists are lobbyists required to comply with provisions contained in the *Lobbying Disclosure Act,* Title 2, United States Code, section 1603.

The Department of Homeland Security does not discriminate in selection of Committee members on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factor. The Department of Homeland Security strives to achieve a widely diverse candidate pool for all of its recruitment actions.

If you are selected as a non-representative member from the general public, you will be appointed and serve as a Special Government Employee as defined in section 202(a) of Title 18, United States Code. As a candidate for appointment as a Special Government Employee, applicants are required to complete a Confidential Financial Disclosure Report (Office of Government Ethics Form 450). The Department of Homeland Security may not release the reports or the information in them to the public except under an order issued by a Federal court or as otherwise provided under the *Privacy Act* (Title 5, United States Code, section 552a). Applicants can obtain this form by going to the Web site of the Office of Government Ethics (*www.oge.gov*), or by contacting the individual listed above in **FOR FURTHER INFORMATION CONTACT**. Applications which are not accompanied by a completed Office of Government Ethics Form 450 will not be considered.

If you are interested in applying to become a member of the Committee, send your application materials to Mr. Jack Kemerer, Commercial Fishing Safety Advisory Committee Alternate Designated Federal Officer, via one of the transmittal methods provided above by the deadline in the **DATES** section of this notice. Indicate the specific position(s) for which you wish to be considered and specify your areas of expertise, knowledge, and experience that qualifies you for service on the Commercial Fishing Safety Advisory Committee. Note that during the vetting process, applicants may be asked to provide their date of birth and social security number. All email submittals will receive email receipt confirmation.

To visit our online docket, go to *http://www.regulations.gov*, enter the docket number for this notice (USCG–2014–0482) in the Search box, and click ''Search''. Please do not post your resume on this site.

Dated: June 12, 2014.

Jonathan C. Burton,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2014–14494 Filed 6–20–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[FWS–HQ–EA–2014–N063; FF09X60000–FVWF979209000005D–XXX]

Sport Fishing and Boating Partnership Council Charter

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act (FACA), following consultation with the General Services Administration, the Secretary of the Interior has renewed the Sport Fishing and Boating Partnership Council (Council) charter for 2 years.

DATES: The charter will be filed with the Senate and House of Representatives and the Library of Congress on July 8, 2014.

FOR FURTHER INFORMATION CONTACT: Brian Bohnsack, Council Coordinator, U.S. Fish and Wildlife Service, (703) 358–2435, *brian_bohnsack@fws.gov.*

SUPPLEMENTARY INFORMATION: The Council will conduct its operations in accordance with the provisions of the FACA. It will report to the Secretary of the Interior (Secretary), through the Director of the U.S. Fish and Wildlife Service. The Council will function solely as an advisory body. The Council's duties will consist of, but are not limited to:

a. Providing advice that will assist the Secretary in compliance with the Fish and Wildlife Act of 1956.

b. Fulfilling responsibilities established by Executive Order 12962:

(1) Monitoring specific Federal activities affecting aquatic systems and the recreational fisheries they support.

(2) Reviewing and evaluating the relation of Federal policies and activities to the status and conditions of recreational fishery resources.

c. Recommending policies or programs to increase public awareness and support for the Sport Fish Restoration and Boating Trust Fund.

d. Recommending policies or programs that foster conservation and ethics in recreational fishing and boating.

e. Recommending policies or programs to stimulate angler and boater participation in the conservation and restoration of aquatic resources through outreach and education.

f. Advising how the Secretary can foster communication and coordination among government, industry, anglers, boaters, and the public.

The Council will consist of no more than 18 members and up to 16 alternates appointed by the Secretary for 2-year terms. The Director of the U.S. Fish and Wildlife Service and the President of the Association of Fish and Wildlife Agencies (AFWA) are ex officio members. Appointees will be selected from among, but not limited to, the following national interest groups:

a. State fish and wildlife resource management agencies (two members—

one a Director of a coastal State and one a Director of an inland State),

b. Saltwater and freshwater recreational fishing organizations,

c. Recreational boating organizations,

d. Recreational fishing and boating industries,

e. Recreational fishery resources conservation organizations,

f. Tribal resource management organizations,

g. Aquatic resource outreach and education organizations, and

h. The tourism industry.

Members will be senior-level representatives of recreational fishing, boating, and aquatic resources conservation organizations, and must have the ability to represent their designated constituencies.

The Council will function solely as an advisory body and in compliance with provisions of the FACA (5 U.S.C. Appendix). This notice is published in accordance with section 9(a)(2) of the FACA. The Certification of Renewal is published below.

Certification: I hereby certify that the Sport Fishing and Boating Partnership Council is necessary and is in the public interest in connection with the performance of duties imposed on the Department of the Interior under the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742j), the Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777–777k), the Fish and Wildlife Coordination Act (16 U.S.C. 661–667e), and Executive Order 12962, 60 FR 30769 (June 7, 1995), as amended by Executive Order 13474, 73 FR 57229 (September 26, 2008).

Dated: June 9, 2014.

Sally Jewell,

Secretary of the Interior.

[FR Doc. 2014–14611 Filed 6–20–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R9–MB–2011–0094;FF09M21000–145–FXMB123109EAGLE]

Eagle Permits; Notice of Intent To Prepare an Environmental Assessment or an Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent; notice of public scoping meetings; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service, us, or we), announce five public scoping meetings to inform our decision to prepare either an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, in conjunction with an evaluation of our eagle management objectives. The decision to initially prepare an EA or EIS will be, in part, contingent on the complexity of issues identified during, and following, the scoping phase of the NEPA process. The scoping meetings will provide an opportunity for input from other agencies, Tribes, nongovernmental organizations, and the public on the scope of the NEPA analysis, the pertinent issues we should address, and alternatives we should analyze.

DATES: To ensure consideration of written comments, they must be submitted on or before September 22, 2014. See **SUPPLEMENTARY INFORMATION** for the locations and dates of the scoping meetings.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for the locations of the scoping meetings. To obtain additional information about the topics that will be presented at the public scoping meetings, go to *http://www.eaglescoping.org.* You may submit written comments by one of the following methods:

Electronically: Go to the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Search for FWS–R9–MB–2011–0094, which is the docket number for this notice, and follow the directions for submitting comments.

By Hard Copy: Submit by U.S. mail to Public Comments Processing, Attn: FWS–R9–MB–2011–0094; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM, Arlington, VA 22203.

Please note in your submission that your comments are in regard to Eagle Management and Permitting. We request that you send comments by only one of the methods described above. We will post all information received on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the **Public Availability of Comments** section below for more information).

FOR FURTHER INFORMATION CONTACT: Eliza Savage, at 703–358–2329 (telephone), or *eliza_savage@fws.gov* (email). Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8337 for TTY assistance. Alternatively, information presented at the public scoping meetings can be viewed at *http://www.eaglescoping.org.*

SUPPLEMENTARY INFORMATION:

Public Scoping Meetings

We will hold informal public informational sessions and present currently identified issues at the following dates and times:

1. July 22, 2014: Sacramento, CA, 5 p.m. to 8 p.m., Red Lion Hotel, Woodlake Conference Center, 500 Leisure Lane, Sacramento, 95815.
2. July 24, 2014: Minneapolis, MN, 5 p.m. to 8 p.m., DoubleTree Bloomington—MSP South, 7800 Normandale Blvd., Bloomington, MN 55439.
3. July 29, 2014: Albuquerque, NM, 5 p.m. to 8 p.m., DoubleTree Albuquerque, 201 Marquette Avenue Northwest, Albuquerque NM 87102.
4. July 31, 2014: Denver, CO, 5 p.m. to 8 p.m., Holiday Inn Denver Airport, 6900 Tower Rd, Denver, CO 80249.
5. August 7, 2014: Washington, DC, 1 p.m. to 5 p.m., South Interior Building, 1951 Constitution Ave NW., Washington, DC 20240.

Background

The Bald and Golden Eagle Protection Act (16 U.S.C. 668–668d) (Eagle Act) prohibits take of bald eagles and golden eagles except pursuant to Federal regulations. The Eagle Act regulations at title 50, part 22 of the Code of Federal Regulations (CFR), define the ''take'' of an eagle to include the following broad range of actions: ''pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, or disturb'' (§ 22.3). The Eagle Act allows the Secretary of the Interior to authorize certain otherwise prohibited activities through regulations. The Secretary is authorized to prescribe regulations permitting the ''taking, possession, and transportation of [bald eagles or golden eagles] . . . for the scientific or exhibition purposes of public museums, scientific societies, and zoological parks, or for the religious purposes of Indian tribes, or . . . for the protection of wildlife or of agricultural or other interests in any particular locality,'' provided such permits are ''compatible with the preservation of the bald eagle or the golden eagle'' (16 U.S.C. 668a).

On September 11, 2009, we published a final rule that established two new permit regulations under the Eagle Act (50 FR 46836). One permit authorizes take (removal, relocation, or destruction) of eagle nests (50 CFR 22.27). The other permit type authorizes nonpurposeful take of eagles (50 CFR 22.26). The nonpurposeful eagle take regulations provide for permits to take bald eagles and golden eagles where the taking is associated with, but not the purpose of, an activity. The regulations provide for standard permits, which authorize individual instances of take that cannot practicably be avoided, and

programmatic permits, which authorize recurring take that is unavoidable even after implementation of advanced conservation practices. We have issued standard permits for commercial and residential construction, transportation projects, maintenance of utility lines and dams, and in a variety of other circumstances where take is expected to occur in a limited timeframe, such as during clearing and construction.

''Programmatic take'' of eagles is defined at 50 CFR 22.3 as ''take that is recurring, is not caused solely by indirect effects, and that occurs over the long term or in a location or locations that cannot be specifically identified.'' Take that does not reoccur, or that is caused solely by indirect effects, such as short-term construction, does not require a programmatic permit. For additional explanation of programmatic take and programmatic permits, see 74 FR 46841–46843.

We can issue programmatic permits for disturbance as well as take resulting in mortalities, based on implementation of ''advanced conservation practices'' developed in coordination with the Service. ''Advanced conservation practices'' are defined at 50 CFR 22.3 as ''scientifically supportable measures that are approved by the Service and represent the best available techniques to reduce eagle disturbance and ongoing mortalities to a level where remaining take is unavoidable.'' Most take authorized under § 22.26 to this point has been in the form of disturbance; however, permits may authorize lethal take that is incidental to an otherwise lawful activity, such as mortalities caused by collisions with rotating wind turbines.

The Eagle Act requires the Service to determine that any take of eagles it authorizes is compatible with the preservation of bald eagles or golden eagles. In the preamble to the final regulations for eagle nonpurposeful take permits, and in the Final Environmental Assessment of the regulations, we defined that standard to mean ''consistent with the goal of stable or increasing breeding populations'' (74 FR 46838).

On April 13, 2012, the Service initiated two additional rulemakings: (1) A proposed rule (''Duration Rule'') to extend the maximum permit tenure for programmatic eagle nonpurposeful take permit regulations from 5 to 30 years (77 FR 22267), and (2) an Advance Notice of Proposed Rulemaking (ANPR) soliciting input on all aspects of those eagle nonpurposeful take regulations (77 FR 22278). The ANPR highlighted three issues on which the Service particularly hoped the public would comment: Eagle population management objectives, compensatory mitigation, and programmatic permit issuance criteria.

The Duration Rule was finalized on December 9, 2013 (78 FR 73704). Under the revised regulations, the maximum term for programmatic permits was extended from 5 to 30 years. This change is intended to facilitate the responsible development of projects that will be in operation for many decades and bring them into compliance with statutory mandates protecting eagles. The longer term permits will incorporate conditions that provide for adaptive management. Permits issued for periods longer than 5 years are available only to applicants who commit to implementing adaptive management measures if monitoring shows the measures are needed and likely to be effective. The required adaptive management measures will be negotiated with the permittee at the outset and specified in the terms and conditions of the permit.

At no more than 5-year intervals from the date a permit is issued, permittees must compile a report documenting any fatalities and other pertinent information for the project and submit the report to the Service. The Service will evaluate each permit to reassess fatality rates, effectiveness of measures to reduce take, the appropriate level of compensatory mitigation, and eagle population status. Depending on the findings of the review, permittees may be required to undertake additional conservation measures consistent with the permit. The Service will make mortality information from both the annual and the 5-year compilation report available to the public.

Management Objectives for Bald and Golden Eagles

The language of the Bald and Golden Eagle Protection Act provides flexibility with regard to defining management objectives for bald and golden eagles. The management objective directs strategic management and monitoring actions and, ultimately, determines what level of permitted eagle removal can be allowed.

We are considering modifying current management objectives for eagles, which were established with the 2009 eagle permit regulations and Final Environmental Assessment of our regulatory permitting system under the Eagle Act. Different management objectives could be set for bald and golden eagles. At least four elements may be considered when establishing a management objective: (1) The population objective and relevant timeframe for it to be met; (2) eagle management units (EMUs), or the geographic scale over which permitted take is regulated to meet the population objective; (3) whether we also set an upper limit on take at a finer scale than the EMU to avoid creating population sinks in local breeding populations; and (4) our level of risk tolerance. The level of risk tolerance means how much risk the agency is willing to take when information is uncertain in carrying out management actions (e.g., setting levels of authorized take). For example, when information is less certain, a more conservative approach may be adopted to avoid unintended outcomes. Alternatively, to provide for more flexibility in permitting, the Service could adopt a more risk-tolerant approach.

The current management objective, also referred to as the ''Eagle Act preservation standard,'' is to manage populations consistent with the goal of maintaining stable or increasing breeding populations over 100 years, which is at least five eagle generations. The scale the Service uses to evaluate eagle populations is referred to as eagle management units. EMUs for the golden eagle were set at the Bird Conservation Region (BCR) level because the only range-wide estimates available for the golden eagles are BCR-scale population estimates. To establish management populations for bald eagles, we used natal populations (eagles within the natal dispersal range of each other) in our evaluation in order to look at distribution across the landscape. (Natal dispersal refers to the movement between hatching location and first breeding or potential breeding location.) Because the populations delineated by this approach roughly correspond to the Service's Regional organizational structure, we have been managing bald eagles based on populations within the eight Service Regions, with some shared populations. Estimates of bald and golden eagle population size in each EMU were calculated, and EMU-specific estimates of demographic rates were used in models to determine rates of authorized take that are compatible with maintaining stable breeding populations.

Under the current management approach, permitted take of bald eagles is capped at 5 percent estimated annual productivity for bald eagles. Because the Service lacked data to show that golden eagle populations could sustain any additional unmitigated mortality at that time, we set take thresholds for that species at zero for all regional populations. This means that any new authorized ''take'' of golden eagles must be at least equally offset by

compensatory mitigation (specific conservation actions to replace or offset project-induced losses). For more details and explanation about the current eagle management approach, see the 2009 Final Environmental Assessment, Proposal to Permit Take as Provided Under the Bald and Golden Eagle Protection Act, which can be found at: *http://www.fws.gov/migratorybirds/BaldAndGoldenEagleManagement.htm.*

The Service also developed and applies guidance on upper limits of take at more local scales to manage cumulative impacts to local populations. Under the guidance, the Service must assess take rates both for individual projects and for the cumulative effects of other human-caused take eagles, at the scale of the local-area eagle population. The local-area population is the population of eagles within the natal dispersal distance. The Service considers this distance to represent the geographic area that would provide recruits to replenish a local population if permitted take caused a decline in the breeding population of eagles around a permitted project. The Service identified take rates of between 1 and 5 percent of the total estimated local-area eagle population as significant, with 5 percent being at the upper end of what might be appropriate under the Eagle Act preservation standard, whether offset by compensatory mitigation or not.

The Service is considering a range of possible alternatives to the current management objective. At one end of the spectrum, we could adopt a qualitative objective such as ''to not meaningfully impair the bald or golden eagle's continued existence.'' Alternatively, we could update the current management objective by incorporating newer, improved information on eagle movements, population size, and natal dispersal distances to revise the EMUs; set explicit numerical population objectives in each EMU; and refine the area we consider the local scale. We could also adopt an explicit level of risk tolerance relative to how much take to allow based on uncertainty in the population size estimates.

The scoping process announced today in this notice will inform our eagle management program and our decision to prepare either an EA or an Environmental Impact Statement (EIS). Service staff who have been implementing the 2009 eagle permit regulations have identified a number of priority issues for evaluation during this scoping process, including the following: Eagle population management objectives; programmatic permit conditions; compensatory mitigation; evaluation of the individual and cumulative effects of low-risk (or low-effect) permits; and criteria for nest removal permits. For more information about these topics visit *http://www.eaglescoping.org.* In addition to these topics, during this scoping process, we invite the public to provide input on any aspect of our eagle management program.

Analysis Under the National Environmental Policy Act

The NEPA analysis will evaluate the environmental effects of a range of alternatives for eagle management. We also intend the NEPA analysis to:

- Evaluate up-to-date information about the status of bald and golden eagle populations;
- Enable the Service to recalculate regional take thresholds for both species (if population management will continue to incorporate regional take thresholds);
- Analyze the effects of issuing permits to take golden eagles and bold eagles throughout the U.S.;
- Further analyze the effects of longer term nonpurposeful take permits; and
- Rigorously evaluate the effects of low-risk (low-effect) projects to allow for more efficient permitting at the individual project level.

The purpose of the public scoping process with regard to NEPA is to determine relevant issues that could influence the scope of the environmental analysis, including alternatives, and guide the process for developing the EA or EIS and related compliance efforts. Factors currently being considered for analysis in the EA or EIS include, but are not limited to:

1. The direct, indirect, and cumulative effects that implementation of any reasonable alternative could have on bald and golden eagles, migratory birds, other wildlife species, and their habitats;
2. Direct, indirect, and cumulative effects of projects that are likely to take a minimal number of eagles and as such can be classified as ''low-risk'' or ''low effect'' and for which permitting at the individual project level could be expedited;
3. Effects to cultural resources;
4. Potentially significant impacts on biological resources, land use, air quality, water quality, water resources, economics, and other environmental/historical resources;
5. Strategies for avoiding, minimizing, and mitigating the impacts to eagles, migratory birds, wildlife, and other resources listed above;
6. Climate change effects; and
7. Any other environmental issues that should be considered with regard to potential alternatives for eagle management.

The final range of reasonable alternatives and mitigation to be analyzed in the draft EA or EIS will be determined in part by the comments received during the scoping process. The public will also have a chance to review and comment on the draft EA or EIS when it is available (a notice of availability will be published in the **Federal Register**).

Public Comments

We are requesting information from other interested government agencies, Native American Tribes, the scientific community, industry, nongovernmental organizations, and other interested parties.

You may submit your comments and materials by one of the methods described above under **ADDRESSES** at the beginning of this notice. Written comments will also be accepted at the public meetings, although these public meetings are primarily intended to provide additional information and provide a chance for the public to ask questions.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that the entire comment—including your personal identifying information—may be made 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. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

References

U.S. Fish and Wildlife Service. 2009. Final Environmental Assessment: Proposal to Permit Take as Provided Under the Bald and Golden Eagle Protection Act. U.S. Fish and Wildlife Service, Washington, DC U.S.A.

Authority

The authorities for this action are the Bald and Golden Eagle Protection Act (16 U.S.C. 668–668d) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Dated: June 16, 2014.

Jerome Ford,

Assistant Director, Migratory Birds.

[FR Doc. 2014–14497 Filed 6–20–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[145A2100DD.AADD001000]

Advisory Board for Exceptional Children

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bureau of Indian Education (BIE) is announcing that the Advisory Board for Exceptional Children (Advisory Board) will hold its next meeting in Albuquerque, New Mexico. The purpose of the meeting is to meet the mandates of the Individuals with Disabilities Education Act of 2004 (IDEA) for Indian children with disabilities.

DATES: The Advisory Board will meet on Thursday, July 17, 2014, from 8:30 a.m. to 4:00 p.m. and Friday, July 18, 2014, from 8:30 a.m. to 4:00 p.m. Mountain Time. Orientation for new members will be held Wednesday, July 16, 2014, from 8:30 a.m. to 4:00 p.m. Mountain Time.

ADDRESSES: The meeting will be held at the Manual Lujan, Jr. Building, 1011 Indian School Rd. NW., Rooms 231–232, Albuquerque, NM 87104.

FOR FURTHER INFORMATION CONTACT: Sue Bement, Designated Federal Officer, Bureau of Indian Education, Albuquerque Service Center, Division of Performance and Accountability (DPA), 1011 Indian School Road NW., Suite 332, Albuquerque, NM 87104; telephone number (505) 563–5274 or email *sue.bement@bie.edu.*

SUPPLEMENTARY INFORMATION: In accordance with the Federal Advisory Committee Act, the BIE is announcing that the Advisory Board will hold its next meeting in Albuquerque, NM. The Advisory Board was established under the Individuals with Disabilities Education Act of 2004 (20 U.S.C. 1400 *et seq.*) to advise the Secretary of the Interior, through the Assistant Secretary-Indian Affairs, on the needs of Indian children with disabilities. The meetings are open to the public.

The following items will be on the agenda:

- Remarks from BIE Director;
- Welcome from Associate Deputy Director, DPA/BIE;
- Report from, Supervisory Education Specialist, Special Education, DPA/BIE;
- Stakeholder input on BIE Special Education State Systemic Improvement Plan (SSIP);
- Discussion and selection of Advisory Board Priorities;
- Public Comment (via conference call, July 18, 2014, meeting only*); and
- BIE Advisory Board-Advice and Recommendations.

* During the July 18, 2014 meeting, time has been set aside for public comment via conference call from 1:30–2:00 p.m. Mountain Time. The call-in information is: Conference Number 1–888–417–0376, Passcode 1509140.

Advisory Board Members: * New or returning member

Dr. Jonathan Stout, Chair
Dr. Juan Portley *
Dr. Rose Dugi *
Dr. Marilyn Johnson
Dr. Billie Jo Kipp
Luvette Russell *
Ethleen Iron Cloud-Two Dogs
Maureen Diaz
Dr. Susan Faircloth
Jessica Wilson-Lucero
Dr. Kenneth Wong
Dr. Delores Gokee-Rindal *
Dr. Judith Hankes *
Dr. Harvey Rude *

Dated: June 16, 2014.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2014–14600 Filed 6–20–14; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–IMR–YELL–15018;PPIMYELL82, PPMRSNR1Z.AM0000]

Remote Vaccination Program To Reduce the Prevalence of Brucellosis in Yellowstone Bison, Record of Decision, Yellowstone National Park, Wyoming

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability.

SUMMARY: The National Park Service announces the availability of the Record of Decision for the Remote Vaccination Program to Reduce the Prevalence of Brucellosis in Yellowstone Bison, Environmental Impact Statement, Yellowstone National Park, Wyoming. On March 3, 2014, the Regional Director, Intermountain Region approved the Record of Decision for the Environmental Impact Statement (EIS). As soon as practicable, the National Park Service will begin to implement the Preferred Alternative contained in the Final EIS issued on January 24, 2014.

ADDRESSES: The Record of Decision will be available for public inspection online at *http://parkplanning.nps.gov/BisonRemoteVacc,* and at the Yellowstone Center for Resources, P.O. Box 168, Yellowstone National Park, Wyoming 82190, telephone (307) 344–2203.

FOR FURTHER INFORMATION CONTACT: Jennifer Carpenter or Rick Wallen, P.O. Box 168, Yellowstone National Park, WY 82190, telephone (307) 344–2203, or by email at *YELL_Bison_Management@NPS.GOV.*

SUPPLEMENTARY INFORMATION: The National Park Service (NPS) considered three alternatives in the Final EIS: Alternative A—No Action; Alternative B—Remote Delivery Vaccination for Young Bison Only; and Alternative C—Remote Delivery Vaccination for Young Bison and Adult Females. The NPS has identified Alternative A—No Action, as the Preferred Alternative in the Final EIS and as the Selected Action in the Record of Decision based on substantial uncertainties associated with vaccine efficacy, delivery, duration of the vaccine-induced protective immune response, diagnostics, bison behavior and evaluation of public comments. Consistent with the 2000 Interagency Bison Management Plan (IBMP), under the Selected Action the NPS will continue hand-syringe vaccination of bison at capture facilities near the park boundary and conduct monitoring and research on the relationship between vaccine-induced immune responses and protection from clinical disease (e.g., abortions). Also, selective culling of potentially infectious bison based on age and diagnostic test results may be continued at capture facilities to reduce the number of abortions that maintain the disease. The NPS will continue the adaptive management program, as described in the 2000 Record of Decision for the IBMP and subsequent adaptive management adjustments, to learn more about the disease brucellosis and answer uncertainties, as well as to develop or improve suppression techniques that could be used to facilitate effective outcomes, minimize adverse impacts, and lower operational costs of efforts to reduce brucellosis prevalence in the future.

As part of the Selected Action, the NPS will also continue to work with other federal and state agencies, American Indian tribes, academic institutions, non-governmental organizations, and other interested

parties to develop holistic management approaches, monitoring, and research projects that could be conducted to improve the adaptive management decision process, and better vaccines, delivery methods, and diagnostics for reducing the prevalence of brucellosis in bison and elk and transmissions to cattle. The Record of Decision includes a statement of the decision made, synopses of other alternatives considered, the basis for the decision, a description of the environmentally preferable alternative, a finding of no impairment of park resources and values, a list on measures to minimize environmental harm, and an overview of public involvement in the decision-making process.

Dated: May 19, 2014.

Sue E. Masica,

Regional Director, Intermountain Region, National Park Service.

[FR Doc. 2014–14544 Filed 6–20–14; 8:45 am]

BILLING CODE 4312–CB–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1092 (Final)]

Diamond Sawblades and Parts Thereof From China

AGENCY: United States International Trade Commission.

ACTION: Denial of a request to institute a section 751(b) review concerning the Commission's affirmative determination in investigation No. 731–TA–1092 (Final), *Diamond Sawblades and Parts Thereof From China.*

SUMMARY: The Commission hereby gives notice that it has declined to institute an investigation pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) (the Act) to review the Commission's affirmative determination in investigation No. 731–TA–1092 (Final) because it is already conducting a full five-year review of the same order.

DATES: *Effective Date:* June 17, 2014.

FOR FURTHER INFORMATION CONTACT: Douglas Corkran (202–205–3057), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this matter may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background

On May 22, 2006, the Department of Commerce (Commerce) determined that imports of diamond sawblades and parts thereof from China and Korea were being sold in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673) (71 FR 29303 and 71 FR 29310, respectively). The Commission initially determined that a U.S. industry was not materially injured or threatened with material injury by reason of imports of diamond sawblades and parts thereof from China and Korea (71 FR 39128, July 11, 2006).

Following an appeal of the negative determinations and on remand from the U.S. Court of International Trade (CIT), the Commission determined that a U.S. industry was threatened with material injury by reason of subject imports of diamond sawblades and parts thereof from China and Korea. On January 13, 2009, the CIT affirmed the Commission's affirmative determinations on remand. *Diamond Sawblades Mfrs. Coalition* v. *United States,* Slip Op. 09–05 (Ct. Int'l Trade 2009).

On February 10, 2009, Commerce published notice of the CIT's decision and suspended liquidation for entries of the subject merchandise after the effective date of the notice until the end of all appellate proceedings (74 FR 6570). On November 4, 2009, Commerce published orders that antidumping duties be imposed on imports of diamond sawblades and parts thereof from China and Korea, effective January 23, 2009 (74 FR 57145).

Following affirmance of the CIT's judgment by the U.S. Court of Appeals for the Federal Circuit and upon conclusion of all appellate proceedings in the action, the Commission published notice of its final determinations in the antidumping investigations of diamond sawblades and parts thereof from China and Korea (75 FR 68618, November 8, 2010). Commerce revoked the order on diamonds sawblades from Korea effective as of October 24, 2011 (76 FR 66892, Oct. 28, 2011).

On July 11, 2013, the Commission received a request to review its affirmative determination in investigation No. 731–TA–1092 (Final) pursuant to section 751(b) of the Act (19 U.S.C. 1675(b)). The request, filed by Husqvarna Construction Products North America, Inc. (Husqvarna) of Olathe, Kansas, argued that there were several changes since the issuance of the Commission's remand determination. Specifically, Husqvarna noted Commerce's revocation of the antidumping duty order on imports of diamond sawblades and parts thereof from Korea; additional Commerce determinations with respect to Chinese exporter Advanced Technology & Materials Co., Ltd.; the acquisition of certain petitioners by non-U.S. producers of diamond sawblades, as well as changes in those petitioners' patterns of sourcing diamond sawblades; an alleged reduction in the overlap of competition between subject imports from China and the domestic like product as a result of the preceding changes; and opposition to the continuation of the order on diamond sawblades and parts thereof from China by a ''significant part of U.S. production.''

On August 9, 2013, the Commission published a **Federal Register** notice inviting comments from the public on whether changed circumstances exist sufficient to warrant the institution of changed circumstances reviews (78 FR 48717–48718, Aug. 9, 2013). In response to its **Federal Register** notice soliciting comments, the Commission received one submission on behalf of the Diamond Sawblades Manufacturing Coalition (DSMC), an ad hoc group of U.S. producers of diamond sawblades and the petitioning coalition in the original antidumping duty investigation, arguing that the Commission should not institute a changed circumstances review investigation.

On December 2, 2013, Commerce initiated, and the ITC instituted, five-year sunset reviews of the antidumping duty order on diamond sawblades and parts thereof from China (78 FR 72061 & 78 FR 72216, Dec. 2, 2013). On May 20, 2014, the Commission determined to conduct a full five-year sunset review of the order.

On April 23, 2014, the Commission determined not to conduct a changed circumstances review investigation of the antidumping duty order on diamond sawblades and parts thereof from China.[1] Given the fact that the Commission was concurrently conducting a five-year review of the antidumping duty order on diamond sawblades and parts thereof from China, and was aware of the arguments that supported conducting a full review of the order, the Commission determined

[1] Commissioner Aranoff, whose tenure at the Commission ended on April 4, 2014, did not participate in this matter.

that conducting a changed circumstances review was unwarranted because it would be duplicative of a full five-year review. *See Eveready Battery Co., Inc.* v. *United States,* 77 F. Supp. 2d 1327 (CIT 1999) (finding that a request for a changed circumstances review was rendered moot by the Commission's institution of a full five-year sunset review).

Authority: This notice is published pursuant to section 207.45 of the Commission's rules.

By order of the Commission.

Issued: June 17, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–14561 Filed 6–20–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1207–1208 (Final)]

Prestressed Concrete Steel Rail Tie Wire From China and Mexico

Determination

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from China and Mexico of prestressed concrete steel rail tie wire, provided for in subheading 7217.10.80 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective April 23, 2013, following receipt of petitions filed with the Commission and Commerce by Davis Wire Corp., Kent, Washington and Insteel Wire Products Co., Mount Airy, North Carolina. The final phase of the investigations were scheduled by the Commission following notification of a preliminary determination by Commerce that imports of prestressed concrete steel rail tie wire from China and Mexico were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)).[2] Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 15, 2014 (79 FR 2693). The hearing was held in Washington, DC, on May 6, 2014, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission completed and filed its determinations in these investigations on June 12, 2014. The views of the Commission are contained in USITC Publication 4473 (June 2014), entitled *Prestressed Concrete Steel Rail Tie Wire from China and Mexico: Investigation Nos. 731–TA–1207–1208 (Final).*

By order of the Commission.

Issued: June 17, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–14510 Filed 6–20–14; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commerce made a preliminary determination of sales at not less than fair value with respect to imports from Thailand, 78 FR 75547, December 12, 2013. Subsequently, Commerce made a final determination of sales at not less than fair value with respect to imports from Thailand, 79 FR 25574, May 5, 2014. Effective May 5, 2014 the Commission terminated its investigation with respect to imports from Thailand, 79 FR 26775, May 9, 2014.

DEPARTMENT OF JUSTICE

[OMB Number 1140–0100]

Agency Information Collection Activities: Proposed eCollection eComments Requested; Report of Multiple Sale or Other Disposition of Certain Rifles

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 72, page 21284 on April 15, 2014, allowing for a 60 day comment period.

DATES: The purpose of this notice is to allow for an additional 30 days for public comment until July 23, 2014.

FOR FURTHER INFORMATION CONTACT: If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Natisha Taylor, Bureau of Alcohol, Tobacco, Firearms and Explosives, Firearms Industry Programs Branch, 99 New York Avenue NE., Washington, DC 20226. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send email to *OIRA_submission@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- 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.

Overview of this Information Collection 1140–0100:

(1) *Type of Information Collection:* Extension without change of an existing collection.

(2) *Title of the Form/Collection:* Report of Multiple Sale or Other Disposition of Certain Rifles.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 3310.12.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: The purpose of this information collection is to require Federal firearms licensees to report multiple sales or other dispositions whenever the licensee sells or otherwise disposes of two or more rifles to the same person at one time or within any five consecutive business days with the following characteristics: (a) Semi-automatic; (b) a caliber greater than .22; and (c) the ability to accept a detachable magazine. This requirement will apply to Federal Firearms Licensees (FFLs) who are dealers and/or pawnbrokers in Arizona, California, New Mexico and Texas.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 2,509 respondents will take 12 minutes to complete the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 3,615 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: June 18, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–14572 Filed 6–20–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0026]

Agency Information Collection Activities: Proposed eCollection eComments Requested; Report of Theft or Loss of Explosives

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 72, page 21284 on April 15, 2014, allowing for a 60 day comment period.

DATES: The purpose of this notice is to allow for an additional 30 days for public comment until July 23, 2014.

FOR FURTHER INFORMATION CONTACT: If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Brian Muller, Bureau of Alcohol, Tobacco, Firearms and Explosives, 99 New York Avenue NE., Washington, DC 20226. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send email to *OIRA_submission@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- 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.

Overview of this Information Collection 1140–0026:

(1) *Type of Information Collection:* Revision of an existing collection.

(2) *Title of the Form/Collection:* Report of Theft or Loss of Explosives.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 5400.5.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Abstract: Losses or theft of explosives must, by statute be reported within 24 hours of the discovery of the loss or theft. This form contains the minimum information necessary for ATF to initiate criminal investigations.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 300 respondents will take 1 hour and 48 minutes to complete the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 540 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: June 18, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–14573 Filed 6–20–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0084]

Agency Information Collection Activities: Proposed eCollection eComments Requested; Application and Permit for Temporary Importation of Firearms and Ammunition by Nonimmigrant Aliens

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 72, page 21286 on April 15, 2014, allowing for a 60-day comment period.

DATES: The purpose of this notice is to allow for an additional 30 days for public comment until July 23, 2014.

FOR FURTHER INFORMATION CONTACT: If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Desiree Dickinson, Bureau of Alcohol, Tobacco, Firearms and Explosives, 244 Needy Road, Martinsburg, WV 25405. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send email to *OIRA_submission@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- 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.

Overview of this Information Collection 1140–0084:

(1) Type of Information Collection: Revision of an existing collection.

(2) Title of the Form/Collection: Application and Permit for Temporary Importation of Firearms and Ammunition by Nonimmigrant Aliens.

(3) Agency form number, if any, and the applicable component of the Department sponsoring the collection:

Form number: ATF Form 6NIA (5330.3D).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice

(4) Affected public who will be asked or required to respond, as well as a brief abstract:

Primary: Individuals or households.

Other: None.

Abstract: This information collection is needed to determine if the firearms or ammunition listed on the application qualify for importation and to certify that a nonimmigrant alien is in compliance with 18 U.S.C. 922(g)(5)(B). This application will also serve as the authorization for importation.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: An estimated 15,000 respondents will take 30 minutes to complete the form.

(6) An estimate of the total public burden (in hours) associated with the collection:

The estimated annual public burden associated with this collection is 7,500 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: June 18, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–14571 Filed 6–20–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0007]

Agency Information Collection Activities: Proposed eCollection eComments Requested; Release and Receipt of Imported Firearms, Ammunition and Implements of War

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 72, page 21285 on April 15, 2014, allowing for a 60 day comment period.

DATES: The purpose of this notice is to allow for an additional 30 days for public comment until July 23, 2014.

FOR FURTHER INFORMATION CONTACT: If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Desiree Dickinson, Bureau of Alcohol, Tobacco, Firearms and Explosives, 244 Needy Road, Martinsburg, WV 25405. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send email to *OIRA_submission@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- 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.

Overview of this Information Collection 1140–0007:

(1) *Type of Information Collection:* Revision of an existing collection.

(2) *Title of the Form/Collection:* Release and Receipt of Imported Firearms, Ammunition and Implements of War.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 6A (5330.3C).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individual or households.

Other: Business or other for-profit; Not-for-profit institutions.

Abstract: The data provided by this information collection request is used by ATF to determine if articles imported meet the statutory and regulatory criteria for importation and if the articles shown on the permit application have been actually imported.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 20,000 respondents will take 35 minutes to complete the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 11,667 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: June 18, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–14570 Filed 6–20–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0021]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Submission for OMB Approval

AGENCY: Drug Enforcement Administration (DEA), Department of Justice Dispensing Records of Individual Practitioners.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Drug Enforcement Administration (DEA), 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 of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** at 79 FR 21952, April 18, 2014, allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for 30 days until July 23, 2014.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Erika Gehrmann, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, Virginia 22152. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send email to *OIRA_submission@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies 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.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Dispensing Records of Individual Practitioners.

(3) *Agency form number:* N/A.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

21 U.S.C. 827 requires individual practitioners to keep records of the dispensing and administration of controlled substances. This information is needed to maintain a closed system of distribution.

(5) *An estimate of the total number of respondents and the amount of time estimated*

(6) *An estimate of the total public burden (in hours) associated with the collection:* The DEA estimates this collection has a public burden of 40,699 hours annually.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E.405B, Washington, DC 20530.

Dated: June 18, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–14576 Filed 6–20–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0006]

Agency Information Collection Activities: Proposed eCollection eComments Requested; Application and Permit for Importation of Firearms, Ammunition and Implements of War

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the

public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 72, page 21286 on April 15, 2014, allowing for a 60 day comment period.

DATES: The purpose of this notice is to allow for an additional 30 days for public comment until July 23, 2014.

FOR FURTHER INFORMATION CONTACT: If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Desiree Dickinson, Bureau of Alcohol, Tobacco, Firearms and Explosives, 244 Needy Road, Martinsburg, WV 25405. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send email to *OIRA_submission@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- 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.

Overview of this Information Collection 1140–0006:

(1) *Type of Information Collection:* Revision of an existing collection.

(2) *Title of the Form/Collection:* Application and Permit for Firearms, Ammunition and Implements of War.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number: ATF Form 6 Part II (5330.3B).

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individual or households.

Other: Business or other for-profit; Federal Government; State, Local, or Tribal Government.

Abstract: The information collection is needed to determine whether firearms, ammunition and implements of war are eligible for importation into the United States. The information is used to secure authorization to import such articles. The form is used by persons who are members of the United States Armed Forces.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 9,000 respondents will take 30 minutes to complete the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 4,500 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: June 13, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–14569 Filed 6–20–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0003]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Submission for OMB Approval; ARCOS Transaction Reporting

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Drug Enforcement Administration (DEA), 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 of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 75, pages 21954, on April 18, 2014, allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until July 23, 2014.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Erika Gehrmann, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, Virginia 22152. Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send email to *OIRA_submission@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies 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.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* ARCOS Transaction Reporting.

(3) *Agency form number:* DEA Form 333.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Controlled substances manufacturers and distributors must report acquisition/distribution transactions to the DEA to comply with Federal law and international treaty obligations. This information helps to ensure a closed system of distribution for these substances.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The DEA estimates that 1,265 respondents, with 7,932 responses annually to this collection. The DEA estimates that it takes 1 hour to complete the form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* DEA estimates this collection has a public burden of 7,932 hours annually.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–.405B, Washington, DC 20530.

Dated: June 18, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–14574 Filed 6–20–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0004]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Submission for OMB Approval; Application for Permit To Export Controlled Substances/Application for Permit To Export Controlled Substances for Subsequent Re-Export

AGENCY: Drug Enforcement Administration (DEA), Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Department of Justice (DOJ), Drug Enforcement Administration (DEA), 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 of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 79, Number 75, page 21953, April 18, 2014, allowing for a 60 day comment period.

DATES: Comments are encouraged and will be accepted for an additional 30 days until July 23, 2014.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Erika Gehrmann, Office of Diversion Control, Drug Enforcement Administration, 8701 Morrissette Drive, Springfield, Virginia 22152.

Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or send email to *OIRA_submission@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies 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.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application for Permit to Export Controlled Substances/Application for Permit to Export Controlled Substances for Subsequent Reexport.

(3) *Agency form number:* DEA Forms 161 and 161r.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Business or other for-profit.

Other: None.

Title 21 CFR 1312.21 and 1312.22 require persons who export controlled substances in Schedules I and II and who reexport controlled substances in Schedules I and II and narcotic controlled substances in Schedules III and IV to obtain a permit from DEA. Information is used to issue export permits, exercise control over exportation of controlled substances, and compile data for submission to the United Nations to comply with treaty requirements.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The DEA estimates that 123 respondents will respond to Form 161, with 5,109 responses annually to this collection. The DEA estimates that it takes .5 hour to complete the Form 161. The DEA estimates that 24 respondents will respond to Form 161r, with 703 responses annually to this collection. The DEA estimates that it takes .75 hour to complete Form 161r.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The DEA estimates that Form 161 has a public burden of 2,555 hours annually, while Form 161r has a public burden of 528 hours annually.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3W–1407B, Washington, DC 20530.

Dated: June 18, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–14575 Filed 6–20–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1117–0051]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection Red Ribbon Week Patch

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Drug Enforcement Administration (DEA), 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 of 1995. The proposed information collection is published to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and will be accepted for 60 days until August 22, 2014.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Deb Augustine, Acting Chief, Demand Reduction Section, 8701 Morrissette Drive, Springfield, VA 22152 (phone: 202–307–4777).

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

1. *Type of Information Collection:* Extension of a previously approved collection.

2. *The Title of the Form/Collection:* Red Ribbon Week Patch Activity Report.

3. *The agency form number, if any and the applicable component of the Department sponsoring the collection:* The form number is DEA–316a. The applicable component within the Department of Justice is the Drug Enforcement Administration, Demand Reduction Section.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Boy Scout and Girl Scout Troop Leaders.

Other: None.

DEA is requesting approval of an extension, with change, to an existing collection that requests information from Boy/Girl Scout Troop Leaders who express an interest in participating in DEA Red Ribbon Week Activities. This information is then used to mail patches to participants as indication of completion of the suggested activities.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 450 Boy/Girl Scout troop leaders will take part in the Red Ribbon Week Patch activities. It is estimated that it will take 10 minutes to complete the DEA–316a, DEA Red Ribbon Week Patch Activity Report.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 75 hours.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: June 18, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–14580 Filed 6–20–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Prohibited Transaction Class Exemption 1998–54 Relating to Certain Employee Benefit Plan Foreign Exchange Transactions Executed Pursuant to Standing Instructions

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Prohibited Transaction Class Exemption 1998–54 Relating to Certain Employee Benefit Plan Foreign Exchange Transactions Executed Pursuant to Standing Instructions,'' 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 July 23, 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=201404-1210-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (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.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the information collection requirements contained in Prohibited Transaction Class Exemption (PTE) 1998–54, which relates to certain employee benefit plan foreign exchange transactions executed pursuant to standing instructions. The PTE permits certain foreign exchange transactions between employee benefit plans and certain banks and broker-dealers that are parties in interest with respect to such plans. In order that such transactions will be consistent with the requirements of Employee Retirement Income Security Act (ERISA) section 408(a), 29 U.S.C. 1108(a), the PTE imposes the following conditions at the time the foreign exchange transaction is entered into: (a) The terms of the transaction must not be less favorable than those available in comparable arm's-length transactions between unrelated parties or those afforded by the bank or the broker-dealer in comparable arm's-length transactions involving unrelated parties; (b) neither the bank nor the broker-dealer has any discretionary authority with respect to the investment of the assets involved in the transaction; (c) the bank or broker-dealer maintains at all times written policies and procedures regarding the handling of foreign exchange transactions for plans for which it is a party in interest which ensure that the party acting for the bank or the broker-dealer knows it is dealing with a plan; (d) the transactions are performed in accordance with a written authorization executed in advance by an independent fiduciary of the plan whose assets are involved in the transaction and who is independent of the bank or broker-dealer engaging in the covered transaction; (e) transactions are executed within one business day of receipt of funds; (f) the bank or the broker-dealer, at least once a day at a time specified in written procedures, establishes a rate or range of rates of exchange to be used for the transactions covered by this exemption and executes transactions at either the next scheduled time or no later than twenty-four (24) hours after receipt of notice of receipt of funds; (g) prior to execution of a transaction, the bank or the broker-dealer provides the authorizing fiduciary with a copy of the applicable written policies and procedures for foreign exchange transactions involving income item conversions and *de minimis* purchase and sale transactions; (h) the bank or the broker-dealer furnishes the authorizing fiduciary a written confirmation statement with respect to each covered transaction within five (5) days of execution; and (i) the bank or the broker-dealer maintains, for six (6) years after the date of the transaction, records necessary for plan fiduciaries, participants, and the DOL and Internal Revenue Service to determine whether the conditions of the exemption have been met. *See* 63 FR 63503. The Internal Revenue Code and ERISA authorize this information collection. *See* 26 U.S.C. 4975 and 29 U.S.C. 1108.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0111.

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 June 30, 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 November 29, 2013 (78 FR 71668).

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 1210–0111. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Prohibited Transaction Class Exemption 1998–54 Relating to Certain Employee Benefit Plan Foreign Exchange Transactions Executed Pursuant to Standing Instructions.

OMB Control Number: 1210–0111.

Affected Public: Private Sector-businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 35.

Total Estimated Number of Responses: 420,000.

Total Estimated Annual Time Burden: 4,200 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: June 5, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–14553 Filed 6–20–14; 8:45 am]

BILLING CODE 4510–29–P

LEGAL SERVICES CORPORATION

Sunshine Act Meeting Notice

DATE AND TIME: The Legal Services Corporation's Finance Committee will meet telephonically on June 27, 2014. The meeting will commence at 1:00 p.m., EDT, and will continue until the conclusion of the Committee's agenda.

LOCATION: John N. Erlenborn Conference Room, Legal Services Corporation Headquarters, 3333 K Street NW., Washington, DC 20007.

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 Chair may solicit comments from the public.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of agenda.
2. Discussion with Management regarding recommendation for LSC's fiscal year 2016 budget request.
3. Public comment.
4. Consider and act on other business.
5. Consider and act on adjournment of meeting.

CONTACT PERSON FOR INFORMATION: 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 needing 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 27, 2014.

Katherine Ward,

Executive Assistant to the Vice President for Legal Affairs & General Counsel.

[FR Doc. 2014–14667 Filed 6–19–14; 11:15 am]

BILLING CODE 7050–01–P

NATIONAL SCIENCE FOUNDATION

Request for Comments on the Intent To Discontinue Part 2 of the Survey of Science and Engineering Research Facilities on Computing and Networking Capacity

AGENCY: National Science Foundation.

ACTION: Request for comments.

SUMMARY: This notice announces the intent of the National Center for Science and Engineering Statistics (NCSES) at the National Science Foundation (NSF) to discontinue data collection for Part 2 of the Survey of Science and Engineering Research Facilities (Facilities Survey) (OMB Clearance Number 3145–0101) on computing and networking capacity at academic institutions. This notice is in response to an effort by NCSES to assess the value of these data.

DATES: Send your written comments by August 15, 2014.

ADDRESSES: Send your written comments to Mr. John R. Gawalt, Director, National Center for Science and Engineering Statistics, National Science Foundation, 4201 Wilson Blvd., Room 965, Arlington, VA 22230. Send email comments to *jgawalt@nsf.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. John R. Gawalt, Director, National Center for Science and Engineering Statistics, National Science Foundation at (703) 292–7776 or email at *jgawalt@nsf.gov.*

SUPPLEMENTARY INFORMATION: Data on the academic research infrastructure are collected biennially through the NSF's congressionally mandated Facilities Survey. The survey originated in 1986 in response to Congress's concern about the state of research facilities at the nation's colleges and universities. Part 1 of the Facilities Survey collects data on the amount, condition, construction, repair, renovation, and funding of research facilities. This section, focusing largely on research space, will continue. Recognizing the growing use of networking and computing capacity (cyberinfrastructure) in conducting research, a new set of questions on these topics was added to the FY 2003 Facilities Survey and revised for the FY 2005, FY 2007, FY 2009, FY 2011 and FY 2013 surveys.

NCSES has continually reviewed the Part 2 questionnaire in an attempt to stay current with the rapidly changing developments in academic R&D cyberinfrastructure. Despite these efforts, NCSES believes that the survey provides little utility to policymakers, researchers and other data users. Field experts and review panels have noted several critical shortcomings of Part 2 collections. Rapid advances in research cyberinfrastructure make identifying current and valuable metrics difficult. This challenge is compounded by the length of the data collection and publication cycle, which typically requires 16 months after the end of the relevant fiscal year. The continual need to update metrics combined with time required for production and publication reduces the relevancy of the data. In addition, to facilitate data collection and ease survey response burden, respondents to the Facilities Survey are asked to report only on centrally-administered cyberinfrastructure capacity. More than 20 of the top 100 academic research institutions (based on research expenditures) cannot report data on their high-performance computing because these resources are not centrally-administered. Another 15 or more institutions in the top 100 report exceptionally low totals for the same reason. Because so many of the top research universities are unable to adequately report their total computing and networking capacity, the utility of these data are severely undermined. These institution-specific differences limit the ability to present national totals and trends as well as the ability to compare many leading institutions.

The NCSES is interested in all comments, especially from government policy makers, academic institution respondents, and academic researchers that specify concerns related to the discontinuation of Part 2 of the Facilities Survey.

June 17, 2014.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2014–14589 Filed 6–20–14; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket ID NRC–2014–0147]

AP1000 Standard Technical Specifications

AGENCY: Nuclear Regulatory Commission.

ACTION: Generic technical specification travelers; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on its generic technical specification travelers (GTSTs) for the development of standard technical specifications (STS) for the AP1000 certified reactor design based on the AP1000 generic technical specifications (GTS). Each GTST documents the safety basis for proposed improvements to one or more GTS sections that will result in corresponding sections in the AP1000 STS, which will be the subject of a NUREG (similar to NUREG–1431, STS for Westinghouse Plants). The purpose of the GTSTs is to provide an orderly method of soliciting and processing

public comments on proposed enhancements and updates to the GTS and the associated GTS Bases.

DATES: Submit comments by September 22, 2014. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0147. 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 notice.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–A44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Craig Harbuck, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–3140, email: *Craig.Harbuck@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0147 when contacting the NRC about the availability of information for this action. You may obtain information related to this action, which the NRC possesses and is publicly available, by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0147.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The AP1000 GTSTs draft files are available in ADAMS under Accession No. ML14129A393.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2014–0147 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

The content of each GTST, which includes the associated technical specification subsection(s), resides in an automated database application. Following incorporation of public comment resolutions into the database and NRC approval of the updated GTSTs, the database application will be used to efficiently generate files for the AP1000 STS, which will be published as a NUREG.

The proposed improvements to the GTS include: (1) Applicable changes made to operating reactor STS since Rev. 2 of NUREG–1431 that are contained in NRC-approved Technical Specification Task Force (TSTF) Travelers; (2) addition of site-specific information provided by the AP1000 lead plant combined license (COL) applicant (i.e., Southern Nuclear Operating Company for Vogtle Electric Generating Plant [VEGP] Units 3 and 4) that was approved for the plant-specific TS issued with the COL—site-specific information will be denoted by enclosing it in brackets in the AP1000 STS; (3) standard departures from the GTS, GTS Bases, or both that were proposed by the lead plant COL applicant and approved as an exemption from the GTS, GTS Bases, or both in the plant-specific TS issued with the COL; (4) changes to the lead plant's plant-specific TS that were approved by the NRC as part of an amendment to the COL (e.g., Amendment 13 to COL No. NPF–91 for VEGP Unit 3); and (5) other changes recommended by the NRC staff, including clarifications and enhancements of the GTS Bases.

In addition to automating production of files for GTSTs and AP1000 STS, in the future, the database application may be used to more efficiently process AP1000 STS change proposals and—after issuance of COLs and AP1000 plants begin operation—COL amendment applications to change plant-specific TS. A nuclear power reactor licensee, for example, could request plant-specific TS changes based on NRC approved GTST changes after confirming the applicability of the GTST's safety basis for the changes to the reactor's licensing basis and design. The NRC staff is requesting comment on the draft GTSTs prior to issuing the initial AP1000 STS and announcing its availability for referencing in license amendment applications.

The Design Control Document (DCD) in a design certification application for a new reactor design includes generic technical specifications (GTS). A Combined Operating License (COL) applicant who references a certified reactor design must adopt the DCD GTS approved by rulemaking (e.g., Appendix D to Part 52 of Title 10 of the *Code of Federal Regulations* (10 CFR) for the AP1000 design) into the plant-specific TS. After COL issuance, the licensee can obtain changes to the plant-specific TS, which were issued with and as part of the COL, through the license amendment process prescribed by 10 CFR 50.90. The AP1000 GTS are based upon the Westinghouse STS (NUREG–1431, Revision 2). There have been two subsequent major revisions to the Westinghouse STS (Revisions 3 and 4).

Current operating reactor STS (NUREG–1430, –1431, –1432, –1433, and –1434) are revised through the industry's pressurized water reactor (PWR) and boiling water reactor (BWR) owner groups' Technical Specifications Task Force (TSTF) working with TS staff of the Office of Nuclear Reactor Regulation (NRR) with participation by

TS staff in the Office of New Reactors (NRO) and NRC technical and projects staff as needed. The TSTF change process serves to make corrections and improvements to the STS. The TSTF usually proposes changes and after conducting a safety review the NRR TS staff either approves or disapproves the changes. The TSTF change process is intended to facilitate NRR's control of STS and plant specific TS changes by processing proposed changes to the STS in a manner that supports subsequent plant-specific TS license amendment applications. The Westinghouse STS revisions are derived from specific TSTF changes approved by NRC.

The NRO TS staff is creating STS NUREGs for the new reactor certified designs in order to maintain consistency and standardization of TS. The NRO TS staff will manage changes to the new reactor STS using a web-based automated system currently under development. The new reactor STS change process is envisioned to eventually be included with the TSTF change process for operating reactor STS. Applying the TSTF change process to new reactor STS NUREGs will promote consistency with operating reactor STS NUREGs and maintain standardization among all reactor designs for similar or equivalent TS requirements.

The NRO TS staff is preparing AP1000 STS based upon the GTS with applicable TSTF changes approved for Westinghouse STS incorporated. Each of the approved TSTF changes to Westinghouse STS (NUREG–1431, Revision 2) has been analyzed for applicability and a GTST has been created for each AP1000 GTS section incorporating the applicable approved TSTF changes. The GTSTs are designed to facilitate COL holder adoption. The GTST files are kept in a database that can be used to generate the latest version of the AP1000 STS. VEGP Units 3 and 4 (the AP1000 Reference COLs, or lead plants) were licensed to AP1000 DCD Revision 19. Shortly after COL issuance, the COL holder submitted a license amendment request (LAR) to upgrade the VEGP Units 3 and 4 plant-specific TS via approved license amendments in accordance with 10 CFR 50.90. The VEGP Units 3 and 4 license amendments to upgrade the plant-specific TS are reflected in the draft AP1000 GTSTs for which the staff is soliciting comments.

The NRC staff will evaluate any comments received, provide a response to the comments and make appropriate changes to the GTST documents. Following resolution of public comments the final GTSTs will be used to create Revision 0 of the AP1000 STS NUREG. The availability of the AP1000 STS NUREG Revision 0 and the supporting GTST documents will then be announced for consideration by licensees to upgrade plant-specific TS. Each amendment application made in response to the notice of availability will be processed and noticed in accordance with applicable rules and NRC procedures.

This proposal to make available NRC approved changes to GTS provisions, as documented in GTSTs and incorporated in the AP1000 STS and associated STS Bases, for adoption in plant-specific TS is applicable to all AP1000 COL holders. COL holders are anticipated to propose license amendments to update plant-specific TS with applicable GTST changes. To efficiently process the incoming license amendment applications, the staff requests that each licensee applying for changes contained in approved GTSTs include in its application justifications for adopting the proposed changes that are consistent with the safety basis given in the GTSTs; the amendment application should also justify any plant specific deviations from the approved GTST changes proposed for adoption.

If the staff announces the availability of a GTST change, licensees wishing to adopt the change must submit an application in accordance with applicable rules and other regulatory requirements. For each application the staff will publish a notice of consideration of issuance of amendment to facility operating licenses, a proposed no significant hazards consideration determination, and a notice of opportunity for a hearing.

Dated at Rockville, Maryland, this 12th day of June 2014.

For the Nuclear Regulatory Commission.

Antonio F. Dias,

Acting Branch Chief, Balance of Plant and Technical Specifications Branch, Division of Safety Systems and Risk Assessment, Office of New Reactors.

[FR Doc. 2014–14608 Filed 6–20–14; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF SPECIAL COUNSEL

Agency Information Collection Activities, Request for Comment

AGENCY: Office of Special Counsel.

ACTION: Second Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), and implementing regulations at 5 CFR part 1320, the U.S. Office of Special Counsel (OSC), plans to request approval from the Office of Management and Budget (OMB) for use of three previously approved information collections consisting of three complaint forms. These collections are listed below. The current OMB approval for Forms OSC–11, OSC–12, OSC–13 expired on 2/28/14. We are submitting all three forms for renewal, based on the actual date of expiration. We are currently collecting requirements for future modifications to these forms; however, currently there are no changes being submitted with this request for renewal of the use of these forms. Current and former Federal employees, employee representatives, other Federal agencies, state and local government employees, and the general public are invited for the second time to comment on this information collection. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of OSC functions, including whether the information will have practical utility; (b) the accuracy of OSC's estimate of the burden of the proposed collections 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.

DATES: Comments should be received by July 23, 2014.

FOR FURTHER INFORMATION CONTACT: Karl Kammann, Director of Finance, at the address shown above; by facsimile at (202) 254–3711.

SUPPLEMENTARY INFORMATION: OSC is an independent agency responsible for, among other things, (1) investigation of allegations of prohibited personnel practices defined by law at 5 U.S.C. 2302(b), protection of whistleblowers, and certain other illegal employment practices under titles 5 and 38 of the U.S. Code, affecting current or former Federal employees or applicants for employment, and covered state and local government employees; and (2) the interpretation and enforcement of Hatch Act provisions on political activity in chapters 15 and 73 of title 5 of the U.S. Code.

Title of Collections: (1) Form OSC–11, (Complaint of Possible Prohibited Personnel Practice of Other Prohibited Activity; (2) Form OSC–12 (Information about filing a Whistleblower Disclosure with the Office of Special Counsel); (3) Form OSC–13 (Complaint of Possible Prohibited Political Activity (Violation of the Hatch Act)); OMB Control

Number 3255–0002, Expiration 02/28/14.

Copies of the OSC Forms 11, 12, and 13 can be found at: *http://www.osc.gov/RR_OSCFORMS.htm.*

Type of Information Collection Request: Approval of previously approved collection of information that expires on February 28, 2014, with no revisions.

Affected Public: Current and former Federal employees, applicants for Federal employment, state and local government employees, and their representatives, and the general public.

Respondent's Obligation: Voluntary.

Estimated Annual Number of OSC Form Respondents: 3,950.

Frequency of Use of OSC Forms: Daily.

Estimated Average Amount of Time for a Person To Respond Using OSC Forms: 64 minutes.

Estimated Annual Burden for the OSC Forms: 2,899 hours.

Abstract: These forms are used by current and former Federal employees and applicants for Federal employment to submit allegations of possible prohibited personnel practices or other prohibited activity for investigation and possible prosecution by OSC.

Dated: June 10, 2014.

Carolyn N. Lerner,

Special Counsel.

[FR Doc. 2014–14579 Filed 6–20–14; 8:45 am]

BILLING CODE 7405–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval. The purpose of this notice is to allow 30 days for public comment in the **Federal Register** preceding submission to OMB. Peace Corps as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on the ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 et seq.). This collection was developed as part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery. This notice announces our intent to submit this collection to OMB for approval and solicits comments on specific aspects for the proposed information collection.

DATES: Submit comments on or before July 23, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB approval number and should be sent via email to: *oira_submission@omb.eop.gov* or fax to: 202–395–3086. Attention: Desk Officer for Peace Corps.

FOR FURTHER INFORMATION CONTACT: Denora Miller, FOIA/Privacy Act Officer, Peace Corps, 1111 20th Street NW., Washington, DC 20526, (202) 692–1236, or email at *pcfr@peacecorps.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 0420–0545.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Type Of Request: Extension without change of a currently approved collection.

Affected Public: Individuals and households.

Respondents' Obligation To Reply: Voluntary.

Burden To The Public:

Average Expected Annual Number of Activities: 10.

Annual Number of Respondents: 10,575.

Annual Responses: 10,575.

Frequency of Response: Once per request.

Average Minutes per Response: 49.

Annual Burden Hours: 6,388.

General Description Of Collection: The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on Peace Corps' services will be unavailable.

Peace Corps will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed

sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Request For Comment: 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. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and 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. All written comments will be available for public inspection Regulations.gov. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

This notice issued in Washington, DC, on June 17, 2014.

Denora Miller,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2014–14545 Filed 6–20–14; 8:45 am]

BILLING CODE 6051–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2014–37; Order No. 2096]

Amendment to Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing requesting an amendment to Priority Mail Express, Priority Mail & First-Class Package Service Contract 2 on the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* June 24, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov*. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On June 13, 2014, the Postal Service filed notice that it has agreed to an Amendment to the existing Priority Mail Express, Priority Mail, and First-Class Package Service Contract 2 negotiated service agreement approved in this docket.[1] In support of its Notice, the Postal Service includes a redacted copy of the Amendment.

The Postal Service also filed an unredacted version of the Amendment under seal. The Postal Service seeks to incorporate by reference the Application for Non-Public Treatment originally filed in this docket for the protection of information that it has filed under seal. *Id.* at 1.

The Amendment modifies the price categories for which the customer's packages are eligible. The Postal Service asserts that the amendment will not affect the cost coverage of the contract as presented in the initial filing in this docket.[2]

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. 3633. *Id.*

II. Notice of Filings

The Commission invites comments on whether the changes presented in the Postal Service's Notice are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than June 24, 2014. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to represent the interests of the general public (Public Representative) in this docket.

III. Ordering Paragraphs

It is ordered:

1. The Commission reopens Docket No. CP2014–37 for consideration of matters raised by the Postal Service's Notice.
2. Pursuant to 39 U.S.C. 505, the Commission appoints Curtis E. Kidd to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
3. Comments are due no later than June 24, 2014.
4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–14508 Filed 6–20–14; 8:45 am]

BILLING CODE 7710–FW–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

Summary: In accordance with the Paperwork Reduction Act of 1995 (44

[1] Notice of United States Postal Service of Amendment to Priority Mail Express, Priority Mail & First-Class Package Service Contract 2, With Portions Filed Under Seal, June 13, 2014 (Notice).

[2] *See* Request of the United States Postal Service to Add Priority Mail Express, Priority Mail & First-Class Package Service Contract 2 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data (March 18, 2014).

U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB). Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collections of information to determine (1) the practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology. Comments to the RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if the RRB and OIRA receive them within 30 days of the publication date.

Title and Purpose of Information Collection: Representative Payee Parental Custody Monitoring; OMB 3220–0176.

Under Section 12(a) of the Railroad Retirement Act (RRA), the Railroad Retirement Board (RRB) is authorized to select, make payments to, and to conduct transactions with, a beneficiary's relative or some other person willing to act on behalf of the beneficiary as a representative payee. The RRB is responsible for determining if direct payment to the beneficiary or payment to a representative payee would best serve the beneficiary's interest. Inherent in the RRB's authorization to select a representative payee is the responsibility to monitor the payee to assure that the beneficiary's interests are protected. The RRB utilizes Form G–99d, Parental Custody Report, to obtain information needed to verify that a parent-for-child representative payee still has custody of the child. One response is required from each respondent.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (79 FR 20251 on April 11, 2014) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Representative Payee Parental Custody Monitoring.

OMB Control Number: 3220–0176.

Form(s) submitted: G–99d.

Type of request: Revision of a currently approved collection.

Affected public: Individuals or households.

Abstract: Under Section 12(a) of the Railroad Retirement Act, the RRB is authorized to select, make payments to, and conduct transactions with an annuitant's relative or some other person willing to act on behalf of the annuitant as a representative payee. The collection obtains information needed to verify the parent-for-child payee still retains custody of the child.

Changes proposed: The RRB proposes minor non-burden impacting formatting and editorial changes to Form G–99d.

The burden estimate for the ICR is as follows:

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–99d	1,030	5	86

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV.*

Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 or *Charles.Mierzwa@RRB.GOV* and to the OMB Desk Officer for the RRB, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

Charles Mierzwa,

Chief of Information Resources Management.

[FR Doc. 2014–14543 Filed 6–20–14; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31085; File No. 812–14263]

Elkhorn Investments, LLC and Elkhorn ETF Trust; Notice of Application

June 17, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) for an exemption from sections 12(d)(1)(A) and 12(d)(1)(B) of the Act.

SUMMARY: *Summary of Application:* Applicants request an order that would permit (a) series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices rather than at net asset value (''NAV''); (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days after the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the Underlying Funds (defined below) to acquire shares of the Underlying Funds.

Applicants: Elkhorn ETF Trust (the ''Trust'') and Elkhorn Investments, LLC (the ''Initial Adviser'').

DATES: *Filing Dates:* The application was filed on January 9, 2014 and amended on May 30, 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 July 14, 2014, and should be accompanied by proof of service on 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, Securities and Exchange Commission, 100 F Street NE.,

Washington, DC 20549–1090; Applicants, Elkhorn Investments, LLC, 207 Reber Street, Suite 201, Wheaton, IL 60187, Attn: Benjamin Fulton.

FOR FURTHER INFORMATION CONTACT: Mark N. Zaruba, Senior Counsel at (202) 551–6878, or Mary Kay Frech, Branch Chief, 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 for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is a business trust organized under the laws of the Commonwealth of Massachusetts and is registered under the Act as an open-end management investment company with multiple series.

2. The Initial Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act'') and will be the investment adviser to the Funds (defined below). Any other Adviser (defined below) will also be registered as an investment adviser under the Advisers Act. The Adviser may enter into sub-advisory agreements with one or more investment advisers to act as sub-advisers to particular Funds (each, a ''Sub-Adviser''). Any Sub-Adviser will either be registered under the Advisers Act or will not be required to register thereunder.

3. The Trust will enter into a distribution agreement with one or more distributors (each, a ''Distributor''). Each Distributor will be a broker-dealer (''Broker'') registered under the Securities Exchange Act of 1934 (the ''Exchange Act'') and will act as distributor and principal underwriter of one or more of the Funds. The Distributor of any Fund may be an affiliated person, as defined in section 2(a)(3) of the Act (''Affiliated Person''), or an affiliated person of an Affiliated Person (''Second-Tier Affiliate''), of that Fund's Adviser and/or Sub-Advisers. No Distributor will be affiliated with any Exchange (defined below).

4. Applicants request that the order apply to the initial series of the Trust described in the application (''Initial Fund''), as well as any additional series of the Trust and other open-end management investment companies, or series thereof, that may be created in the future (''Future Funds''), each of which will operate as an exchanged-traded fund (''ETF'') and will track a specified index comprised solely of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Any Future Fund will (a) be advised by the Initial Adviser or an entity controlling, controlled by, or under common control with the Initial Adviser (each, an ''Adviser'') and (b) comply with the terms and conditions of the application. The Initial Fund and Future Funds, together, are the ''Funds.'' [1]

5. Each Fund will hold certain securities, currencies, other assets and other investment positions (''Portfolio Holdings'') selected to correspond generally to the performance of its Underlying Index. Certain Funds will be based on Underlying Indexes which will be comprised of equity and/or fixed income securities issued by one or more of the following categories of issuers: (i) Domestic issuers; and (ii) non-domestic issuers meeting the requirements for trading in U.S. markets. Other Funds will be based on Underlying Indexes which will be comprised of foreign and domestic or solely foreign equity and/or fixed income securities (''Foreign Funds'').

6. Applicants represent that each Fund will invest at least 80% of its assets (excluding securities lending collateral) in the component securities of its respective Underlying Index (''Component Securities'') and TBA Transactions,[2] and in the case of Foreign Funds, Component Securities and Depositary Receipts [3] representing Component Securities. Each Fund may also invest up to 20% of its assets in certain index futures, options, options on index futures, swap contracts or other derivatives, as related to its respective Underlying Index and its Component Securities, cash and cash equivalents, other investment companies, as well as in securities and other instruments not included in its Underlying Index but which the Adviser or Sub-Adviser believes will help the Fund track its Underlying Index. A Fund may also engage in short sales in accordance with its investment objective.

7. The Trust may offer Funds that seek to track Underlying Indexes constructed using 130/30 investment strategies (''130/30 Funds'') or other long/short investment strategies (''Long/Short Funds''). Each Long/Short Fund will establish (i) exposures equal to approximately 100% of the long positions specified by the Long/Short Index [4] and (ii) exposures equal to approximately 100% of the short positions specified by the Long/Short Index. Each 130/30 Fund will include strategies that: (i) Establish long positions in securities so that total long exposure represents approximately 130% of a Fund's net assets; and (ii) simultaneously establish short positions in other securities so that total short exposure represents approximately 30% of such Fund's net assets. Each Business Day (defined below), for each Long/Short Fund and 130/30 Fund, the Adviser will provide full portfolio transparency on the Fund's publicly available Web site (''Web site'') by making available the Fund's Portfolio Holdings before the commencement of trading of Shares on the Listing Exchange (defined below). [5] The information provided on the Web site will be formatted to be reader-friendly.

8. A Fund will utilize either a replication or representative sampling strategy to track its Underlying Index. A Fund using a replication strategy will invest in the Component Securities of its Underlying Index in the same approximate proportions as in such Underlying Index. A Fund using a representative sampling strategy will hold some, but not necessarily all of the Component Securities of its Underlying Index. Applicants state that a Fund

[1] All existing entities that intend to rely on the requested order have been named as applicants. Any other existing or future entity that subsequently relies on the order will comply with the terms and conditions of the order. A Fund of Funds (as defined below) may rely on the order only to invest in Funds and not in any other registered investment company.

[2] A ''to-be-announced transaction'' or ''TBA Transaction'' is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree upon general trade parameters such as agency, settlement date, par amount and price. The actual pools delivered generally are determined two days prior to settlement date.

[3] Depositary receipts representing foreign securities (''Depositary Receipts'') include American Depositary Receipts and Global Depositary Receipts. The Funds may invest in Depositary Receipts representing foreign securities in which they seek to invest. Depositary Receipts are typically issued by a financial institution (a ''depositary bank'') and evidence ownership interests in a security or a pool of securities that have been deposited with the depositary bank. A Fund will not invest in any Depositary Receipts that the Adviser or any Sub-Adviser deems to be illiquid or for which pricing information is not readily available. No affiliated person of a Fund, the Adviser or any Sub-Adviser will serve as the depositary bank for any Depositary Receipts held by a Fund.

[4] Underlying Indexes that include both long and short positions in securities are referred to as ''Long/Short Indexes.''

[5] Under accounting procedures followed by each Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (T+1). Accordingly, the Funds will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

using a representative sampling strategy will not be expected to track the performance of its Underlying Index with the same degree of accuracy as would an investment vehicle that invested in every Component Security of the Underlying Index with the same weighting as the Underlying Index. Applicants expect that each Fund will have an annual tracking error relative to the performance of its Underlying Index of less than 5%.

9. Each Fund will be entitled to use its Underlying Index pursuant to either a licensing agreement with the entity that compiles, creates, sponsors or maintains the Underlying Index (each, an ''Index Provider'') or a sub-licensing arrangement with the Adviser, which will have a licensing agreement with such Index Provider.[6] A ''Self-Indexing Fund'' is a Fund for which an Affiliated Person, or a Second-Tier Affiliate, of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor (each, an ''Affiliated Index Provider'')[7] will serve as the Index Provider. In the case of Self-Indexing Funds, an Affiliated Index Provider will create a proprietary, rules-based methodology to create Underlying Indexes (each an ''Affiliated Index'').[8] Except with respect to the Self-Indexing Funds, no Index Provider is or will be an Affiliated Person, or a Second-Tier Affiliate, of the Trust or a Fund, of the Adviser, of any Sub-Adviser to or promoter of a Fund, or of the Distributor.

10. Applicants recognize that Self-Indexing Funds could raise concerns regarding the ability of the Affiliated Index Provider to manipulate the Underlying Index to the benefit or detriment of the Self-Indexing Fund. Applicants further recognize the potential for conflicts that may arise with respect to the personal trading activity of personnel of the Affiliated Index Provider who have knowledge of changes to an Underlying Index prior to the time that information is publicly disseminated. Prior orders granted to self-indexing ETFs (''Prior Self-Indexing Orders'') addressed these concerns by creating a framework that required: (i) Transparency of the Underlying Indexes; (ii) the adoption of policies and procedures not otherwise required by the Act designed to mitigate such conflicts of interest; (iii) limitations on the ability to change the rules for index compilation and the component securities of the index; (iv) that the index provider enter into an agreement with an unaffiliated third party to act as ''Calculation Agent''; and (v) certain limitations designed to separate employees of the index provider, adviser and Calculation Agent (clauses (ii) through (v) are hereinafter referred to as ''Policies and Procedures'').[9]

11. Instead of adopting the same or similar Policies and Procedures, applicants propose that each day that a Fund, the NYSE and the national securities exchange (as defined in section 2(a)(26) of the Act) (an ''Exchange'') on which the Fund's Shares are primarily listed (''Listing Exchange'') are open for business, including any day that a Fund is required to be open under section 22(e) of the Act (a ''Business Day''), each Self-Indexing Fund will post on its Web site, before commencement of trading of Shares on the Listing Exchange, the identities and quantities of the Portfolio Holdings held by the Fund that will form the basis for the Fund's calculation of its NAV at the end of the Business Day. Applicants believe that requiring Self-Indexing Funds to maintain full portfolio transparency will provide an effective alternative mechanism for addressing any such potential conflicts of interest.

12. Applicants represent that each Self-Indexing Fund's Portfolio Holdings will be as transparent as the portfolio holdings of existing actively managed ETFs. Applicants observe that the framework set forth in the Prior Self-Indexing Orders was established before the Commission began issuing exemptive relief to allow the offering of actively-managed ETFs.[10] Unlike passively-managed ETFs, actively-managed ETFs do not seek to replicate the performance of a specified index but rather seek to achieve their investment objectives by using an ''active'' management strategy. Applicants contend that the structure of actively managed ETFs presents potential conflicts of interest that are the same as those presented by Self-Indexing Funds because the portfolio managers of an actively managed ETF by definition have advance knowledge of pending portfolio changes. However, rather than requiring Policies and Procedures similar to those required under the Prior Self-Indexing Orders, applicants believe that actively managed ETFs address these potential conflicts of interest appropriately through full portfolio transparency, as the conditions to their relevant exemptive relief require.

13. In addition, applicants do not believe the potential for conflicts of interest raised by the Adviser's use of the Underlying Indexes in connection with the management of the Self Indexing Funds and the Affiliated Accounts will be substantially different from the potential conflicts presented by an adviser managing two or more registered funds. Both the Act and the Advisers Act contain various protections to address conflicts of interest where an adviser is managing two or more registered funds and these protections will also help address these conflicts with respect to the Self-Indexing Funds.[11]

14. The Adviser and any Sub-Adviser have adopted or will adopt, pursuant to rule 206(4)–7 under the Advisers Act,

[6] The licenses for the Self-Indexing Funds will specifically state that the Affiliated Index Provider (or in case of a sub-licensing agreement, the Adviser) must provide the use of the Underlying Indexes and related intellectual property at no cost to the Trust and the Self-Indexing Funds.

[7] The applicants currently expect that the Initial Adviser will serve as the Affiliated Index Provider for the Self-Indexing Funds. In the event that an Adviser serves as the Affiliated Index Provider for a Self-Indexing Fund, the term ''Affiliated Index Provider,'' with respect to that Self-Indexing Fund, will refer to the employees of the Adviser that are responsible for creating, compiling and maintaining the relevant Underlying Index. Any future entity that acts as an Affiliated Index Provider will comply with the terms and conditions of the application.

[8] The Affiliated Indexes may be made available to registered investment companies, as well as separately managed accounts of institutional investors and privately offered funds that are not deemed to be ''investment companies'' in reliance on section 3(c)(1) or 3(c)(7) of the Act for which the Adviser acts as adviser or sub-adviser (''Affiliated Accounts'') as well as other such registered investment companies, separately managed accounts and privately offered funds for which it does not act either as adviser or sub-adviser (''Unaffiliated Accounts''). The Affiliated Accounts and the Unaffiliated Accounts, like the Funds, would seek to track the performance of one or more Underlying Index(es) by investing in the constituents of such Underlying Indexes or a representative sample of such constituents of the Underlying Index. Consistent with the relief requested from section 17(a), the Affiliated Accounts will not engage in Creation Unit transactions with a Fund.

[9] *See, e.g.,* In the Matter of WisdomTree Investments Inc., et al., Investment Company Act Release Nos. 27324 (May 18, 2006) (notice) and 27391 (June 12, 2006) (order); In the Matter of IndexIQ ETF Trust, et al., Investment Company Act Release Nos. 28638 (Feb. 27, 2009) (notice) and 28653 (March 20, 2009) (order); and Van Eck Associates Corporation, et al., Investment Company Act Release Nos. 29455 (Oct. 1, 2010) (notice) and 29490 (Oct. 26, 2010) (order).

[10] *See, e.g.,* In the Matter of Pyxis Capital, L.P., et al., Investment Company Act Release Nos. 30316 (Dec. 21, 2012) (notice) and 30352 (Jan. 16, 2013) (order); In the Matter of Franklin Advisers, Inc., et al., Investment Company Act Release Nos. 30312 (Dec. 19, 2012) (notice) and 30350 (Jan. 15, 2013) (order); In the Matter of AllianceBernstein Active ETFs, Inc., et al., Investment Company Act Release Nos. 30305 (Dec. 13, 2012) (notice) and 30343 (Jan. 8, 2013) (order); and In the Matter of Cambria Investment Management, L.P. and Cambria ETF Trust, Investment Company Act Release Nos. 30286 (Nov. 30, 2012), 30302 (Dec. 12, 2012) (notices) and 30340 (Jan. 4, 2013) (order).

[11] *See, e.g.,* rule 17j–1 under the Act and section 204A under the Advisers Act and rules 204A–1 and 206(4)–7 under the Advisers Act.

written policies and procedures designed to prevent violations of the Advisers Act and the rules thereunder. These include policies and procedures designed to minimize potential conflicts of interest among the Self-Indexing Funds and the Affiliated Accounts, such as cross trading policies, as well as those designed to ensure the equitable allocation of portfolio transactions and brokerage commissions. In addition, the Adviser has adopted policies and procedures as required under section 204A of the Advisers Act, which are reasonably designed in light of the nature of its business to prevent the misuse, in violation of the Advisers Act or the Exchange Act or the rules thereunder, of material non-public information by the Adviser or an associated person (''Inside Information Policy''). Any Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy. In accordance with the Code of Ethics [12] and Inside Information Policy of the Adviser and Sub-Advisers, personnel of those entities with knowledge about the composition of the Portfolio Deposit [13] will be prohibited from disclosing such information to any other person, except as authorized in the course of their employment, until such information is made public. In addition, an Index Provider will not provide any information relating to changes to an Underlying Index's methodology for the inclusion of component securities, the inclusion or exclusion of specific component securities, or methodology for the calculation of the return of component securities, in advance of a public announcement of such changes by the Index Provider. The Adviser will also include under Item 10.C. of Part 2 of its Form ADV a discussion of its relationship to any Affiliated Index Provider and any material conflicts of interest resulting therefrom, regardless of whether the Affiliated Index Provider is a type of affiliate specified in Item 10.

15. To the extent the Self-Indexing Funds transact with an Affiliated Person of the Adviser or Sub-Adviser, such transactions will comply with the Act, the rules thereunder and the terms and conditions of the requested order. In this regard, each Self-Indexing Fund's board of directors or trustees (''Board'') will periodically review the Self-Indexing Fund's use of an Affiliated Index Provider. Subject to the approval of the Self-Indexing Fund's Board, the Adviser, Affiliated Persons of the Adviser (''Adviser Affiliates'') and Affiliated Persons of any Sub-Adviser (''Sub-Adviser Affiliates'') may be authorized to provide custody, fund accounting and administration and transfer agency services to the Self-Indexing Funds. Any services provided by the Adviser, Adviser Affiliates, Sub-Adviser and Sub-Adviser Affiliates will be performed in accordance with the provisions of the Act, the rules under the Act and any relevant guidelines from the staff of the Commission.

16. In light of the foregoing, applicants believe it is appropriate to allow the Self-Indexing Funds to be fully transparent in lieu of Policies and Procedures from the Prior Self-Indexing Orders discussed above.

17. The Shares of each Fund will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below, purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[14] On any given Business Day, the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, unless the Fund is Rebalancing (as defined below). In addition, the Deposit Instruments and the Redemption Instruments will each correspond pro rata to the positions in the Fund's portfolio (including cash positions) [15] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots; [16] (c) TBA Transactions, short positions, derivatives and other positions that cannot be transferred in kind [17] will be excluded from the Deposit Instruments and the Redemption Instruments; [18] (d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio; [19] or (e) for temporary periods, to effect changes in the Fund's portfolio as a result of the rebalancing of its Underlying Index (any such change, a ''Rebalancing''). If there is a difference between the NAV attributable to a Creation Unit and the aggregate market value of the Deposit Instruments or Redemption Instruments exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

18. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount; (b) if, on a given Business Day, the Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, the Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash; [20] (d) if, on a given Business Day,

[12] The Adviser has also adopted or will adopt a code of ethics pursuant to rule 17j–1 under the Act and rule 204A–1 under the Advisers Act, which contains provisions reasonably necessary to prevent Access Persons (as defined in rule 17j–1) from engaging in any conduct prohibited in rule 17j–1 (''Code of Ethics'').

[13] The instruments and cash that the purchaser is required to deliver in exchange for the Creation Units it is purchasing is referred to as the ''Portfolio Deposit.''

[14] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to rule 144A under the Securities Act, the Funds will comply with the conditions of rule 144A.

[15] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for the Business Day.

[16] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[17] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[18] Because these instruments will be excluded from the Deposit Instruments and the Redemption Instruments, their value will be reflected in the determination of the Cash Amount (as defined below).

[19] A Fund may only use sampling for this purpose if the sample: (i) Is designed to generate performance that is highly correlated to the performance of the Fund's portfolio; (ii) consists entirely of instruments that are already included in the Fund's portfolio; and (iii) is the same for all Authorized Participants (defined below) on a given Business Day.

[20] In determining whether a particular Fund will sell or redeem Creation Units entirely on a cash or in-kind basis (whether for a given day or a given order), the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution than Share purchasers because of the Adviser's size, experience and potentially stronger relationships in the fixed income markets. Purchases of Creation Units either on an all cash basis or in-kind are expected to be neutral to the Funds from a tax perspective. In

Continued

the Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC (defined below); or (ii) in the case of Foreign Funds holding non-U.S. investments, such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if the Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Foreign Fund holding non-U.S. investments would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[21]

19. Creation Units will consist of specified large aggregations of Shares, e.g., at least 25,000 Shares, and it is expected that the initial price of a Creation Unit will range from $500,000 to $25 million. All orders to purchase Creation Units must be placed with the Distributor by or through an ''Authorized Participant'' which is either (1) a ''Participating Party,'' i.e., a broker-dealer or other participant in the Continuous Net Settlement System of the NSCC, a clearing agency registered with the Commission, or (2) a participant in The Depository Trust Company (''DTC'') (''DTC Participant''), which, in either case, has signed a participant agreement with the Distributor. The Distributor will be responsible for transmitting the orders to the Funds and will furnish to those placing such orders confirmation that the orders have been accepted, but applicants state that the Distributor may reject any order which is not submitted in proper form.

20. Each Business Day, before the open of trading on the Listing Exchange, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Deposit Instruments and the Redemption Instruments, as well as the estimated Cash Amount (if any), for that day. The list of Deposit Instruments and Redemption Instruments will apply until a new list is announced on the following Business Day, and there will be no intra-day changes to the list except to correct errors in the published list. Each Listing Exchange will disseminate, every 15 seconds during regular Exchange trading hours, through the facilities of the Consolidated Tape Association, an amount for each Fund stated on a per individual Share basis representing the sum of (i) the estimated Cash Amount and (ii) the current value of the Deposit Instruments.

21. Transaction expenses, including operational processing and brokerage costs, will be incurred by a Fund when investors purchase or redeem Creation Units in-kind and such costs have the potential to dilute the interests of the Fund's existing shareholders. Each Fund will impose purchase or redemption transaction fees (''Transaction Fees'') in connection with effecting such purchases or redemptions of Creation Units. In all cases, such Transaction Fees will be limited in accordance with requirements of the Commission applicable to management investment companies offering redeemable securities. Since the Transaction Fees are intended to defray the transaction expenses as well as to prevent possible shareholder dilution resulting from the purchase or redemption of Creation Units, the Transaction Fees will be borne only by such purchasers or redeemers.[22] The Distributor will be responsible for delivering the Fund's prospectus to those persons acquiring Shares in Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it. In addition, the Distributor will maintain a record of the instructions given to the applicable Fund to implement the delivery of its Shares.

22. Shares of each Fund will be listed and traded individually on an Exchange. It is expected that one or more member firms of an Exchange will be designated to act as a market maker (each, a ''Market Maker'') and maintain a market for Shares trading on the Exchange. Prices of Shares trading on an Exchange will be based on the current bid/offer market. Transactions involving the sale of Shares on an Exchange will be subject to customary brokerage commissions and charges.

23. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Market Makers, acting in their roles to provide a fair and orderly secondary market for the Shares, may from time to time find it appropriate to purchase or redeem Creation Units. Applicants expect that secondary market purchasers of Shares will include both institutional and retail investors.[23] The price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

24. Shares will not be individually redeemable, and owners of Shares may acquire those Shares from the Fund, or tender such Shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed through an Authorized Participant. A redeeming investor may pay a Transaction Fee, calculated in the same manner as a Transaction Fee payable in connection with purchases of Creation Units.

25. Neither the Trust nor any Fund will be advertised or marketed or otherwise held out as a traditional open-end investment company or a ''mutual fund.'' Instead, each such Fund will be marketed as an ''ETF.'' All marketing materials that describe the features or method of obtaining, buying or selling Creation Units, or Shares traded on an Exchange, or refer to redeemability, will prominently disclose that Shares are not individually redeemable and will disclose that the owners of Shares may acquire those Shares from the Fund or tender such Shares for redemption to the Fund in Creation Units only. The Funds will provide copies of their annual and semi-annual shareholder reports to DTC Participants for distribution to beneficial owners of Shares.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d), and

contrast, cash redemptions typically require selling portfolio holdings, which may result in adverse tax consequences for the remaining Fund shareholders that would not occur with an in-kind redemption. As a result, tax consideration may warrant in-kind redemptions.

[21] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[22] Where a Fund permits an in-kind purchaser to substitute cash-in-lieu of depositing one or more of the requisite Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to cover the cost of purchasing such Deposit Instruments.

[23] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or the DTC Participants.

22(e) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provision of the Act, if and to the extent that such 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. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provisions of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 5(a)(1) and 2(a)(32) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the owner, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit the Funds to register as open-end management investment companies and issue Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Shares in Creation Units and redeem Creation Units from each Fund. Applicants further state that because Creation Units may always be purchased and redeemed at NAV, the price of Shares on the secondary market should not vary materially from NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in a Fund's prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers, and (c) ensure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve a Fund as a party and will not result in dilution of an investment in Shares, and (b) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the price at which Shares trade will be disciplined by arbitrage opportunities created by the option continually to purchase or redeem Shares in Creation Units, which should help prevent Shares from trading at a material discount or premium in relation to their NAV.

Section 22(e)

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants state that settlement of redemptions for Foreign Funds will be contingent not only on the settlement cycle of the United States market, but also on current delivery cycles in local markets for underlying foreign portfolio securities held by a Foreign Fund. Applicants state that the delivery cycles currently practicable for transferring Redemption Instruments to redeeming investors, coupled with local market holiday schedules, may require a delivery process of up to fifteen (15) calendar days.[24] Accordingly, with respect to Foreign Funds only, applicants hereby request relief under section 6(c) from the requirement imposed by section 22(e) to allow Foreign Funds to pay redemption proceeds within fifteen (15) calendar days following the tender of Creation Units for redemption.[25]

8. Applicants believe that Congress adopted section 22(e) to prevent unreasonable, undisclosed or unforeseen delays in the actual payment of redemption proceeds. Applicants propose that allowing redemption payments for Creation Units of a Foreign Fund to be made within fifteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fifteen calendar days following a redemption request would adequately afford investor protection.

9. Applicants are not seeking relief from section 22(e) with respect to Foreign Funds that do not effect creations and redemptions of Creation Units in-kind.

Section 12(d)(1)

10. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring securities of an investment company if such securities represent more than 3% of the total

[24] Certain countries in which a Fund may invest have historically had settlement periods of up to fifteen (15) calendar days.

[25] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may otherwise have under rule 15c6–1 under the Exchange Act requiring that most securities transactions be settled within three business days of the trade date.

outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any other broker-dealer from knowingly selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

11. Applicants request an exemption to permit registered management investment companies and unit investment trusts (''UITs'') that are not advised or sponsored by the Adviser, and not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act as the Underlying Funds (such management investment companies are referred to as ''Investing Management Companies,'' such UITs are referred to as ''Investing Trusts,'' and Investing Management Companies and Investing Trusts are collectively referred to as ''Funds of Funds''),[26] to acquire Underlying Fund Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Underlying Funds, and any principal underwriter for the Underlying Funds, and/or any Broker registered under the Exchange Act, to sell Underlying Fund Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act. The ''Underlying Funds'' are (a) the Funds and (b) any registered open-end management investment company or any series thereof that is advised by an Adviser and that, pursuant to a separate order of the Commission, in general terms, operates as an ETF that utilizes active management investment strategies. Shares of an Underlying Fund are referred to as ''Underlying Fund Shares.''

12. Each Investing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (the ''Fund of Funds Adviser'') and may be sub-advised by investment advisers within the meaning of section 2(a)(20)(B) of the Act (each a ''Fund of Funds Sub-Adviser''). Any investment adviser to an Investing Management Company will be registered under the Advisers Act. Each Investing Trust will be sponsored by a sponsor (''Sponsor'').

13. Applicants submit that the proposed conditions to the requested relief adequately address the concerns underlying the limits in sections 12(d)(1)(A) and (B), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees and overly complex fund structures. Applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

14. Applicants believe that neither a Fund of Funds nor a Fund of Funds Affiliate would be able to exert undue influence over an Underlying Fund.[27] To limit the control that a Fund of Funds may have over an Underlying Fund, applicants propose a condition prohibiting a Fund of Funds Adviser or Sponsor, any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor, and any investment company and any issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by a Fund of Funds Adviser or Sponsor, or any person controlling, controlled by, or under common control with a Fund of Funds Adviser or Sponsor (''Fund of Funds Advisory Group'') from controlling (individually or in the aggregate) an Underlying Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Fund of Funds Sub-Adviser, any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Fund of Funds Sub-Adviser or any person controlling, controlled by or under common control with the Fund of Funds Sub-Adviser (''Fund of Funds Sub-Advisory Group'').

15. Applicants propose other conditions to limit the potential for undue influence over the Underlying Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Underlying Fund) will cause an Underlying Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Fund of Funds Adviser, Fund of Funds Sub-Adviser, employee or Sponsor of the Fund of Funds, or a person of which any such officer, director, member of an advisory board, Fund of Funds Adviser or Fund of Funds Sub-Adviser, employee or Sponsor is an affiliated person (except that any person whose relationship to the Underlying Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

16. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''disinterested directors or trustees''), will find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Underlying Fund in which the Investing Management Company may invest. In addition, under condition B.5., a Fund of Funds Adviser, or a Fund of Funds' trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–1 under the Act) received from an Underlying Fund by the Fund of Funds Adviser, trustee or Sponsor or an affiliated person of the Fund of Funds Adviser, trustee or Sponsor, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor or its affiliated person by an Underlying Fund, in connection with the investment by the Fund of Funds in the Underlying Fund. Applicants state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[28]

17. Applicants submit that the proposed arrangement will not create an

[26] Funds of Funds do not include the Underlying Funds.

[27] A ''Fund of Funds Affiliate'' is a Fund of Funds Adviser, Fund of Funds Sub-Adviser, Sponsor, promoter, and principal underwriter of a Fund of Funds, and any person controlling, controlled by, or under common control with any of those entities. An ''Underlying Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of an Underlying Fund and any person controlling, controlled by or under common control with any of these entities.

[28] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

overly complex fund structure. Applicants note that no Underlying Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Underlying Fund to purchase shares of other investment companies for short-term cash management purposes. To ensure a Fund of Funds is aware of the terms and conditions of the requested order, the Fund of Funds will enter into an agreement with the Underlying Fund (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Fund of Funds that it may rely on the order only to invest in the Underlying Funds and not in any other investment company.

18. Applicants also note that an Underlying Fund may choose to reject a direct purchase of Underlying Fund Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Underlying Fund Shares in the secondary market, an Underlying Fund would still retain its ability to reject any initial investment by a Fund of Funds in excess of the limits of section 12(d)(1)(A) by declining to enter into a FOF Participation Agreement with the Fund of Funds.

Sections 17(a)(1) and (2) of the Act

19. Sections 17(a)(1) and (2) of the Act generally prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling or holding with power to vote 5% or more of the outstanding voting securities of the other person, (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with the power to vote by the other person, and (c) any person directly or indirectly controlling, controlled by or under common control with the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company, and provides that a control relationship will be presumed where one person owns more than 25% of a company's voting securities. The Funds may be deemed to be controlled by the Adviser or an entity controlling, controlled by or under common control with the Adviser and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Adviser or an entity controlling, controlled by or under common control with an Adviser (an ''Affiliated Fund''). Any investor, including Market Makers, owning 5% or holding in excess of 25% of the Trust or such Funds, may be deemed affiliated persons of the Trust or such Funds. In addition, an investor could own 5% or more, or in excess of 25% of the outstanding shares of one or more Affiliated Funds making that investor a Second-Tier Affiliate of the Funds.

20. Applicants request an exemption from sections 17(a)(1) and 17(a)(2) of the Act pursuant to sections 6(c) and 17(b) of the Act to permit persons that are Affiliated Persons of the Funds, or Second-Tier Affiliates of the Funds, solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25%, of the outstanding Shares of one or more Funds; (b) an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25%, of the shares of one or more Affiliated Funds, to effectuate purchases and redemptions ''in-kind.''

21. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making ''in-kind'' purchases or ''in-kind'' redemptions of Shares of a Fund in Creation Units. Both the deposit procedures for ''in-kind'' purchases of Creation Units and the redemption procedures for ''in-kind'' redemptions of Creation Units will be effected in exactly the same manner for all purchases and redemptions, regardless of size or number. There will be no discrimination between purchasers or redeemers. Deposit Instruments and Redemption Instruments for each Fund will be valued in the identical manner as those Portfolio Holdings currently held by such Fund and the valuation of the Deposit Instruments and Redemption Instruments will be made in an identical manner regardless of the identity of the purchaser or redeemer. Applicants do not believe that ''in-kind'' purchases and redemptions will result in abusive self-dealing or overreaching, but rather assert that such procedures will be implemented consistently with each Fund's objectives and with the general purposes of the Act. Applicants believe that ''in-kind'' purchases and redemptions will be made on terms reasonable to applicants and any affiliated persons because they will be valued pursuant to verifiable objective standards. The method of valuing Portfolio Holdings held by a Fund is identical to that used for calculating ''in-kind'' purchase or redemption values and therefore creates no opportunity for affiliated persons or Second-Tier Affiliates of applicants to effect a transaction detrimental to the other holders of Shares of that Fund. Similarly, applicants submit that, by using the same standards for valuing Portfolio Holdings held by a Fund as are used for calculating ''in-kind'' redemptions or purchases, the Fund will ensure that its NAV will not be adversely affected by such securities transactions. Applicants also note that the ability to take deposits and make redemptions ''in-kind'' will help each Fund to track closely its Underlying Index and therefore aid in achieving the Fund's objectives.

22. Applicants also seek relief under sections 6(c) and 17(b) from section 17(a) to permit an Underlying Fund that is an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds to sell its Underlying Fund Shares to and redeem its Underlying Fund Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[29] Applicants state that the terms of the transactions are fair and reasonable and do not involve overreaching. Applicants note that any consideration paid by a Fund of Funds for the purchase or redemption of Underlying Fund Shares directly from an Underlying Fund will be based on the NAV of the Underlying Fund.[30] Applicants believe that any

[29] Although applicants believe that most Funds of Funds will purchase Underlying Fund Shares in the secondary market and will not purchase Creation Units directly from an Underlying Fund, a Fund of Funds might seek to transact in Creation Units directly with an Underlying Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Underlying Fund Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds and an Underlying Fund, relief from section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Underlying Fund Shares in Creation Units by an Underlying Fund to a Fund of Funds and redemptions of those Underlying Fund Shares. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where an Underlying Fund could be deemed an affiliated person, or an affiliated person of an affiliated person of a Fund of Funds because an Adviser or an entity controlling, controlled by or under common control with an Adviser provides investment advisory services to that Fund of Funds.

[30] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of Underlying Fund Shares of an Underlying Fund or (b) an affiliated person of an Underlying Fund, or an affiliated person of such person, for the sale by the Underlying Fund of its Underlying Fund Shares to a Fund of Funds, may be prohibited by section

Continued

proposed transactions directly between the Underlying Funds and Funds of Funds will be consistent with the policies of each Fund of Funds. The purchase of Creation Units by a Fund of Funds directly from an Underlying Fund will be accomplished in accordance with the investment restrictions of any such Fund of Funds and will be consistent with the investment policies set forth in the Fund of Funds' registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and are appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of index-based ETFs.

2. As long as a Fund operates in reliance on the requested order, Shares of such Fund will be listed on an Exchange.

3. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that Shares are not individually redeemable and that owners of Shares may acquire those Shares from the Fund and tender those Shares for redemption to a Fund in Creation Units only.

4. The Web site, which is and will be publicly accessible at no charge, will contain, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or the midpoint of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

5. Each Self-Indexing Fund, Long/Short Fund and 130/30 Fund will post on the Web site on each Business Day, before commencement of trading of Shares on the Exchange, the Fund's Portfolio Holdings.

6. No Adviser or any Sub-Adviser, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for a Fund through a transaction in which the Fund could not engage directly.

B. Section 12(d)(1) Relief

1. The members of a Fund of Funds' Advisory Group will not control (individually or in the aggregate) an Underlying Fund within the meaning of section 2(a)(9) of the Act. The members of a Fund of Funds' Sub-Advisory Group will not control (individually or in the aggregate) an Underlying Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of an Underlying Fund, the Fund of Funds' Advisory Group or the Fund of Funds' Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of an Underlying Fund, it will vote its Underlying Fund Shares of the Underlying Fund in the same proportion as the vote of all other holders of the Underlying Fund's Shares. This condition does not apply to the Fund of Funds' Sub-Advisory Group with respect to an Underlying Fund for which the Fund of Funds' Sub-Adviser or a person controlling, controlled by or under common control with the Fund of Funds' Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in an Underlying Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds Affiliate and the Underlying Fund or an Underlying Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Fund of Funds Adviser and Fund of Funds Sub-Adviser are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or a Fund of Funds Affiliate from an Underlying Fund or Underlying Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in Underlying Fund Shares exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of the Underlying Fund, including a majority of the disinterested directors or trustees, will determine that any consideration paid by the Underlying Fund to the Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Underlying Fund; (ii) is within the range of consideration that the Underlying Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Underlying Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Fund of Funds Adviser, or trustee or Sponsor of an Investing Trust, as applicable, will waive fees otherwise payable to it by the Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Underlying Fund under rule 12b-l under the Act) received from an Underlying Fund by the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, or an affiliated person of the Fund of Funds Adviser, or trustee or Sponsor of the Investing Trust, other than any advisory fees paid to the Fund of Funds Adviser, trustee or Sponsor of an Investing Trust, or its affiliated person by the Underlying Fund, in connection with the investment by the Fund of Funds in the Underlying Fund. Any Fund of Funds Sub-Adviser will waive fees otherwise payable to the Fund of Funds Sub-Adviser, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from an Underlying Fund by the Fund of Funds Sub-Adviser, or an affiliated person of the Fund of Funds Sub-Adviser, other than any advisory fees paid to the Fund of Funds Sub-Adviser or its affiliated person by the Underlying Fund, in connection with the investment by the Investing Management Company in the Underlying Fund made at the direction of the Fund of Funds Sub-Adviser. In the event that the Fund of Funds Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Underlying Fund) will cause an Underlying Fund to purchase a security in any Affiliated Underwriting.

7. The Board of an Underlying Fund, including a majority of the disinterested directors or trustees, will adopt

17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

procedures reasonably designed to monitor any purchases of securities by the Underlying Fund in an Affiliated Underwriting, once an investment by a Fund of Funds in the securities of the Underlying Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board of the Underlying Fund will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Underlying Fund. The Board of the Underlying Fund will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Underlying Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Underlying Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Underlying Fund.

8. Each Underlying Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Fund of Funds in the securities of the Underlying Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the determinations of the Board of the Underlying Fund were made.

9. Before investing in an Underlying Fund in excess of the limit in section 12(d)(1)(A), a Fund of Funds and the Trust will execute a FOF Participation Agreement stating without limitation that their respective boards of directors or trustees and their investment advisers, or trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Underlying Fund Shares in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Underlying Fund of the investment. At such time, the Fund of Funds will also transmit to the Underlying Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Underlying Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The Underlying Fund and the Fund of Funds will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such advisory contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Underlying Fund in which the Investing Management Company may invest. These findings and their basis will be fully recorded in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Underlying Fund will acquire securities of an investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent the Underlying Fund acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the Underlying Fund to acquire securities of one or more investment companies for short term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–14534 Filed 6–20–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31084; 812–14241]

Global X Funds, Global X Management Company LLC, and SEI Investments Distribution Company; Notice of Application

June 17, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

Applicants: Global X Management Company LLC (''GXMC''), Global X Funds (the ''Trust''), and SEI Investments Distribution Company (the ''Distributor'').

SUMMARY: *Summary of Application:* Applicants request an order that permits: (a) Actively-managed series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated market prices; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares.

DATES: *Filing Dates:* The application was filed on November 21, 2013 and amended on April 11, 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 July 14, 2014, and should be accompanied by proof of service on 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: The Commission: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: GXMC and the Trust: Global X Management Company LLC, 623 Fifth Avenue, 15th Floor, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Jane H. Kim, Senior Counsel, at (202) 551–6791 or Melissa Roverts Harke, Branch Chief, at (202) 551–6722 (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 for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is a statutory trust organized under the laws of Delaware and is registered with the Commission as an open-end management investment company. Applicants currently intend that the initial series of the Trust will be the Global X Emerging & Frontier Bond ETF (the ''Initial Fund''), which will seek exposure to emerging and frontier market debt. The Initial Fund seeks to achieve its investment objective by investing under normal circumstances at least 80% of its total assets in a diversified portfolio of fixed income instruments of varying maturities issued by government, corporate and/or other issuers domiciled in emerging and frontier countries. The Initial Fund may invest a large percentage of its assets in issuers in a single country, a small number of countries, or a particular geographic region.

2. GXMC, a Delaware limited liability company registered with the Commission as an investment adviser under the Investment Adviser Act of 1940 (''Advisers Act''), will be the investment adviser to the Initial Fund. The Advisor (as defined below) may enter into sub-advisory agreements with investment advisers to act as sub-advisors with respect to the Funds (as defined below) (each a ''Sub-Advisor''). Applicants state that any Sub-Advisor will be registered, or not subject to registration, under the Advisers Act. The Distributor, a Pennsylvania corporation and registered broker-dealer (''Broker'') under the Securities Exchange Act of 1934 (the ''Exchange Act''), will serve as the distributor and principal underwriter of the Initial Fund. Any future distributor and principal underwriter of the Funds (as defined below) would also be a Broker under the Exchange Act and would comply with the terms and conditions of the application.

3. Applicants request that the order apply to the Initial Fund and any future series of the Trust or of any open-end management companies or series thereof that may utilize active management investment strategies (collectively, ''Future Funds''). Any Future Fund will (a) be advised by GXMC or an entity controlling, controlled by, or under common control with GXMC (GXMC and each such other entity and any successor thereto included in the term ''Advisor''), [1] and (b) comply with the terms and conditions of the application.[2] The Initial Fund and Future Funds together are the ''Funds''.[3] Each Fund will consist of a portfolio of securities (including fixed income securities and/or equity securities) and/or currencies traded in the U.S. and/or non-U.S. markets, and derivatives, other assets, and other investment positions (''Portfolio Instruments'').[4] Funds may invest in ''Depositary Receipts''.[5] Each Fund will operate as an actively managed exchange-traded fund (''ETF'').

4. Applicants request that any exemption under section 12(d)(1)(J) of the Act from sections 12(d)(1)(A) and (B) apply to: (i) Any Fund that is currently or subsequently part of the same ''group of investment companies'' as the Initial Fund within the meaning of section 12(d)(1)(G)(ii) of the Act; (ii) any principal underwriter for the Fund; (iii) any Brokers selling Shares of a Fund to an Investing Fund (as defined below); and (iv) each management investment company or unit investment trust registered under the Act that is not part of the same ''group of investment companies'' as the Funds, and that enters into a FOF Participation Agreement (as defined below) with a Fund (such management investment companies, ''Investing Management Companies,'' such unit investment trusts, ''Investing Trusts,'' and Investing Management Companies and Investing Trusts together, ''Investing Funds''). Investing Funds do not include the Funds.[6]

5. Applicants anticipate that a Creation Unit will consist of at least 25,000 Shares. Applicants anticipate that the trading price of a Share will range from $10 to $100. All orders to purchase Creation Units must be placed with the Distributor by or through a party that has entered into a participant agreement with the Distributor and the transfer agent of the Fund (''Authorized Participant'') with respect to the creation and redemption of Creation Units. An Authorized Participant is either: (a) A Broker or other participant, in the Continuous Net Settlement System of the National Securities Clearing Corporation (''NSCC''), a clearing agency registered with the Commission and affiliated with the Depository Trust Company (''DTC''), or (b) a participant in the DTC (''DTC Participant'').

6. In order to keep costs low and permit each Fund to be as fully invested as possible, Shares will be purchased and redeemed in Creation Units and generally on an in-kind basis. Except where the purchase or redemption will include cash under the limited circumstances specified below,

[1] For the purposes of the requested order, a ''successor'' is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

[2] Any Advisor to a Future Fund will be registered as an investment adviser under the Advisers Act. All entities that currently intend to rely on the order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application.

[3] Applicants further request that the order apply to any future distributor of the Funds, which would be a Broker and would comply with the terms and conditions of the application. The distributor of any Fund may be an affiliated person of the Advisor and/or Sub-Advisors.

[4] If a Fund invests in derivatives, then (a) the board of trustees (''Board'') of the Fund will periodically review and approve the Fund's use of derivatives and how the Advisor assesses and manages risk with respect to the Fund's use of derivatives and (b) the Fund's disclosure of its use of derivatives in its offering documents and periodic reports will be consistent with relevant Commission and staff guidance.

[5] Depositary Receipts are typically issued by a financial institution, a ''depositary'', and evidence ownership in a security or pool of securities that have been deposited with the depositary. A Fund will not invest in any Depositary Receipts that the Advisor or Sub-Advisor deems to be illiquid or for which pricing information is not readily available. No affiliated persons of applicants, any Future Fund, any Advisor or any Sub-Advisor will serve as the depositary bank for any Depositary Receipts held by a Fund.

[6] An Investing Fund may rely on the order only to invest in Funds and not in any other registered investment company.

purchasers will be required to purchase Creation Units by making an in-kind deposit of specified instruments (''Deposit Instruments''), and shareholders redeeming their Shares will receive an in-kind transfer of specified instruments (''Redemption Instruments'').[7] On any given Business Day [8], the names and quantities of the instruments that constitute the Deposit Instruments and the names and quantities of the instruments that constitute the Redemption Instruments will be identical, and these instruments may be referred to, in the case of either a purchase or redemption, as the ''Creation Basket.'' In addition, the Creation Basket will correspond pro rata to the positions in a Fund's portfolio (including cash positions),[9] except: (a) In the case of bonds, for minor differences when it is impossible to break up bonds beyond certain minimum sizes needed for transfer and settlement; (b) for minor differences when rounding is necessary to eliminate fractional shares or lots that are not tradeable round lots;[10] or (c) TBA Transactions,[11] short positions and other positions that cannot be transferred in kind [12] will be excluded from the Creation Basket.[13] If there is a difference between NAV attributable to a Creation Unit and the aggregate market value of the Creation Basket exchanged for the Creation Unit, the party conveying instruments with the lower value will also pay to the other an amount in cash equal to that difference (the ''Cash Amount'').

7. Purchases and redemptions of Creation Units may be made in whole or in part on a cash basis, rather than in kind, solely under the following circumstances: (a) To the extent there is a Cash Amount, as described above; (b) if, on a given Business Day, a Fund announces before the open of trading that all purchases, all redemptions or all purchases and redemptions on that day will be made entirely in cash; (c) if, upon receiving a purchase or redemption order from an Authorized Participant, a Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash; (d) if, on a given Business Day, a Fund requires all Authorized Participants purchasing or redeeming Shares on that day to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are not eligible for transfer through either the NSCC or DTC; or (ii) in the case of Funds holding non-U.S. investment (''Global Funds''), such instruments are not eligible for trading due to local trading restrictions, local restrictions on securities transfers or other similar circumstances; or (e) if a Fund permits an Authorized Participant to deposit or receive (as applicable) cash in lieu of some or all of the Deposit Instruments or Redemption Instruments, respectively, solely because: (i) Such instruments are, in the case of the purchase of a Creation Unit, not available in sufficient quantity; (ii) such instruments are not eligible for trading by an Authorized Participant or the investor on whose behalf the Authorized Participant is acting; or (iii) a holder of Shares of a Global Fund would be subject to unfavorable income tax treatment if the holder receives redemption proceeds in kind.[14]

8. Each Business Day, before the open of trading on a national securities exchange, as defined in section 2(a)(26) of the Act (''Stock Exchange''), on which Shares are listed, each Fund will cause to be published through the NSCC the names and quantities of the instruments comprising the Creation Basket, as well as the estimated Cash Amount (if any), for that day. The published Creation Basket will apply until a new Creation Basket is announced on the following Business Day, and there will be no intra-day changes to the Creation Basket except to correct errors in the published Creation Basket. The Stock Exchange will disseminate every 15 seconds throughout the trading day an amount representing, on a per Share basis, the sum of the current value of the Portfolio Instruments that were publicly disclosed prior to the commencement of trading in Shares on the Stock Exchange.

9. A Fund may recoup the settlement costs charged by NSCC and DTC by imposing a transaction fee on investors purchasing or redeeming Creation Units (the ''Transaction Fee''). The Transaction Fee will be borne only by purchasers and redeemers of Creation Units and will be limited to amounts that have been determined appropriate by the Advisor to defray the transaction expenses that will be incurred by a Fund when an investor purchases or redeems Creation Units.[15] All orders to purchase Creation Units will be placed with the Distributor by or through an Authorized Participant and the Distributor will transmit all purchase orders to the relevant Fund. The Distributor will be responsible for delivering a prospectus (''Prospectus'') to those persons purchasing Creation Units and for maintaining records of both the orders placed with it and the confirmations of acceptance furnished by it.

10. Shares will be listed and traded at negotiated prices on a Stock Exchange and traded in the secondary market. Applicants expect that Stock Exchange specialists or market makers (''Market Makers'') will be assigned to Shares. The price of Shares trading on the Stock Exchange will be based on a current bid/offer in the secondary market. Transactions involving the purchases and sales of Shares on the Stock Exchange will be subject to customary brokerage commissions and charges.

11. Applicants expect that purchasers of Creation Units will include institutional investors and arbitrageurs. Specialists or Market Makers, acting in their unique role to provide a fair and orderly secondary market for Shares, also may purchase Creation Units for use in their own market making activities.[16] Applicants expect that

[7] The Funds must comply with the federal securities laws in accepting Deposit Instruments and satisfying redemptions with Redemption Instruments, including that the Deposit Instruments and Redemption Instruments are sold in transactions that would be exempt from registration under the Securities Act of 1933 (''Securities Act''). In accepting Deposit Instruments and satisfying redemptions with Redemption Instruments that are restricted securities eligible for resale pursuant to Rule 144A under the Securities Act, the Funds will comply with the conditions of Rule 144A.

[8] Each Fund will sell and redeem Creation Units on any day the Fund is open, including as required by section 22(e) of the Act (each, a ''Business Day'').

[9] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's net asset value (''NAV'') for that Business Day.

[10] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[11] A TBA Transaction is a method of trading mortgage-backed securities. In a TBA Transaction, the buyer and seller agree on general trade parameters such as agency, settlement date, par amount and price.

[12] This includes instruments that can be transferred in kind only with the consent of the original counterparty to the extent the Fund does not intend to seek such consents.

[13] Because these instruments will be excluded from the Creation Basket, their value will be reflected in the determination of the Cash Amount (defined below).

[14] A ''custom order'' is any purchase or redemption of Shares made in whole or in part on a cash basis in reliance on clause (e)(i) or (e)(ii).

[15] Where a Fund permits an in-kind purchaser to deposit cash in lieu of depositing one or more Deposit Instruments, the purchaser may be assessed a higher Transaction Fee to offset the cost to the Fund of buying those particular Deposit Instruments. In all cases, the Transaction Fee will be limited in accordance with the requirements of the Commission applicable to open-end management investment companies offering redeemable securities.

[16] If Shares are listed on The NASDAQ Stock Market LLC (''Nasdaq'') or a similar electronic Stock Exchange (including NYSE Arca), one or more member firms of that Stock Exchange will act as

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secondary market purchasers of Shares will include both institutional and retail investors.[17] Applicants expect that arbitrage opportunities created by the ability to continually purchase or redeem Creation Units at their NAV per Share should ensure that the Shares will not trade at a material discount or premium in relation to their NAV.

12. Shares will not be individually redeemable and owners of Shares may acquire those Shares from a Fund, or tender such shares for redemption to the Fund, in Creation Units only. To redeem, an investor must accumulate enough Shares to constitute a Creation Unit. Redemption requests must be placed by or through an Authorized Participant.

13. Neither the Trust nor any Fund will be marketed or otherwise held out as a ''mutual fund.'' Instead, each Fund will be marketed as an ''actively managed exchange-traded fund''. In any advertising material where features of obtaining, buying or selling Shares traded on the Stock Exchange are described, there will be an appropriate statement to the effect that Shares are not individually redeemable.

14. The Funds' Web site, which will be publicly available prior to the public offering of Shares, will include a Prospectus and additional quantitative information updated on a daily basis, including, on a per Share basis for each Fund, the prior Business Day's NAV and the market closing price or mid-point of the bid/ask spread at the time of the calculation of such NAV (''Bid/Ask Price''), and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV. On each Business Day, before commencement of trading in Shares on the Stock Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Instruments held by the Fund (including any short positions held in securities (''Short Positions'')) that will form the basis for the Fund's calculation of NAV at the end of the Business Day.[18]

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such 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. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

Sections 2(a)(32) and 5(a)(1) of the Act

3. Section 5(a)(1) of the Act defines an ''open-end company'' as a management investment company that is offering for sale or has outstanding any redeemable security of which it is the issuer. Section 2(a)(32) of the Act defines a redeemable security as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately a proportionate share of the issuer's current net assets, or the cash equivalent. Because Shares will not be individually redeemable, applicants request an order that would permit each Fund to redeem Shares in Creation Units only. Applicants state that investors may purchase Shares in Creation Units from each Fund and redeem Creation Units from each Fund. Applicants further state that because the market price of Creation Units will be disciplined by arbitrage opportunities, investors should be able to sell Shares in the secondary market at prices that do not vary materially from their NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is currently being offered to the public by or through a principal underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV. Applicants state that secondary market trading in Shares will take place at negotiated prices, not at a current offering price described in the Prospectus, and not at a price based on NAV. Thus, purchases and sales of Shares in the secondary market will not comply with section 22(d) of the Act and rule 22c–1 under the Act. Applicants request an exemption under section 6(c) from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the proposed method of pricing Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (a) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers, (b) prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices, and (c) assure an orderly distribution system of investment company shares by eliminating price competition from brokers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes will be thwarted by permitting Shares to trade in the secondary market at negotiated prices. Applicants state that (a) secondary market trading in Shares does not involve the Funds as parties and cannot result in dilution of an investment in Shares, and (b) to the extent different

Market Maker and maintain a market for Shares trading on that Stock Exchange. On Nasdaq, no particular Market Maker would be contractually obligated to make a market in Shares. However, the listing requirements on Nasdaq, for example, stipulate that at least two Market Makers must be registered in Shares to maintain a listing. In addition, on Nasdaq and NYSE Arca, registered Market Makers are required to make a continuous two-sided market or subject themselves to regulatory sanctions. No Market Maker will be an affiliated person or an affiliated person of an affiliated person, of the Funds, except within the meaning of section 2(a)(3)(A) or (C) of the Act due solely to ownership of Shares as discussed below.

[17] Shares will be registered in book-entry form only. DTC or its nominee will be the record or registered owner of all outstanding Shares. Beneficial ownership of Shares will be shown on the records of DTC or DTC Participants.

[18] Applicants note that under accounting procedures followed by the Funds, trades made on the prior Business Day will be booked and reflected in NAV on the current Business Day. Accordingly, each Fund will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for its NAV calculation at the end of such Business Day.

prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand. Therefore, applicants assert that secondary market transactions in Shares will not lead to discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system will be orderly because arbitrage activity should ensure that the difference between the market price of Shares and their NAV remains narrow.

Section 22(e) of the Act

7. Section 22(e) of the Act generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. Applicants observe that settlement of redemptions of Creation Units of Global Funds is contingent not only on the settlement cycle of the U.S. securities markets but also on the delivery cycles present in foreign markets in which those Funds invest. Applicants have been advised that, under certain circumstances, the delivery cycles for transferring Portfolio Instruments to redeeming investors, coupled with local market holiday schedules, will require a delivery process of up to 14 calendar days. Applicants therefore request relief from section 22(e) in order to provide payment or satisfaction of redemptions within the maximum number of calendar days required for such payment or satisfaction in the principal local markets where transactions in the Portfolio Instruments of each Global Fund customarily clear and settle, but in all cases no later than 14 calendar days following the tender of a Creation Unit.[19]

8. Applicants state that section 22(e) was designed to prevent unreasonable, undisclosed and unforeseen delays in the actual payment of redemption proceeds. Applicants assert that the requested relief will not lead to the problems that section 22(e) was designed to prevent. Applicants state that allowing redemption payments for Creation Units of a Fund to be made within a maximum of 14 calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants state each Global Fund's statement of additional information (''SAI'') will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days and the maximum number of days needed to deliver the proceeds for each affected Global Fund. Applicants are not seeking relief from section 22(e) with respect to Global Funds that do not affect redemptions in-kind.

Section 12(d)(1) of the Act

9. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, or any other broker or dealer from selling its shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

10. Applicants request relief to permit Investing Funds to acquire Shares in excess of the limits in section 12(d)(1)(A) of the Act and to permit the Funds, their principal underwriters and any Broker to sell Shares to Investing Funds in excess of the limits in section 12(d)(l)(B) of the Act. Applicants submit that the proposed conditions to the requested relief address the concerns underlying the limits in section 12(d)(1), which include concerns about undue influence, excessive layering of fees and overly complex structures.

11. Applicants submit that their proposed conditions address any concerns regarding the potential for undue influence. To limit the control that an Investing Fund may have over a Fund, applicants propose a condition prohibiting the adviser of an Investing Management Company (''Investing Fund Advisor''), sponsor of an Investing Trust (''Sponsor''), any person controlling, controlled by, or under common control with the Investing Fund Advisor or Sponsor, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Investing Fund Advisor, the Sponsor, or any person controlling, controlled by, or under common control with the Investing Fund Advisor or Sponsor (''Investing Fund's Advisory Group'') from controlling (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any sub-adviser to an Investing Management Company (''Investing Fund Sub-Advisor''), any person controlling, controlled by or under common control with the Investing Fund Sub-Advisor, and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Investing Fund Sub-Advisor or any person controlling, controlled by or under common control with the Investing Fund Sub-Advisor (''Investing Fund's Sub-Advisory Group'').

12. Applicants propose a condition to ensure that no Investing Fund or Investing Fund Affiliate[20] (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting''). An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, member of an advisory board, Investing Fund Advisor, Investing Fund Sub-Advisor, employee or Sponsor of the Investing Fund, or a person of which any such officer, director, member of an advisory board, Investing Fund Advisor, Investing Fund Sub-Advisor, employee or Sponsor is an affiliated person (except any person whose relationship to the Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate).

13. Applicants propose several conditions to address the potential for layering of fees. Applicants note that the board of directors or trustees of any Investing Management Company, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''independent directors or trustees''), will be required

[19] Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations that it may otherwise have under rule 15c6–1 under the Exchange Act. Rule 15c6–1 requires that most securities transactions be settled within three business days of the trade date.

[20] An ''Investing Fund Affiliate'' is any Investing Fund Advisor, Investing Fund Sub-Advisor, Sponsor, promoter and principal underwriter of an Investing Fund, and any person controlling, controlled by or under common control with any of these entities. ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund or any person controlling, controlled by or under common control with any of these entities.

to find that the advisory fees charged under the contract are based on services provided that will be in addition to, rather than duplicative of, services provided under the advisory contract of any Fund in which the Investing Management Company may invest. Applicants also state that any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.[21]

14. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that a Fund will be prohibited from acquiring securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

15. To ensure that an Investing Fund is aware of the terms and conditions of the requested order, the Investing Funds must enter into an agreement with the respective Funds (''FOF Participation Agreement''). The FOF Participation Agreement will include an acknowledgement from the Investing Fund that it may rely on the order only to invest in a Fund and not in any other investment company.

Sections 17(a)(1) and (2) of the Act

16. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person (''second tier affiliate''), from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines ''affiliated person'' to include any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person and any person directly or indirectly controlling, controlled by, or under common control with, the other person. Section 2(a)(9) of the Act defines ''control'' as the power to exercise a controlling influence over the management or policies of a company and provides that a control relationship will be presumed where one person owns more than 25% of another person's voting securities. Each Fund may be deemed to be controlled by an Advisor and hence affiliated persons of each other. In addition, the Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by an Advisor (an ''Affiliated Fund'').

17. Applicants request an exemption under sections 6(c) and 17(b) of the Act from sections 17(a)(1) and 17(a)(2) of the Act to permit in-kind purchases and redemptions of Creation Units by persons that are affiliated persons or second tier affiliates of the Funds solely by virtue of one or more of the following: (a) Holding 5% or more, or in excess of 25% of the outstanding Shares of one or more Funds; (b) having an affiliation with a person with an ownership interest described in (a); or (c) holding 5% or more, or more than 25% of the Shares of one or more Affiliated Funds.[22] Applicants also request an exemption in order to permit a Fund to sell its Shares to and redeem its Shares from, and engage in the in-kind transactions that would accompany such sales and redemptions with, certain Investing Funds of which the Funds are affiliated persons or second-tier affiliates.[23]

18. Applicants assert that no useful purpose would be served by prohibiting such affiliated persons from making in-kind purchases or in-kind redemptions of Shares of a Fund in Creation Units. Absent the unusual circumstances discussed in the application, the Deposit Instruments and Redemption Instruments available for a Fund will be the same for all purchasers and redeemers, respectively, and will correspond *pro rata* to the Fund's Portfolio Instruments. The deposit procedures for in-kind purchases of Creation Units and the redemption procedures for in-kind redemptions will be the same for all purchases and redemptions. Deposit Instruments and Redemption Instruments will be valued in the same manner as those Portfolio Instruments currently held by the relevant Funds, and the valuation of the Deposit Instruments and Redemption Instruments will be made in the same manner and on the same terms for all, regardless of the identity of the purchaser or redeemer. Applicants do not believe that in-kind purchases and redemptions will result in abusive self-dealing or overreaching of the Fund.

19. Applicants also submit that the sale of Shares to and redemption of Shares from an Investing Fund meets the standards for relief under sections 17(b) and 6(c) of the Act. Applicants note that any consideration paid for the purchase or redemption of Shares directly from a Fund will be based on the NAV of the Fund in accordance with policies and procedures set forth in the Fund's registration statement.[24] The FOF Participation Agreement will require any Investing Fund that purchases Creation Units directly from a Fund to represent that the purchase of Creation Units from a Fund by an Investing Fund will be accomplished in compliance with the investment restrictions of the Investing Fund and will be consistent with the investment policies set forth in the Investing Fund's registration statement. Applicants also state that the proposed transactions are consistent with the general purposes of the Act and appropriate in the public interest.

Applicants' Conditions

Applicants agree that any order of the Commission granting the requested relief will be subject to the following conditions:

A. ETF Relief

1. As long as a Fund operates in reliance on the requested order, the Shares of the Fund will be listed on a Stock Exchange.

2. Neither the Trust nor any Fund will be advertised or marketed as an open-end investment company or a mutual fund. Any advertising material that describes the purchase or sale of Creation Units or refers to redeemability will prominently disclose that the Shares are not individually redeemable and that owners of the Shares may acquire those Shares from the Fund and tender those Shares for redemption to the Fund in Creation Units only.

[21] Any reference to NASD Conduct Rule 2830 includes any successor or replacement rule that may be adopted by the Financial Industry Regulatory Authority.

[22] Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where a Fund could be deemed an affiliated person, or an affiliated person of an affiliated person, of an Investing Fund because an investment adviser to the Funds is also an investment adviser to an Investing Fund.

[23] Applicants expect most Investing Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between an Investing Fund and a Fund, relief from section 17(a) would not be necessary. However, the requested relief would apply to direct sales of Shares in Creation Units by a Fund to an Investing Fund and redemptions of those Shares. The requested relief is intended to also cover the in-kind transactions that may accompany such sales and redemptions.

[24] Applicants acknowledge that the receipt of compensation by (a) an affiliated person of an Investing Fund, or an affiliated person of such person, for the purchase by the Investing Fund of Shares of the Fund or (b) an affiliated person of a Fund, or an affiliated person of such person, for the sale by the Fund of its Shares to an Investing Fund, may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

3. The Web site for the Funds, which is and will be publicly accessible at no charge, will contain, on a per Share basis, for each Fund the prior Business Day's NAV and the market closing price or Bid/Ask Price, and a calculation of the premium or discount of the market closing price or Bid/Ask Price against such NAV.

4. On each Business Day, before commencement of trading in Shares on the Stock Exchange, the Fund will disclose on its Web site the identities and quantities of the Portfolio Instruments held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.

5. The Advisor or any Sub-Advisor, directly or indirectly, will not cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Fund) to acquire any Deposit Instrument for the Fund through a transaction in which the Fund could not engage directly.

6. The requested relief to permit ETF operations will expire on the effective date of any Commission rule under the Act that provides relief permitting the operation of actively-managed exchange-traded funds.

B. Section 12(d)(1) Relief

1. The members of the Investing Fund's Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. The members of the Investing Fund's Sub-Advisory Group will not control (individually or in the aggregate) a Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of a Fund, the Investing Fund's Advisory Group or the Investing Fund's Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of a Fund, it will vote its Shares of the Fund in the same proportion as the vote of all other holders of the Fund's Shares. This condition does not apply to the Investing Fund's Sub-Advisory Group with respect to a Fund for which the Investing Fund Sub-Advisor or a person controlling, controlled by or under common control with the Investing Fund Sub-Advisor acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act.

2. No Investing Fund or Investing Fund Affiliate will cause any existing or potential investment by the Investing Fund in a Fund to influence the terms of any services or transactions between the Investing Fund or an Investing Fund Affiliate and the Fund or a Fund Affiliate.

3. The board of directors or trustees of an Investing Management Company, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to ensure that the Investing Fund Advisor and any Investing Fund Sub-Advisor are conducting the investment program of the Investing Management Company without taking into account any consideration received by the Investing Management Company or an Investing Fund Affiliate from a Fund or a Fund Affiliate in connection with any services or transactions.

4. Once an investment by an Investing Fund in the Shares of a Fund exceeds the limit in section 12(d)(1)(A)(i) of the Act, the Board of a Fund, including a majority of the independent directors or trustees, will determine that any consideration paid by the Fund to the Investing Fund or an Investing Fund Affiliate in connection with any services or transactions: (i) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Fund; (ii) is within the range of consideration that the Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between a Fund and its investment adviser(s), or any person controlling, controlled by or under common control with such investment adviser(s).

5. The Investing Fund Advisor, or Trustee or Sponsor, as applicable, will waive fees otherwise payable to it by the Investing Fund in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b-1 under the Act) received from a Fund by the Investing Fund Advisor, or Trustee or Sponsor, or an affiliated person of the Investing Fund Advisor, or Trustee or Sponsor, other than any advisory fees paid to the Investing Fund Advisor, or Trustee, or Sponsor, or its affiliated person by the Fund, in connection with the investment by the Investing Fund in the Fund. Any Investing Fund Sub-Advisor will waive fees otherwise payable to the Investing Fund Sub-Advisor, directly or indirectly, by the Investing Management Company in an amount at least equal to any compensation received from a Fund by the Investing Fund Sub-Advisor, or an affiliated person of the Investing Fund Sub-Advisor, other than any advisory fees paid to the Investing Fund Sub-Advisor or its affiliated person by the Fund, in connection with the investment by the Investing Management Company in the Fund made at the direction of the Investing Fund Sub-Advisor. In the event that the Investing Fund Sub-Advisor waives fees, the benefit of the waiver will be passed through to the Investing Management Company.

6. No Investing Fund or Investing Fund Affiliate (except to the extent it is acting in its capacity as an investment adviser to a Fund) will cause a Fund to purchase a security in an Affiliated Underwriting.

7. The Board of a Fund, including a majority of the independent directors or trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by an Investing Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Investing Fund in the Fund. The Board will consider, among other things: (i) Whether the purchases were consistent with the investment objectives and policies of the Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders of the Fund.

8. Each Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by an Investing

Fund in the securities of the Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

9. Before investing in a Fund in excess of the limits in section 12(d)(1)(A), an Investing Fund will execute a FOF Participation Agreement with the Fund stating that their respective boards of directors or trustees and their investment advisers, or Trustee and Sponsor, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), an Investing Fund will notify the Fund of the investment. At such time, the Investing Fund will also transmit to the Fund a list of the names of each Investing Fund Affiliate and Underwriting Affiliate. The Investing Fund will notify the Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Fund and the Investing Fund will maintain and preserve a copy of the order, the FOF Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

10. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Investing Management Company, including a majority of the independent directors or trustees, will find that the advisory fees charged under such contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Fund in which the Investing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Investing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of an Investing Fund will not exceed the limits applicable to a fund of funds as set forth in NASD Conduct Rule 2830.

12. No Fund relying on the section 12(d)(1) relief will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by exemptive relief from the Commission permitting the Fund to purchase shares of other investment companies for short-term cash management purposes.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–14533 Filed 6–20–14; 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 an Open Meeting on Wednesday, June 25, 2014 at 10:00 a.m., in the Auditorium, Room L–002.

The subject matter of the Open Meeting will be:

The Commission will consider whether to adopt rules regarding the Application of ''Security-based Swap Dealer'' and ''Major Security-based Swap Participant'' Definitions to Cross-Border Security-Based Swap Activities under the Securities Exchange Act of 1934 and Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

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: June 18, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–14695 Filed 6–19–14; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72411; File No. SR–NASDAQ–2014–040]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of a Proposed Rule Change Relating to the Listing and Trading of the Shares of the Calamos Focus Growth ETF of the Calamos ETF Trust

June 17, 2014.

I. Introduction

On April 21, 2014, The NASDAQ Stock Market LLC (''Nasdaq'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade the shares (''Shares'') of the Calamos Focus Growth ETF (''Fund'') under Nasdaq Rule 5735. The proposed rule change was published for comment in the **Federal Register** on May 9, 2014.[3] The Commission received no comments on the proposal. This order grants approval of the proposed rule change.

II. Description of the Proposed Rule Change

A. The Exchange's Proposal

The Exchange proposes to list and trade Shares of the Fund under Nasdaq Rule 5735, which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by Calamos ETF Trust (''Trust''), which is registered with the Commission as an investment company.[4] The Fund is a series of the Trust.

Calamos Advisors LLC will be the investment adviser (''Adviser'') to the Fund. Foreside Fund Services, LLC will be the principal underwriter and distributor of the Fund's Shares, and State Street Bank and Trust will act as the administrator, accounting agent, custodian, and transfer agent to the Fund.

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[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72096 (May 5, 2014), 79 FR 26789 (''Notice'').

[4] The Trust has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission. *See* Initial Registration Statement on Form N–1A for the Trust, dated September 13, 2013 (File Nos. 333–191151 and 811–22887). In addition, the Exchange states that the Trust has obtained certain exemptive relief under the 1940. Act *See* Investment Company Act Release No. 30653 (August 20, 2013) (File No. 812–14169) (''Exemptive Order'').

The Exchange represents that the Adviser is not a broker-dealer, but is affiliated with Calamos Financial Services LLC, which is a broker-dealer. The Exchange states that the Adviser has implemented a fire wall with respect to its broker dealer affiliate regarding access to information concerning the composition of or changes to the portfolio.[5] The Exchange also represents that the Shares will be subject to Nasdaq Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares, and that for initial and continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.[6]

B. The Exchange's Description of the Fund

The Exchange has made the following additional representations and statements in describing the Fund and its investment strategy, including portfolio holdings and investment restrictions.

Principal Investments

According to the Exchange, the Fund's primary investment objective is to achieve long-term capital growth. The Fund will pursue its objective by investing primarily, *i.e.,* at least 80% of its assets under normal market conditions,[7] in U.S. exchange-listed equity securities. Under normal market conditions, the Fund will invest primarily in companies with market capitalization of greater than $1 billion that the Adviser believes offer the best opportunities for growth.

When buying and selling growth-oriented securities, the Adviser will focus on the company's growth potential coupled with financial strength and stability. When selecting specific growth-oriented securities, the Adviser will combine its top-down macroeconomic views with individual security selection based on qualitative and quantitative research. The equity securities held by the Fund may include small- and mid-cap sized companies. The Fund may invest in equity securities issued by other registered investment companies (including money market funds).

The Fund may invest up to 25% of its assets in foreign securities. The Fund's investment in such stocks may be in the form of direct investments in non-U.S. securities that are listed on non-U.S. exchanges or in the form of American Depositary Receipts (''ADRs''), Global Depositary Receipts (''GDRs''), and European Depositary Receipts (''EDRs'') (collectively, ''Depositary Receipts'').[8] With respect to its investments in exchange-listed common stocks and Depositary Receipts of non-U.S. issuers, the Fund will generally invest in securities that trade in markets that are members of the Intermarket Surveillance Group (''ISG'') or are parties to a comprehensive surveillance sharing agreement with the Exchange.

The Fund will generally invest in sponsored Depositary Receipts that are listed on ISG member exchanges and that the Adviser deems as liquid at time of purchase. In certain limited circumstances, the Fund may invest in unlisted or unsponsored Depositary Receipts, Depositary Receipts listed on non-ISG member exchanges, or Depositary Receipts that the Adviser deems illiquid at the time of purchase or for which pricing information is not readily available.[9] The issuers of unlisted or unsponsored Depositary Receipts are not obligated to disclose material information in the United States. Therefore, there may be less information available regarding such issuers, and there may be no correlation between available information and the market value of the Depositary Receipts.

Other Investments

While the Fund under normal circumstances will invest at least 80% of its assets in exchange-listed equity securities issued by U.S. companies, the Fund may invest the remaining assets in a variety of other securities and investments in support of its primary investment strategy, including, but not limited to: Equity securities traded over-the-counter;[10] convertible securities; synthetic convertible instruments; debt securities (including high-yield fixed-income securities, loan participations and assignments, inflation-indexed bonds, municipal bonds, U.S. Government obligations (including stripped securities),[11] and agency mortgage-backed securities); repurchase agreements; reverse repurchase agreements; exchange-traded options on exchange-traded securities, indexes, and currencies; money market instruments;[12] foreign currency forward contracts; futures contracts on securities indices and options on futures contracts on securities indices; warrants; and total-return swaps related to individual exchange-traded securities or securities indices. The Fund does not intend to

[5] *See* Nasdaq Rule 5735(g). The Exchange states that, in the event (a) the Adviser becomes newly affiliated with a broker-dealer or registers as a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, [the Adviser, or the relevant adviser or sub-adviser,] will implement a fire wall with respect to its relevant personnel and its broker-dealer affiliate, if applicable, regarding access to information concerning the composition of or changes to the portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the portfolio.

[6] *See* 17 CFR 240.10A–3.

[7] The term ''under normal market conditions'' as used herein includes, but is not limited to, the absence of adverse market, economic, political, or other conditions, including extreme volatility or trading halts in the securities markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or *force majeure* type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance. In periods of extreme market disturbance, the Fund may take temporary defensive positions, by overweighting its portfolio in cash or cash-like instruments; however, to the extent possible, the Adviser would continue to seek to achieve the Fund's investment objectives.

[8] Depositary Receipts are receipts, typically issued by a bank or trust issuer, that evidence ownership of underlying securities issued by a non-U.S. issuer. For ADRs, the depository is typically a U.S. financial institution and the underlying securities are issued by a non-U.S. issuer. For other forms of Depositary Receipts, the depository may be a non-U.S. or a U.S. entity, and the underlying securities may be issued by a non-U.S. or a U.S. issuer. Depositary Receipts are not necessarily denominated in the same currency as their underlying securities. Generally, ADRs, issued in registered form, are designed for use in the U.S. securities markets, and EDRs, issued in bearer form, are designed for use in European securities markets. GDRs are tradable both in the United States and in Europe and are designed for use throughout the world.

[9] Not more than 10% of the net assets of the Fund, in the aggregate, will be invested in (1) unlisted or unsponsored Depositary Receipts; (2) Depositary Receipts not listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange; or (3) unlisted common stocks or common stocks not listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange.

[10] *See* Notice, *supra* note 3, 79 FR at 26791 (noting that not more than 10% of the net assets of the Fund, in the aggregate, will be invested in certain Depositary Receipts or in unlisted common stocks or common stocks not listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange).

[11] The term ''stripped security,'' as used herein, means a security that evidences ownership in either the future interest payments or the future principal payments on underlying U.S. Government, mortgage, or other debt obligations. These securities generally are structured to make a lump-sum payment at maturity and do not make periodic payments of principal or interest.

[12] The term ''money market instruments,'' as used herein, means: (i) Short-term obligations issued by the U.S. Government; (ii) short-term negotiable obligations of commercial banks, fixed time deposits and bankers' acceptances of U.S. and foreign banks, and similar institutions; (iii) commercial paper rated at the date of purchase ''Prime-1'' by Moody's Investors Service, Inc., or ''A–1+'' or ''A–1'' by Standard & Poor's, or, if unrated, of comparable quality, as the Adviser of the Fund determines; and (iv) money market mutual funds.

use these other investments to create a leveraged return on the Fund's portfolio.

Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid securities or other illiquid assets (calculated at the time of investment). The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund may not invest more than 25% of the value of its total assets in securities of issuers in any one industry or group of industries. This restriction does not apply to obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities, or securities of other registered investment companies.

Additional information regarding the Trust, Fund, and Shares, including investment strategies and restrictions, risks, creation and redemption procedures, fees, portfolio holdings, disclosure policies, distributions and taxes, calculation of net asset value per share (''NAV''), availability of information, trading rules and halts, and surveillance procedures, among other things, can be found in the Notice, Registration Statement, and Exemptive Order, as applicable.[13]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act;[14] and the rules and regulations thereunder applicable to a national securities exchange.[15] In particular, the Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act,[16] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission notes that the Fund and the Shares must comply with the requirements of Nasdaq Rule 5735 to be listed and traded on the Exchange.

The Commission finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Act,[17] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities. Quotation and last-sale information for the Shares will be available via Nasdaq proprietary quote and trade services and via the Consolidated Tape Association plans for the Shares. Similarly, quotation and last-sale information for any underlying exchange-traded products will also be available via the quote and trade services of their respective primary exchanges, as well as in accordance with the Unlisted Trading Privileges and the Consolidated Tape Association plans or through the Options Price Reporting Authority, or equivalent services related to futures, as applicable.[18] In addition, the Intraday Indicative Value (as defined in Nasdaq Rule 5735(c)(3))—which will be based upon the current value of the components of the Disclosed Portfolio (as defined in Nasdaq Rule 5735(c)(2))—will be available on the NASDAQ OMX Information LLC proprietary index data service[19] and will be updated and widely disseminated and broadly displayed at least every 15 seconds during the Regular Market Session.[20] On each business day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio, which will form the basis for the Fund's calculation of NAV at the end of the business day.[21] The NAV of the Fund will be determined once each business day, normally as of the close of trading on the New York Stock Exchange (normally 4:00 p.m. Eastern time).[22] Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services.[23] Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.[24] Intra-day, executable price quotations for the securities and other assets held by the Fund will be available from major broker-dealer firms

[13] *See* Notice, *supra* note 3; *see also* Registration Statement and Exemptive Order, *supra* note 4.

[14] 15 U.S.C. 78(f).

[15] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[18] *See* Notice, *supra* note 3, 79 FR at 26794.

[19] According to the Exchange, the NASDAQ OMX Global Index Data Service offers real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for exchange-traded funds. *See id.* at 26793.

[20] *See id.*

[21] On a daily basis, the Disclosed Portfolio will include each portfolio security and other financial instruments of the Fund with the following information on the Fund's Web site: (1) Ticker symbol (if applicable); (2) name of security and financial instrument; (3) number of shares (if applicable); (4) dollar value of securities and financial instruments held in the Fund; and (5) percentage weighting of the security and financial instrument in the Fund. The Web site information will be publicly available at no charge. *See id.*

[22] *See id.* at 26791. The Exchange notes that, for purposes of calculating NAV, exchange-traded equities; futures contracts on securities indices and options on futures contracts on securities indices; warrants; exchange-traded options on exchange-traded securities, indexes, or currencies; sponsored or unsponsored Depositary Receipts; or other exchange-traded securities will be valued at the official closing price on their principal exchange or board of trade, or, lacking any current reported sale at the time of valuation, at the mean between the most recent bid and asked quotations on its principal exchange or board of trade. Portfolio securities traded on more than one securities exchange will be valued at the last sale price or official closing price, as applicable, on the exchange representing the principal market for the securities. Equity securities traded over-the-counter, convertible securities, synthetic convertible instruments, debt securities (including high-yield fixed-income securities, loan participations and assignments, inflation-indexed bonds, municipal bonds, U.S. Government obligations (including stripped securities), and agency mortgage-backed securities) will be valued at the mean between the most recent bid and asked quotations received from pricing services, but, if the most recent bid and asked quotations are not available, these securities will be valued in accordance with the Fund's fair valuation procedures. Repurchase agreements and reverse repurchase agreements are valued at cost. Money market instruments with maturities of less than 60 days will be valued at amortized cost; money market instruments with longer maturities will be valued at the mid-point of the bid-ask prices. Foreign currency forward contracts will be valued in U.S. dollars using an exchange price provided by a third party. Total-return swaps related to individual exchange-traded securities or securities indices will be valued at the mean between bid and asked prices provided by a dealer (which may be the counterparty). Investment company shares will be valued at NAV, unless the shares are exchange-traded, in which case they will be valued at the last sale or official closing price on the market on which they primarily trade. In addition, expenses and fees, including the management fees, will be accrued daily and taken into account for purposes of determining NAV.

[23] *See id.* at 26794.

[24] *See id.*

or on the exchange on which they are traded, as applicable.[25] Specifically, intra-day price information on the securities and other assets held by the Fund will be available through subscription or free services that can be accessed by Authorized Participants and other investors: (a) Pricing information for exchange-traded equity securities; investment company securities; futures contracts on securities indices and options on futures contracts on securities indices; warrants; exchange-traded options on exchange-traded securities, indexes, or currencies; sponsored or unsponsored Depositary Receipts; or other exchange-traded securities will be publicly available from the Web sites of the exchanges on which they trade, on public financial Web sites, and through subscription services such as Bloomberg and Thompson Reuters; (b) pricing information regarding over-the-counter equities (including Depositary Receipts and certain investment company securities); convertible securities; synthetic convertible instruments; debt securities (including high-yield fixed-income securities, loan participations and assignments, inflation-indexed bonds, municipal bonds, U.S. Government obligations (including stripped securities), and agency mortgage-backed securities); repurchase agreements; reverse repurchase agreements; money market instruments; and foreign currency forward contracts will be available through subscription services such as Markit, Bloomberg, and Thompson Reuters; and (c) pricing information on the reference index or security underlying total-return swaps will be available on Bloomberg.[26] In addition, a basket composition file, which includes the security names, amounts, and share quantities, as applicable, required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of Nasdaq via the National Securities Clearing Corporation. The basket will represent one ''Creation Unit'' of the Fund. The Fund's Web site will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information.[27]

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Commission notes that the Exchange will obtain a representation from the issuer of the Shares that the NAV will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.[28] Further, trading in the Shares will be subject to Nasdaq 5735(d)(2)(D), which sets forth circumstances under which trading in the Shares may be halted.[29] The Exchange also may halt trading in the Shares if trading is not occurring in the securities or the financial instruments constituting the Disclosed Portfolio or if other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.[30] Further, the Commission notes that the Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.[31] The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees.[32] The Exchange also states that the Adviser is not a broker-dealer but is affiliated with a broker-dealer and that the Adviser has implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition or changes to the portfolio.[33] The Financial Industry Regulatory Authority (''FINRA''), on behalf of the Exchange, will communicate as needed regarding trading in the Shares; exchange-traded equities; futures contracts on securities indices and options on futures contracts on securities indices; warrants; exchange-traded options on exchange-traded securities, indexes, or currencies; exchange-listed investment companies; or other exchange-traded securities with other markets and other entities that are ISG members, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares; exchange-traded equities; futures contracts on securities indices and options on futures contracts on securities indices; warrants; exchange-traded options on exchange-traded securities, indexes, or currencies; exchange-listed investment companies; or other exchange-traded securities from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares; exchange-traded equities; futures contracts on securities indices and options on futures contracts on securities indices; warrants; exchange-traded options on exchange-traded securities, indexes, or currencies; exchange-listed investment companies; or other exchange-traded securities from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[34] FINRA, on behalf of the Exchange, also is able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine.

In support of this proposal, the Exchange has made representations, including:

(1) The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the

[25] *See id.* at 26793.

[26] *See id.* at 26794.

[27] *See id.* at 26793.

[28] *See id.* at 26794.

[29] *See id.*

[30] *See id. See also* Nasdaq Rule 5735(d)(2)(C) (providing additional considerations for the suspension of trading in or removal from listing of Managed Fund Shares on the Exchange). With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Nasdaq will halt or pause trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. *See* Notice, *supra* note 3, 79 FR at 26794.

[31] *See* Nasdaq Rule 5735(d)(2)(B)(ii).

[32] *See* Notice, *supra* note 3, 79 FR at 26795.

[33] *See supra* note 5 and accompanying text. The Exchange further represents that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with applicable federal securities laws as defined in Rule 204A–1(e)(4). Accordingly, procedures designed to prevent the communication and misuse of nonpublic information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[34] For a list of the current members of ISG, *see www.isgportal.org.*

Exchange's existing rules governing the trading of equity securities.

(2) The Shares will be subject to Rule 5735, which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.

(3) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(4) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (b) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (c) how information regarding the Intraday Indicative Value is disseminated; (d) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (e) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(5) Trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and FINRA,[35] on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws, and these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

(6) Not more than 10% of the net assets of the Fund, in the aggregate, will be invested in: (a) Unlisted or unsponsored Depositary Receipts; (b) Depositary Receipts not listed on an exchange that is not a member of ISG or a party to a comprehensive surveillance sharing agreement with the Exchange; or (c) unlisted common stocks or common stocks not listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange. In addition, all futures and options held by the Fund will be listed on an exchange that is a member of the ISG or a party to a comprehensive surveillance sharing agreement with the Exchange.

(7) For initial and continued listing, the Fund must be in compliance with Rule 10A–3 under the Exchange Act.[36]

(8) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

(9) The Fund will invest at least 80% of its assets under normal market conditions in U.S. exchange-listed equity securities. The Fund will invest primarily in companies with market capitalization of greater than $1 billion that the Adviser believes offer the best opportunities for growth. The Fund may invest up to 25% of its assets in foreign securities.

(10) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment); will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained; and will consider taking appropriate steps in order to maintain adequate liquidity *if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets.*

(11) The Fund does not intend to use its other investments to create a leveraged return on the Fund's portfolio.

(12) The Fund's investments will be consistent with the Fund's investment objective.

This approval order is based on all of the Exchange's representations and description of the Fund, including those set forth above and in the Notice.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[37] that the proposed rule change (SR–NASDAQ–2014–040), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–14541 Filed 6–20–14; 8:45 am]

BILLING CODE 8011–01–P

[35] According to the Exchange, FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. *See* Notice, *supra* note 3 at 26794.

[36] 17 CFR 240.10A–3.

[37] 15 U.S.C. 78s(b)(2).

[38] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72407; File No. SR–NASDAQ–2014–064]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Exercise Limits

June 17, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 11, 2014, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ proposes to correct rule text related to a NASDAQ Options Market (''NOM'') Rule at Chapter III, Section 9, pertaining to Exercise Limits.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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 an error in rule text

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

in Chapter III, Section 9 (Exercise Limits) that was inadvertently inserted into a recent rule change.[3] The Exchange recently amended rules pertaining to the trading of options overlying NASDAQ OMX PHLX LLC (''Phlx'') proprietary indexes and Phlx U.S. Dollar-Settled Foreign Currencies on NOM.[4] Specifically, the Exchange amended the exercise rules at Section 9 of Chapter III to provide that, ''no Options Participant shall exercise, for any account in which it has an interest or for the account of any Customer, a long position in any options contract where such Options Participant or Customer, acting alone or in concert with others, directly or indirectly, has or will have . . . exceed the applicable *position* limit fixed from time-to-time by PHLX with respect to U.S. Dollar-Settled Foreign Currency Options.''[5] The word ''position'' should have instead referred to ''exercise'' because the rule is applicable to exercise limits. The Exchange is proposing to correct this error in rule text to avoid confusion.

Additionally, the Exchange is proposing to amend the word ''exceed'' in two places in the rule to ''exceeded'' for consistency.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that correcting the error in the rule text will make the rule clear to Participants. The insertion of the word ''position'' was in error as the rule relates to exercise limits. The Exchange's proposal to amend the word to ''exercise'' will correct this error. Also, amending the words ''exceed'' to ''exceeded'' within the rule text will conform the wording in the rule for clarity.

[3] *See* Securities Exchange Act Release No. 71978 (April 21, 2014), 79 FR 23036 (April 25, 2014) (SR–NASDAQ–2014–039).

[4] *Id.*

[5] *Id.*

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change seeks to correct an error in rule text and make other clarifying changes to conform rule text to avoid confusion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: Necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved. The Exchange has provided the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2014–064 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–NASDAQ–2014–064. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–NASDAQ–2014–064 and should be submitted on or before July 14, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–14537 Filed 6–20–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72405; File No. SR–ICEEU–2014–08]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Clearance of New Energy Futures and Options Contracts

June 17, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 5, 2014, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes described in Items I, II and III below, which Items have been prepared primarily by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the change is to modify certain aspects of the ICE Clear Europe Delivery Procedures in connection with the launch by the ICE Endex market of three energy futures and options contracts that will be cleared by ICE Clear Europe: The German Power Base Load Futures Contract, German Power Peak Load Futures Contract, and German Power Base Load Option Contract (the ''German Power Contracts'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the rule amendments is to modify certain aspects of the ICE Clear Europe Delivery Procedures in connection with the launch by the ICE Endex market of the German Power Contracts that will be cleared by ICE Clear Europe. ICE Clear Europe does not otherwise propose to amend its clearing rules or procedures in connection with the German Power Contracts.

The amendments adopt a new Part J of the Delivery Procedures applicable to the German Power Contracts in the case of physical delivery under a futures contract. The amendments provide, among other matters, specifications for delivery of power under a German Power Contract through scheduling with the relevant transmission system operator (''TSO''), including relevant definitions and a detailed delivery timetable for the contracts. The amendments also address invoicing and payment for delivery and certain limitations on liability of the Clearing House for performance or non-performance by the relevant TSO. The amendments provide for calculation by the clearing house of buyer's and seller's security to cover delivery obligations and related liabilities, costs or charges, as well as procedures to address failed deliveries. The revised procedures also outline various documentation requirements for the relevant parties.

In addition, changes are made to paragraph 5.1 of the Delivery Procedures to include the German Power Contracts as well as certain other natural gas and power futures as contracts for which parties may nominate transferors and transferees to make and take delivery. Part H of the Delivery Procedures has also been removed as the relevant contract moved from trading on the ICE Futures exchange to the ICE Endex exchange and is now covered by Part G of the Delivery Procedures.

ICE Clear Europe believes that the changes described herein are consistent with the requirements of Section 17A of the Act[3] and the regulations thereunder applicable to it, including the standards under Rule 17Ad–22,[4] and are consistent with the prompt and accurate clearance of and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts and transactions, the safeguarding of securities and funds in the custody or control of ICE Clear Europe or for which it is responsible and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.[5] The German Power Contracts have similar characteristics to other ICE Endex and ICE Futures Europe energy contracts currently cleared by ICE Clear Europe, and ICE Clear Europe believes that its existing financial resources, risk management, systems and operational arrangements are sufficient to support clearing of such products (and address physical delivery under such contracts).

Specifically, ICE Clear Europe believes that it will be able to manage the risks associated with acceptance of the German Power Contracts for clearing and physical delivery in such contracts. The German Power Contracts present a similar risk profile to other ICE Endex contracts currently cleared by ICE Clear Europe, and ICE Clear Europe believes that its existing risk management and margin framework is sufficient for purposes of risk management of the German Power Contracts and related deliveries.

Similarly, ICE Clear Europe has established appropriate standards for determining the eligibility of contracts submitted to the clearinghouse for clearing, and ICE Clear Europe believes that its existing systems are appropriately scalable to handle the German Power Contracts, which are generally similar from an operational perspective to the other ICE Endex power contracts currently cleared by ICE Clear Europe.

For the reasons noted above, ICE Clear Europe believes that the proposed rule changes are consistent with the requirements of Section 17A of the Act[6] and regulations thereunder applicable to it.

B. Self-Regulatory Organization's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed changes to the rules would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the Act. ICE Clear Europe is adopting the amendments to the Delivery Procedures in connection with the listing of new contracts for trading on the ICE Endex market. ICE Clear Europe believes that such contracts will provide additional opportunities for interested market

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78q–1.

[4] 17 CFR 240.17Ad–22.

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 15 U.S.C. 78q–1.

participants to engage in trading activity relating to the German power market. ICE Clear Europe does not believe the adoption of related Delivery Procedures amendments would adversely affect access to clearing for clearing members or their customers, or otherwise adversely affect competition in clearing services.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed changes to the rules have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A) [7] of the Act and Rule 19b–4(f) [8] thereunder because it effects a change in an existing service of a registered clearing agency that primarily affects the clearing operations of the clearing agency with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps, and forwards that are not security forwards, and does not significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ICEEU–2014–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2014–08. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at *https://www.theice.com/notices/Notices.shtml?regulatoryFilings*.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ICEEU–2014–08 and should be submitted on or before July 14, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–14538 Filed 6–20–14; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72410; File No. SR–MIAX–2014–27]

Self-Regulatory Organizations: Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by Miami International Securities Exchange LLC To Establish a Billing Dispute Practice

June 17, 2014.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 9, 2014, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend various Exchange Rules related to fees and the cover page of the MIAX Options Fee Schedule.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing*, at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rules 200(e), 208, and 1203. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Exchange also proposes to amend the Fee Schedule to add language regarding fee disputes.

First, the Exchange proposes to amend Rule 200(e) to eliminate the description of when the Trading Permit fee is due and payable each month. Currently, Rule 200(e) states that the Trading Permit fee is due and payable in full on or before the first day on which the Trading Permit is effective. However, as the Exchange's Fee Schedule indicates, the monthly Trading Permit fees are calculated for certain Members [3] based upon the greatest number of assigned classes on any given day within a particular calendar month. The Exchange proposes to amend Rule 200(e) to eliminate the statement indicating that the entire Trading Permit fee shall be due and payable on or before the first day on which the Trading Permit is effective because the Exchange does not actually calculate and invoice the Trading Permit fee until the month is completed.

Second, the Exchange proposes to amend Rule 208 to provide that the monthly Exchange invoices are to be paid in full on a timely basis. Rule 208 describes the MIAX Billing System and the requirement to designate a Clearing Member for the payment of Exchange invoices. Rule 208 currently requires the designated Clearing Member to pay on a timely basis ''any amount that is not disputed'' by the Member rather than the full amount of the Exchange invoice. The Exchange proposes to amend Rule 208 to provide that the designated Clearing Member shall pay to the Exchange on a timely basis the full amount of each monthly Exchange invoice because, as discussed in detail below, the Exchange proposes to handle fee disputes in Proposed Rule 1203(e). In accordance with the Proposed Rule 1203(e), the Exchange expects all invoices to be paid in full including any disputed amount. If the dispute is resolved in the Member's favor, any disputed amount will be subsequently credited to the Clearing Member on behalf of that Member's account. The Exchange believes that this change will avoid confusion because it will be consistent with Proposed Rule 1203(e). In addition, the Exchange proposes replacing the term ''designated'' in the first sentence of Rule 208 with the term ''assessed'' to more accurately reflect the action being taken by the Exchange.

The Exchange proposes to create Rule 1203(e) to establish a billing practice to prevent Members from contesting their bills long after they have been sent an invoice. In accordance with Proposed Rule 1203(e), all disputes concerning fees, dues or charges assessed by the Exchange must be submitted to the Exchange in writing and must be accompanied by supporting documentation. All disputes related to fees, dues or other charges must be submitted to the Exchange no later than sixty (60) days after the date of the monthly invoice. All Exchange invoices are due in full on a timely basis and payable in accordance with Rule 208. Any disputed amount resolved in the Member's favor will be subsequently credited to the Clearing Member's account at the Clearing Corporation. The Exchange provides Members with both daily and monthly fee reports and thus believes Members should be aware of any potential billing errors within sixty calendar days of issuance of an invoice. Requiring that Members dispute an invoice within this time period will encourage them to promptly review their invoices so that any disputed charges can be addressed in a timely manner while the information and data underlying those charges (*e.g.,* applicable fees and order information) is still easily and readily available. This practice will avoid issues that may arise when Members do not dispute an invoice in a timely manner, and will conserve Exchange resources that would have to be expended to resolve untimely billing disputes. The Exchange notes that this type of provision is common among other exchanges.[4] In addition, the Exchange proposes to state that all billing disputes must be submitted to the Exchange in writing,[5] and must be accompanied by supporting documentation. The Exchange believes that this requirement, which is also similar to requirements of other exchanges,[6] will further streamline the billing dispute process. In addition, in order for Members to be fully aware of this rule regarding fee disputes, the Exchange proposes to place a statement on the cover of the MIAX Options Fee Schedule and at the bottom of each invoice regarding the handling of billing disputes.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) [7] of the Act in general, and furthers the objectives of Section 6(b)(4) [8] of the Act in particular, in that it is designed to provide for an equitable allocation of reasonable dues, fees and other charges among Exchange Members and other persons using its facilities. In addition, the Exchange believes the proposed rule change also furthers the objectives of Section 6(b)(5) of the Act [9] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and, in general, to protect investors and the public interest, and it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange's proposal relates to how fees are invoiced and collected and will protect investors and the public interest by eliminating potential confusion that could be caused by the existing language used to describe the Exchange's billing practices. The Exchange's proposal provides for the equitable allocation of fees, dues and other charges because it applies equally to all Members and any persons using the facilities or services of the Exchange.

Additionally, the Exchange believes the requirement that all invoices be paid in full and billing disputes be submitted within 60 days after the date of the invoice is reasonable because the Exchange provides ample tools to properly and swiftly monitor and account for various charges incurred in a given month. Also, the proposal is equitable because it equally applies to all Members. The Exchange's administrative costs will be lowered as a result of this policy. The proposed provision regarding fee disputes promotes the protection of investors and the public interest by providing a clear and concise mechanism in the Exchange Rules for Members to dispute fees and the Exchange to review such disputes in a timely manner. In addition, the proposed 60 day limitation is fair and equitable since it will be implemented prospectively on all Members, only applying to invoices issued after the proposed rule change becomes operative.

[3] The amount of the monthly Trading Permit fee for a Lead Market Maker (''LMM'') or a Registered Market Maker (''RMM'') is calculated based on the number of their assigned classes. The amount of the monthly Trading Permit fee for an Electronic Exchange Member (''EEM'') is a flat rate and not dependent upon the number of classes traded or any other such measure. Nevertheless, the Exchange, for consistency purposes, invoices Trading Permit fees in arrears for all Members.

[4] *See e.g.,* Securities Exchange Act Release Nos. 62661 (August 6, 2010), 75 FR 49544 (August 13, 2010) (SR–Phlx–2010–110); 71297 (January 14, 2014), 79 FR 3442 (January 21, 2014) (SR–ISE–2014–02).

[5] The Exchange invoice specifies contact information for billing inquiries.

[6] *See supra* note 4.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule changes to revise Exchange Rules related to fees and to add a new provision regarding fee disputes should reduce possible confusion regarding the procedures for establishing, invoicing and collecting fees, dues and other charges. Since the Exchange proposes no substantive changes regarding fees applicable to Members, the proposal does not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) [11] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–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–MIAX–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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2014–27 and should be submitted on or before July 14, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–14542 Filed 6–20–14; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72413; File No. SR–CME–2014–22]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Physical Delivery of CLS-Eligible Foreign Currencies

June 17, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 9, 2014, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I and II below, which Items have been prepared primarily by CME. CME filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(4)(ii) [4] thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CME is filing the proposed rule change that is limited to its business as a derivatives clearing organization. More specifically, the proposed rule change would make amendments to its current procedures for facilitating physical delivery of CLS-eligible foreign currencies.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose 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. CME 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.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4)(ii).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CME is registered as a DCO with the Commodity Futures Trading Commission (''CFTC'') and offers clearing services for many different futures and swaps products. The proposed rule change that is the subject of this filing is limited to CME's business as a DCO offering clearing services for CFTC-regulated products. More specifically, the change is limited to the delivery processing timelines for CME FX futures paired delivery contracts. As discussed below, the proposed change, which would facilitate continued physical delivery of CLS-eligible foreign currencies, would not materially affect the nature or level of risks presented to CME and its clearing members.

The operation and purpose of the proposed change is as follows. Currently, CME facilitates physical deliveries for CLS eligible currencies through a CME account at CLS Settlement Member banks for the purpose of efficiently matching CLS instructions. To facilitate this arrangement, CME has an agreement as a 3rd party customer with a CLS settlement member bank, henceforth termed as CLS agent bank. CME maintains accounts with two CLS agent banks for operational redundancy. The CLS agent bank plays an operational role in the CLS process. CME clearing members use their own CLS settlement banks or affiliates to physically settle currency deliveries within CLS.

Currently, in a failure of physical settlement, CME would administer the failure under current CME Rule 702. CME would be under no obligation to secure the failed currency; it may, however, facilitate the purchase of the currency for impacted clearing firm due to the fact that the currency of the impacted firm would be in the account of the CME at the CLS agent bank. Under CME rules, CME will remove any failed transactions from the CLS settlement process and resolve the failed physical settlements as set out under current CME Rule 743.B.

CME's CLS agent banks have expressed an intention to discontinue providing such services to central counterparties, such as CME, beyond September 2014. To maintain the orderly functioning of the CME FX Futures market and to avoid disruption to CME clearing members and market participants, it is required for CME to migrate away from the current operational mechanism described above to the ''paired delivery'' model for the September 2014 FX delivery cycle for CLS eligible currencies. Given the long history of operating under the current operational mechanism, it is important to provide the clearing members with an orderly migration path with an initial pilot physical delivery for the CAD/USD contract in the June 2014 delivery cycle.

As a result, CME is amending the process for physical delivery of CLS-eligible foreign currencies to a paired delivery process, which is similar to that currently used for CME's physically settled products in the Treasury complex. The operation of the paired delivery process is as follows. The process is an assignment-based process where clearing members with open long and short positions at the termination of trading on expiration of the contract will be matched against one another in order to facilitate the delivery. The assignment algorithm first matches delivery positions within a clearing firm. The algorithm then matches remaining positions across clearing firms. The algorithm for matching across clearing firms is designed to reduce the concentration of physical settlement. The migration to the Paired Delivery model does not impact or change the Clearing Member's ability to use their existing CLS access arrangements. The paired delivery process simplifies the physical delivery process and provides more transparency and certainty in the event of a failure in physical settlement. The physical settlement transactions continue to receive the same level of guarantee as defined under CME Rule 702.

Aside from the change described above, nothing will otherwise change from an operational or risk perspective. Consequently, the proposed change does not materially affect the nature or level of risks presented to CME and its clearing members.

After implementation of the proposed change, CME teams would continue to monitor clearing members going through delivery to assess their ability to perform for their house and client accounts; this is comparable to the process currently used for Treasury deliveries. Moreover, for FX futures, clearing members would be able to continue to use their existing CLS arrangements for currency deliveries. This is comparable to the current CME Treasury delivery process; in that process, clearing members are able to utilize their own banking relationships provided the relationship meets the standards outlined in applicable CME rules. Clearing members can also continue to use the offset benefit they currently get with the spot FX physical settlements through CLS. As noted above, the physical settlement transactions continue to receive the same level of guarantee as defined under CME Rule 702.

The removal of the CLS agent banks from the delivery process would not result in the reduction of liquidity from the delivery process. Under the agreements, CME's CLS agent banks are under no contractual obligation to provide services to secure the alternate currency.

To facilitate an orderly transition to the new process, CME will move FX futures currency pairings on a staggered basis to the new paired delivery process beginning with the CAD/USD contract for the June 2014 FX delivery cycle. Additional currencies will be moved to the new process for the September 2014 and December 2014 FX delivery cycles.

The change described in this filing is limited to CME's business as a DCO clearing products under the exclusive jurisdiction of the CFTC and does not materially impact CME's security-based swap or futures clearing business in any way. The change will become effective immediately but will be operationalized beginning June 18, 2014 and on a staggered basis over the next few currency delivery cycles. CME notes that it has also certified the proposed rule change that is the subject of this filing to its primary regulator, the CFTC, in a separate filing, CME Submission No. 14–165.

CME believes the proposed rule change is consistent with the requirements of the Exchange Act including Section 17A of the Exchange Act.[5] Currently, CME facilitates physical deliveries for CLS-eligible currencies through a CME account at third party banks that are members of CLS for the purpose of efficiently matching CLS instructions for all CLS-eligible currencies. These banks have expressed an intention to discontinue providing such services to central counterparties, such as CME, beyond September 2014. The amendments would facilitate physical delivery of CLS-eligible foreign currencies by amending the process for physical delivery of CLS-eligible foreign currencies to an assignment based paired delivery process where clearing members with open long and short positions at the end of trading on last trade date will be matched against one another in order to facilitate a delivery. These proposed amendments are designed to continue the ability to offer physical delivery of CLS-eligible foreign currencies and as such are designed to promote the prompt and accurate

[5] 15 U.S.C. 78q–1.

clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Exchange Act.[6]

Furthermore, the proposed change is limited in its effect to products offered under CME's authority to act as a DCO. The products that are the subject of this filing are under the exclusive jurisdiction of the CFTC. As such, the proposed CME change is limited to CME's activities as a DCO clearing futures that are not security futures and swaps that are not security-based swaps and forwards that are not security forwards; CME notes that the policies of the CFTC with respect to administering the Commodity Exchange Act are comparable to a number of the policies underlying the Exchange Act, such as promoting market transparency for over-the-counter derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest.

Because the proposed change is limited in its effect to products offered under CME's authority to act as a DCO, the proposed change is properly classified as effecting a change in an existing service of CME that:

(a) Primarily affects the clearing operations of CME with respect to products that are not securities, including futures that are not security futures, swaps that are not security-based swaps or mixed swaps; and forwards that are not security forwards; and

(b) does not significantly affect any securities clearing operations of CME or any rights or obligations of CME with respect to securities clearing or persons using such securities-clearing service.

As such, the change is therefore consistent with the requirements of Section 17A of the Exchange Act[7] and is properly filed under Section 19(b)(3)(A)[8] and Rule 19b–4(f)(4)(ii)[9] thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition. Currently, CME facilitates physical deliveries for CLS-eligible currencies through a CME account at third party banks that are members of CLS for the purpose of efficiently matching CLS instructions for all CLS-eligible currencies. These banks have expressed an intention to discontinue providing such services to central counterparties, such as CME, beyond September 2014. The amendments would facilitate physical delivery of CLS-eligible foreign currencies by amending the process for physical delivery of CLS-eligible foreign currencies to an assignment based paired delivery process where clearing members with open long and short positions at the end of trading on last trade date will be matched against one another in order to facilitate a delivery. These proposed amendments are designed to continue the ability to offer physical delivery of CLS-eligible foreign currencies and should not be seen to impact competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from 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)[10] of the Act and Rule 19b–4(f)(4)(ii)[11] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*), or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–CME–2014–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CME–2014–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.*

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–CME–2014–22 and should be submitted on or before July 14, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–14539 Filed 6–20–14; 8:45 am]

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[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(4)(ii).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(4)(ii).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72412; File No. SR–NASDAQ–2014–065]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Proposed Rule Change To Adopt New Rule 5713 and List Paired Class Shares Issued by AccuShares® Commodities Trust I

June 17, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 11, 2014, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by NASDAQ. 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 the Substance of the Proposed Rule Change

NASDAQ proposes to add new Rule 5713 (Paired Class Shares), and to list Paired Class Shares issued by AccuShares® Commodities Trust I (the ''AccuShares Trust'') on behalf of each of the following seven segregated series thereof: AccuShares S&P GSCI® Spot Fund, AccuShares S&P GSCI Agriculture and Livestock Spot Fund, AccuShares S&P GSCI Industrial Metals Spot Fund, AccuShares S&P GSCI Crude Oil Spot Fund, AccuShares S&P GSCI Brent Oil Spot Fund, AccuShares S&P GSCI Natural Gas Spot Fund, and AccuShares Spot CBOE® VIX® Fund (each an ''AccuShares Fund'', and collectively the ''AccuShares Funds'').[3]

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* at NASDAQ's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to add new Rule 5713 regarding Paired Class Shares. The purpose is to also enable the Exchange to list Paired Class Shares issued by the AccuShares Trust on behalf of the AccuShares Funds pursuant to new Rule 5713 (also known as ''Shares'') as follows:

Fund	Paired class shares
AccuShares S&P GSCI Spot Fund	AccuShares S&P GSCI Spot Up Shares. AccuShares S&P GSCI Spot Down Shares.
AccuShares S&P GSCI Agriculture and Livestock Spot Fund	AccuShares S&P GSCI Agriculture and Livestock Spot Up Shares. AccuShares S&P GSCI Agriculture and Livestock Spot Down Shares.
AccuShares S&P GSCI Industrial Metals Spot Fund	AccuShares S&P GSCI Industrial Metals Spot Up Shares. AccuShares S&P GSCI Industrial Metals Spot Down Shares.
AccuShares S&P GSCI Crude Oil Spot Fund	AccuShares S&P GSCI Crude Oil Spot Up Shares. AccuShares S&P GSCI Crude Oil Spot Down Shares.
AccuShares S&P GSCI Brent Oil Spot Fund	AccuShares S&P GSCI Brent Oil Spot Up Shares. AccuShares S&P GSCI Brent Oil Spot Down Shares.
AccuShares S&P GSCI Natural Gas Spot Fund	AccuShares S&P GSCI Natural Gas Spot Up Shares. AccuShares S&P GSCI Natural Gas Spot Down Shares.
AccuShares Spot CBOE VIX Fund	AccuShares Spot CBOE VIX Up Shares. AccuShares Spot CBOE VIX Down Shares.

A discussion of Paired Class Shares that will be listed pursuant to proposed new Rule 5713 will follow the description of new Rule 5713.

Proposed Rule 5713 is based, in part, on NYSE Arca (''Arca'') Equities Rule 8.400 (the ''Arca rule'').[4] While the Arca rule deals with an unmanaged investment product called Paired Trust Shares (''PTS''),[5] proposed Rule 5713 deals with products called Paired Class Shares, also an unmanaged investment product.[6] Subsequent to the initial listing of PTS on Arca in 2007,[7] variants of the original PTS were listed until 2009.[8] It became evident, however, that PTS had inherent design issues that led to severely diminished use of the product. PTS are not currently listed and have not been listed and traded for more than two years.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] AccuShares® is a registered trademark of AccuShares Holdings LLC. S&P®, S&P GSCI®, S&P 500® and Standard & Poor's® are registered trademarks of Standard & Poor's® Financial Services LLC. CBOE®, Chicago Board Options Exchange®, CBOE Volatility Index® and VIX® are registered trademarks of Chicago Board Options Exchange®, Incorporated (''CBOE''). Dow Jones® is a registered trademark of Dow Jones® Trademark Holdings LLC.

[4] *See* Securities Exchange Act Release No. 55033 (December 29, 2006), 72 FR 1253 (January 10, 2007) (SR–NYSEArca–2006–75) (order approving Arca Equities Rule 8.400). *See also* Securities Exchange Act Release No. 54839 (November 29, 2006), 71 FR 70804 (December 6, 2006) (SR–Amex–2006–82) (order approving NYSE MKT (formerly AMEX) Options Rules 1401–1403). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

[5] For the definition of PTS, *see* Arca Equities Rule 8.400(b)(1)(A)(i).

[6] For the definition of Paired Class Shares, *see* proposed Rule 5713(c).

[7] *See* supra note 4.

[8] *See* Securities Exchange Act Release Nos. 58873 (October 28, 2008), 73 FR 65709 (November 4, 2008) (SR–NYSEArca–2008–110) (Claymore MacroShares $100 Oil Up/Down Trust (UOY and DOY)); and 58704 (October 1, 2008), 73 FR 59026 (October 8, 2008) (SR–NYSEArca–2008–92) (Claymore MacroShares Major Metro Housing Up/Down Shares (UMM and DMM)).

PTS were designed to be a passive unmanaged investment vehicle with an objective to provide investors with exposure to changes in an underlying benchmark or index. PTS were to provide retail investors with a simple, liquid and cost effective means of simulating an investment in an underlying benchmark asset or index. One PTS trust issuer seeking to deliver to investors the gains from any positive movements (or losses from negative movements) in the underlying benchmark or index (''Up PTS''), would be paired with another PTS trust issuer seeking to deliver to investors the gains from any negative movements (or losses from positive movements) in the same underlying benchmark or index (''Down PTS''). Principally, the PTS trust issuers sought to track underlying benchmark or index performance through re-balancing assets between the trusts by means of a swap agreement between the trusts based on the underlying benchmark or index. The referenced value or notional amount of this swap agreement was equal to the aggregate amount of investment in the PTS trusts held by investors. Thus, any change in value attributable to a change in the underlying benchmark or index would be allocated between the PTS trust issuers by transferring assets pursuant to the swap agreement between them, and such change would directly affect the liquidation value of each PTS.

Despite the purported benefits of PTS, the PTS products in operation suffered from several fundamental design flaws that led to their ultimate demise and disappearance from the market within the span of a few years. First, the trading prices of PTS did not track the changes in the levels of the underlying benchmark or index. PTS products had no mechanism to prevent one of the PTS from trading at a premium to its underlying or net asset value (''NAV'') while the other PTS was trading at a discount to NAV. Once opposing PTS traded in offsetting premium and discount conditions, this condition became ''locked.'' There was no incentive for market participants to seek PTS creation or redemption arbitrage opportunities since PTS always had to be created and redeemed in equal quantities (pairs) of Up PTS and Down PTS. This premium and discount condition occurred and persisted over the life of the previously traded PTS products.

Second, PTS products had no mechanism to prevent one PTS trust from exhausting its capital—where the value of its swap exposure became zero—and thereby forcing a liquidation of both of the PTS issuer trusts. Instead, the PTS issuer trusts, by operation of their charter documents, would be forced to liquidate if their underlying benchmark or index increased by a fixed amount after their inception date. Such a liquidation occurred in the first PTS product issued within two years of its commencement of operations and PTS trading.

Third, PTS never reset their exposure to, or participation in, the reference value of their underlying benchmark or index. Consequently, the percentage changes in the price of a Down PTS did not correlate to the percentage changes in the underlying benchmark or index once the underlying benchmark or index increased or decreased over time. This problem is referred to as ''leverage drift.'' For instance, if a PTS product initially set its exposure to its benchmark asset at $60 and the benchmark subsequently rose to $90, an investor seeking a short exposure to the benchmark asset would buy the Down PTS at $30 per share. Thereafter, any percentage change in Down PTS price experienced by the investor would be three times the percentage change in the underlying benchmark (e.g., a $10 change in the benchmark results in about an 11% change in the benchmark and a 33% change in Down PTS price).[9] The combination of these deficiencies frustrated market maker arbitrage opportunities and the overall utility of PTS to investors. The Exchange believes that the structural differences between Paired Class Shares and PTS make the proposed Paired Class Shares a superior product that should eliminate the fundamental problems inherent with PTS.

Paired Class Shares—A Short Background [10]

As noted in proposed Rule 5713, Paired Class Shares will be issued by a trust (''Trust'') on behalf of a segregated series of the Trust (''Fund''). Paired Class Shares will have values that are based on an index or other numerical variable (''Underlying Benchmark'') whose value reflects the value of assets, prices, price volatility or other economic interests (''Reference Asset'').[11] The Trust will always issue Paired Class Shares in pairs of shares of opposing classes of each Fund. The values of the opposing classes will move in opposite directions as the value of the Fund's Underlying Benchmark varies from its starting level, where one constituent of the pair is positively linked to the Fund's Underlying Benchmark (''Up Shares'') and the other constituent is negatively linked to the Fund's Underlying Benchmark (''Down Shares''). The rate of linkage or leverage of a Fund's Up Shares and Down Shares performance to the performance of the Fund's referenced Underlying Benchmark will be one-to-one. The calculation of the liquidation value of a Fund attributable to each of its classes of Paired Class Shares (''Class Value''), and each Share of such class' pro rata portion of Class Value (''Class Value per Share''), will be determined according to a mathematical formula.[12]

Each Fund will engage in (1) scheduled ''regular distributions,'' (2) ''special distributions'' that are automatically triggered upon the Underlying Benchmark exceeding a fixed rate of change since the Fund's prior regular or special distribution date or inception date in the case of the first such distribution (each a ''prior distribution date''), and (3) ''corrective distributions'' that are automatically triggered when the trading price of a Paired Class Share deviates by a specified amount from its Class Value per Share for a specified period of time. Immediately after each regular, special and corrective distribution, the Fund's Underlying Benchmark participation or exposure will be reset and the Fund's Class Value per Share for each of its classes will be set to equal the lowest Class Value per Share of the two classes of Paired Class Shares. To the extent any class of Paired Class Shares of a Fund has a positive net income from income or gain on class assets, after deduction of class liabilities, on a regular or special distribution date as measured from the prior distribution date, such class of Paired Class Shares will receive a distribution in cash equal to such

[9] In this scenario, the percentage of Up PTS price changes tracks the percentage changes of the benchmark. However, this was not the case for PTS products that tracked a multiple of changes in the underlying benchmark or index. For such ''leveraged return'' PTS products, both UP PTS and Down PTS experienced leverage drift.

[10] Paired Class Shares that will be listed by the AccuShares Trust are described in detail below, after the description of proposed new Rule 5713, under the heading ''Paired Class Shares That Will Be Listed on Behalf of the AccuShares Trust—the Details.'' This short description is intended to provide context for discussion of the proposed new rule.

[11] Other economic interests would include, for example, currencies, interest rates, non-investable economic indices and other measures of financial instrument value.

[12] The mathematical formula is based on the following factors: (1) The value of Fund assets, (2) the allocation of such value based on changes in the level of the Fund's Underlying Benchmark which may be limited, reduced, capped or otherwise modified according to formula or pre-set parameters, and (3) the daily accrual of gain and income or loss on the assets of the Fund, less the liabilities of the Fund, as such gains, income losses and liabilities are allocated to each class of the Fund.

positive net income regardless as to whether such class is entitled to a regular or special distribution on such date.

The structure of Paired Class Shares is designed to be a passive unmanaged investment vehicle with the objective to provide investors with exposure to changes in an Underlying Benchmark. Paired Class Shares are expected to provide retail investors with a simple, liquid and cost effective means of simulating an investment in an Underlying Benchmark. Paired Class Shares provide distinct benefits that seek to remedy the perceived failings of PTS and make Paired Class Shares a unique product that would be beneficial to market participants.

First, a Trust issuing Paired Class Shares on behalf of a Fund actively monitors deviations of trading price to Class Value per Share. To the extent there is a material and persistent deviation of a Paired Class Share trading price from such Paired Class Share's Class Value per Share according to pre-set thresholds, a Trust issuing the Paired Class Shares will distribute, to holders of each class of shares, shares of the opposing class, which would leave each holder with an equal number of Up Shares and Down Shares. As each holder would own both Up Shares and Down Shares, each holder could redeem their shares through an authorized participant (''Authorized Participant'') [13] for cash at their respective Class Values per Share, which would eliminate the premium or discount. Even if a corrective distribution is not triggered, the existence of a Fund's corrective distribution feature is expected to modify investor and Authorized Participant behavior to prevent persistent and material premium and discount conditions for Paired Class Shares from becoming locked. PTS had no similar mechanism and did in fact trade at significant discounts from and premiums to NAV in a locked fashion. Furthermore, regular and special distributions have the effect of delivering changes in Class Value per Share to each class of the Paired Class Shares either directly through the distribution or indirectly through the dilution caused by the distribution. Thus, market expectation of regular and special distributions will cause the trading prices of a Fund's Paired Class Shares to experience less pronounced conditions of premium or discount to Class Value per Share than PTS experienced with respect to NAV per share. PTS lacked these mechanisms and experienced significant premium or discount conditions as well as locked premium and discount conditions.

Second, a Trust issuing Paired Class Shares on behalf of a Fund makes regular and special distributions and resets the Fund's exposure or participation in its Underlying Benchmark to avoid depleting all of the capital of one class of shares. PTS had no similar mechanism and did in fact liquidate when its underlying benchmarks or index moved more than 80%, which occurred on numerous occasions.

Third, for regular distributions Paired Class Shares reset their Underlying Benchmark participation on regularly scheduled dates, and for special distributions reset whenever their Underlying Benchmark changes by a set percentage since the prior distribution date. Thus, on each such date, a percentage change in the Underlying Benchmark generally corresponds to a percentage change in the Class Value per Share of the shares and leverage drift is minimized. PTS never reset its index or benchmark participation and did in fact experience significant misalignment of percentage returns due to leverage drift.

Creation and Redemption

The Paired Class Shares creation and redemption process is similar in nature to that of other exchange traded products. Paired Class Shares of a Fund are created and redeemed in specified aggregations of equal quantities of Up Shares and Down Shares (''Creation Units'') [14] at their respective Class Values per Share. Paired Class Shares can also only be created or redeemed by Authorized Participants. In contrast to other exchange traded products that often allow or require non-cash creation and redemption consideration in the form of specified securities or other assets and do not involve multiple share classes, Paired Class Shares creation and redemption transactions will only occur (a) for cash consideration and (b) in equal pre-determined quantities of Up Shares and Down Shares.

New Rule 5713

The provisions of proposed new Rule 5713 are set forth below.

New Rule 5713(a) indicates that NASDAQ will consider for trading, whether by listing or pursuant to unlisted trading privileges (''UTP''), Paired Class Shares, which are defined in subsection (c), if the Paired Class Shares meet the criteria of Rule 5713. Proposed Rule 5713(b) clarifies that the rule is applicable only to Paired Class Shares. Subsection (b) states that except to the extent inconsistent with this Rule, or unless the context otherwise requires, the By-laws and all other rules and procedures of the Board of Directors shall be applicable to the trading on NASDAQ of such securities. Paired Class Shares, which are defined in proposed new subsection (c), are included within the definition of ''security'' or ''securities'' as such terms are used in the By-laws and Rules of NASDAQ.

Paired Class Shares Defined

Proposed subsection (c) specifically states that the term ''Paired Class Share'' means a security (1) that is issued by a Trust on behalf of a Fund as part of a pair of shares of opposing classes whose respective underlying values move in opposite directions as the value of the Fund's Underlying Benchmark (which is defined in Rule 5713(e)) varies from its starting level, where one constituent of the pair is positively linked to the Fund's Underlying Benchmark—Up Shares—and the other constituent is inversely linked to the Fund's Underlying Benchmark—Down Shares, (2) that is issued in exchange for cash, (3) the issuance proceeds of which are invested and reinvested in highly rated short-term financial instruments that mature within 90 calendar days and that serve certain functions,[15] (4) that represents a beneficial interest in the Fund, (5) the value of which is determined by the underlying value of the Fund that is attributable to the class of which such security is a part,[16] (6)

[13] An Authorized Participant may place orders to create or redeem one or more Creation Units, and must be (1) a registered broker-dealer or other securities market participant such as a bank or other financial institution which is not required to register as a broker-dealer to engage in securities transactions, (2) a direct participant in The Depository Trust Company, and (3) a party to an Authorized Participant Agreement with the Sponsor setting forth the procedures for the creation and redemption of Creation Units in an AccuShares Fund.

[14] Each Creation Unit for each AccuShares Fund will be comprised of 25,000 Up Shares and 25,000 Down Shares.

[15] These functions are (i) covering the Fund's expenses, (ii) providing income distributions to investors, based on income (after expenses) from the financial instruments held by the Fund, (iii) providing cash proceeds for regular and special distributions to be made in cash in lieu of Paired Class Shares, and (iv) providing cash proceeds to be paid upon the redemption of Paired Class Shares. Thus, for example, upon redeeming 100 Paired Class Shares an investor would receive cash equal to the NAV per share for each share redeemed. Moreover, a Trust issuing Paired Class Shares on behalf of a Fund would engage in regular distributions, special distributions and corrective distributions. Proposed Rule 5713(c), subpart (3).

[16] The Paired Class Shares value will either (i) increase as a result of an increase in the Underlying Benchmark and decrease as a result of a decrease

that, when timely aggregated in a specified minimum number or amount of securities, along with an equal number or amount of the securities of the opposite class that constitute the other part of the pair, may be redeemed for a distribution of cash, and (7) that may be subject to mandatory redemption of all Paired Class Shares under specified circumstances. The Exchange notes that while the definition of Paired Class Shares is, to a large extent, based on the Arca rule there are structural differences between the two types of products that allow a more compact definition of, and listing procedure regarding, Paired Class Shares.[17]

Distributions

Proposed subsection (d) provides that a Fund may engage in scheduled regular distributions, special distributions that are automatically triggered upon the Underlying Benchmark exceeding a fixed rate of change since the prior distribution, and corrective distributions that are automatically triggered when the trading price of a Paired Class Share deviates by a specified amount from its underlying value for a specified period of time.

Designation

Following on subsection (a) of the proposed rule, proposed subsection (e) states that NASDAQ may trade, either by listing or pursuant to unlisted trading privileges (''UTP''),[18] Paired Class Shares whose values are based on an Underlying Benchmark whose value reflects the value of a Reference Asset. Each issue of Up Shares or Down Shares of a Fund shall be designated as a separate series and shall be identified by a unique symbol.

Listing Standards

Initial Listing

Proposed subsection (f) deals with initial and continued listing. Initial listing is specifically discussed in subsection (f)(i). There are three initial listing requirements. (A) NASDAQ will establish a minimum number of Paired Class Shares for each Fund required to be outstanding at the time of commencement of trading on NASDAQ. (B) NASDAQ will obtain a representation from the Trust on behalf of each Fund that the underlying value per share of each Up Share and Down Share will be calculated daily and that these underlying values and information about the assets of the Fund will be made available to all market participants at the same time.[19] In addition, (C) if the Underlying Benchmark is maintained by a broker-dealer or investment advisor, the broker-dealer or investment advisor shall erect a ''firewall'' around the personnel who have access to information concerning changes and adjustments to the Underlying Benchmark.[20]

Continued Listing

Continued listing is discussed in proposed subsection (f)(ii), which gives the circumstances under which NASDAQ will consider the suspension of trading in or removal from listing of a Fund's Paired Class Shares. These circumstances include the following alternatives: (A) If, following the initial twelve-month period beginning upon the commencement of trading of the Paired Class Shares: (i) There are fewer than 50 record and/or beneficial holders of the Fund's Up Shares or Down Shares for 30 or more consecutive trading days; (ii) the Fund has fewer than 50,000 Up Shares or 50,000 Down Shares issued and outstanding; or (iii) the combined market value of all shares of a Fund issued and outstanding is less than $1,000,000; (B) if the intraday level of the Underlying Benchmark, or a substitute or replacement Underlying Benchmark based on the same Reference Asset, is no longer calculated or available[21] on at least a 15-second delayed basis during the Regular Market Session[22] when the Fund's Paired Class Shares trade on NASDAQ from a source unaffiliated with the sponsor, the custodian, the trustee of the Trust, the Fund or NASDAQ that is a major market data vendor (e.g., Reuters or Bloomberg); (C) if the underlying value per share of each Up Share and Down Share of a Fund is no longer made available on a daily basis to all market participants at the same time; (D) if the estimate of the value of a share of the series of Paired Class Shares (the ''Intraday Indicative Value'') of the underlying value of each listed Up Share and Down Share of the Fund is no longer made available on at least a 15-second delayed basis by a major market vendor during the time the Paired Class Shares trade on NASDAQ during the Regular Market Session; (E) if the ''firewall'' erected around the personnel who have access to information concerning changes and adjustments to the Underlying Benchmark is no longer in place; or (F) if such other event shall occur or condition exists which in the opinion of NASDAQ makes further dealings on NASDAQ inadvisable.[23]

Proposed subsection (f)(ii) provides also that upon termination of a Fund, Paired Class Shares issued in connection with such Fund must be removed from listing. A Fund may terminate in accordance with the provisions of the Fund prospectus, which may provide for termination if the underlying value of the Paired Class Shares falls below a specified amount.

Firewall Procedures

Firewall procedures are proposed in respect of the listing of Shares. Paragraph (f)(i)(C) of proposed Rule 5713 provides that if the Underlying

in the Underlying Benchmark (in the case of an Up Share) or (ii) increase as a result of a decrease in the Underlying Benchmark and decrease as the result of an increase in the Underlying Benchmark (in the case of a Down Share). Proposed Rule 5713(c), subpart (5).

[17] The basic definition of Paired Class Shares, is largely similar in concept to that of Tradeable Shares in PTS, albeit Paired Class Shares as discussed reflect an improved product. Thus, where Tradeable Shares use the terms ''Up Tradeable Trust'' and ''Down Tradeable Trust'', Paired Class Shares use the product-appropriate terms ''Up Shares'' and ''Down Shares.'' The Paired Class Shares definition in proposed Rule 5713(c) is straightforward in comparison to PTS, which requires an unnecessarily complex three-part definition (''Tradeable Shares,'' ''Holding Shares,'' and ''Trading Shares'' in Arca Equity Rule 8.400(b)(1)(a)(i)).

[18] For a discussion of the UTP process, *see* the NASDAQ UTP Plan. *See also* Rules 3381 and 3385 (off-board trading by national securities exchange members), 4630 (commodity-related securities), 5711 (trading of certain derivative securities), 5735 (managed fund shares), and 5740 (derivative securities traded under UTP).

[19] This is similar in nature to Arca Equity Rule 8.400(d)(1). As noted, however, the Holding, Tradeable, and Trading nomenclature of PTS is not needed or used for Paired Class Shares.

[20] The firewall provision is unique to proposed Rule 5713; there is no firewall provision in Arca Equity Rule 8.400.

[21] The Underlying Benchmark may no longer be available due to a number of circumstances, including where the publication of the Underlying Benchmark is no longer economically viable, the data used to compute the Underlying Benchmark is no longer available, or the Underlying Benchmark methodology no longer tracks the same Reference Asset. *See* Commentary .04 to proposed Rule 5713.

[22] NASDAQ market makers are open for business during normal market hours of 9:30 a.m. to 4:00 p.m. Eastern Time. Rule 4617. The Exchange has trading hours from 4:00 a.m. until 8:00 p.m. Eastern Time, with trading sessions before and after normal market hours (''Pre-Market'' and ''Post-Market''), and appropriate rules to facilitate transactions during all trading sessions. Normal market hours are also known as the Regular Market Session. *See, e.g.,* Rules 5705 (ETFs: portfolio depository receipts and index fund shares), and 5710 (securities linked to the performance of indexes and commodities (including currencies)).

[23] The proposed continuing listing standards are, in all material respects, similar in nature to Arca Equity Rule 8.400(d)(2); the structure of Paired Class Shares is, as noted, accommodated in the proposed language. The Exchange also adds the subsection (f)(ii)(C) continuing listing requirement that the underlying value per share of each Up Share and Down Share of a Fund is no longer made available on a daily basis to all market participants at the same time.

Benchmark is maintained by a broker-dealer or investment advisor, the broker-dealer or investment advisor shall erect a ''firewall'' around the personnel who have access to information concerning changes and adjustments to the Underlying Benchmark. In addition, paragraph (f)(ii)(E) provides, as one of the continued listing provisions that would cause NASDAQ to consider the suspension of trading in or removal from listing of a Fund's Paired Class Shares, that the ''firewall'' erected around the personnel who have access to information concerning changes and adjustments to the Underlying Benchmark is no longer in place. Paragraph (f)(i)(C) of proposed Rule 5713 is similar, in relevant part, to Rule 5735(g) regarding actively managed ETFs regarding the necessity of having a firewall provision.[24] However, whereas (f)(i)(C) of new Rule 5713 discusses establishment of a ''firewall'' around personnel who have access to information concerning changes and adjustments to the Underlying Benchmark, paragraph (g) of Rule 5735 discusses establishment of a ''fire wall'' between the investment adviser and the broker-dealer with respect to an open-end fund's portfolio, not an Underlying Benchmark.

Additional Rule Provisions

Term, trustee, and voting rights are discussed in subsection (f). Regarding term, proposed subsection (f)(iii) states that the stated term of a Fund shall be as stated in the Fund prospectus. However, a Fund may be terminated under such earlier circumstances as may be specified in the Fund prospectus. Regarding trustees, proposed subsection (f)(iv) states that the trustee of a Trust must be a trust company or banking institution having substantial capital and surplus and the experience and facilities for handling corporate trust business. In cases where, for any reason, an individual has been appointed as trustee, a qualified trust company or banking institution must be appointed co-trustee.[25] No change is to be made in the trustee of a listed issue without prior notice to and approval of NASDAQ. Regarding voting rights, subsection (f)(v) states that such rights, if any, shall be as set forth in the applicable Fund prospectus.

Proposed subsection (g) sets forth a limitation of liability that states that neither NASDAQ nor any agent of NASDAQ shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any applicable Underlying Benchmark value; the underlying value of the Fund and its Paired Class Shares; distribution values or any other information relating to the purchase, redemption, or trading of the Paired Class Shares, resulting from any negligent act or omission by NASDAQ, or any agent of NASDAQ, or any act, condition or cause beyond the reasonable control of NASDAQ or its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in the applicable positions or interests.[26]

Regarding an Exchange member acting as a Market Maker[27] in Paired Class Shares, proposed subsection (h) states that such member must file with NASDAQ, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading in the applicable securities or physical commodities included in, or options, futures or options on futures on, the Reference Asset of the Underlying Benchmark of any Paired Class Shares or any other derivatives based on such Reference Asset or based on any security or Reference Asset included in the Underlying Benchmark, which the registered Market Maker may have or over which it may exercise investment discretion. No registered Market Maker shall trade in the applicable securities or physical commodities included in, or options, futures or options on futures on, the Reference Asset of the Underlying Benchmark of any Paired Class Shares or any other derivatives based on such Reference Asset or based on any security or Reference Asset included in the Underlying Benchmark, in an account in which a registered Market Maker, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to NASDAQ as required by this Rule. The subsection also provides that in addition to the existing obligations under NASDAQ rules regarding the production of books and records (*see, e.g.,* Rule 4625), a registered Market Maker in Paired Class Shares shall make available to NASDAQ such books, records or other information pertaining to transactions by such entity or registered or non-registered employee affiliated with such entity for its or their own accounts for trading the applicable securities or physical commodities included in, or options, futures or options on futures on, the Reference Asset of the Underlying Benchmark of any Paired Class Shares or any other derivatives based on such Reference Asset or based on any security or Reference Asset included in the Underlying Benchmark, as may be requested by NASDAQ.

The Exchange also proposes six Commentaries. Commentary .01 states that members provide all purchasers of newly issued Paired Class Shares a prospectus for the Fund.[28] Commentary .02 states that transactions in Paired Class Shares will occur during the trading hours specified in Rule 4120. Commentary .03 states that NASDAQ will file separate proposals under Section 19(b) of the Act before trading Paired Class Shares. Commentary .04 states that prior to a substitute or replacement Underlying Benchmark being selected for the Fund, NASDAQ must file a related proposed rule change pursuant to Rule 19b-4 under the Exchange Act to continue trading the Paired Class Shares. Commentary .05 states that subsection (f)(ii)(D), discussed previously, is not applicable as a continuing listing standard if a Fund's Paired Class Shares have been approved for listing and trading by the Commission under Section 19(b)(2) of the Act without the requirement that an estimate of the Intraday Indicative Value be made available on at least a 15-second delayed basis by a major market vendor during the time the Paired Class Shares trade on NASDAQ during the Regular Market Session. Commentary .06 states that NASDAQ will implement written surveillance procedures for trading the Paired Class Shares.

Paired Class Shares That Will Be Listed on Behalf of the AccuShares Trust—the Details Description of the AccuShares Trust

The Shares will be offered by the AccuShares Trust, which is a Delaware statutory trust that was established into separate AccuShares Funds pursuant to the Second Amended and Restated Trust Agreement of the AccuShares Trust, by AccuShares Investment Management, LLC, a Delaware limited liability company, as sponsor (the

[24] There are similar ''firewall'' provisions regarding other listed products. *See, e.g.,* Rule 5711(e)(Currency Trust Shares) and Rule 5710(g)(Index-Linked Securities).

[25] The proposed term, trustee and voting rights provisions are, in all material respects, similar to Arca Equity Rule 8.400(d)(3), (4), and (5).

[26] Subsection (g) is similar in nature to Arca Equity Rule 8.400(f). For other current Exchange limitation of liability provisions, *see* Rules 5735(e) and 5711(d)(vi).

[27] For requirements applicable to Market Maker accounts, *see* proposed Rule 5713(h).

[28] The proposed commentaries are, in all material respects, similar to those in Arca Equity Rule 8.400.

''Sponsor''), and Wilmington Trust, N.A., a national banking association, as trustee (the ''Trustee''), as it may be amended and restated from time to time (the ''Trust Agreement'').

The Sponsor

Under the Trust Agreement, the Sponsor has exclusive management and control of all aspects of the business of each AccuShares Fund. Specifically, the Sponsor selects the AccuShares Funds' service providers, negotiates various fees and agreements and performs such other services as the Sponsor believes that the AccuShares Trust may require from time to time.

Each class of an AccuShares Fund pays the Sponsor a management fee (the ''Management Fee''), monthly in arrears, in an amount equal to a percentage of its average daily Class Value at the rate set forth in the applicable AccuShares Fund prospectus. No other fee is paid by the AccuShares Funds. The Management Fee is paid in consideration of the Sponsor's management and administrative services and the other services provided to the AccuShares Funds for which the Sponsor pays directly.[29]

Service Providers to the AccuShares Trust and AccuShares Funds

The Trustee acts as the sole trustee of the AccuShares Trust under the Trust Agreement for the purpose of creating the AccuShares Trust as a Delaware statutory trust in accordance with the Delaware Statutory Trust Act. The Trustee has only nominal duties and liabilities under the Trust Agreement to the AccuShares Trust and the AccuShares Funds. The Trustee will have no duty or liability to supervise or monitor the performance of the Sponsor, nor will the Trustee have any liability for the acts or omissions of the Sponsor.

Wilmington Trust, N.A. also serves as the investment advisor (the ''Investment Advisor'') for each AccuShares Fund pursuant to the Non-Custody Investment Advisory Agreement by and among the AccuShares Trust, the Sponsor and the Investment Advisor (the ''Investment Advisory Agreement''). The Investment Advisor, which is chosen by the Sponsor, is responsible for investing each AccuShares Fund's available cash in bills, bonds and notes issued and guaranteed by the United States Treasury (''United States Treasury Securities'') with remaining maturities of 90 days or less (''Eligible Treasuries'') and over-night repurchase agreements collateralized by United States Treasury Securities (''Eligible Repos,'' together with cash and Eligible Treasuries, ''Eligible Assets''). As discussed, if the Underlying Benchmark is maintained by the Investment Advisor, it will erect a ''firewall'' around the personnel who have access to information concerning changes and adjustments to the Underlying Benchmark.

State Street Bank and Trust Company, a Massachusetts trust company (''State Street''), serves as the custodian (the ''Custodian'') for each AccuShares Fund pursuant to appointment by the AccuShares Trust and the terms of a domestic custodian agreement. The Custodian will hold each AccuShares Fund's securities and cash, and will perform each AccuShares Fund's Class Value and Class Value per Share calculations.

State Street serves as the administrator (the ''Administrator'') for each AccuShares Fund pursuant to appointment by the Sponsor and the terms of an administration agreement. The Administrator, among other things, performs or supervises the performance of services necessary for the operation and administration of the AccuShares Funds (other than making investment decisions or providing services provided by other service providers), including accounting and other fund administrative services.

State Street serves as the transfer agent (the ''Transfer Agent'') for each AccuShares Fund pursuant to appointment by the Sponsor and the terms of a transfer agency and services agreement to provide certain services to the AccuShares Funds. The Transfer Agent, among other things, provides transfer agent services with respect to the creation and redemption of Creation Units. The Transfer Agent will receive from Authorized Participants creation and redemption orders and deliver acceptances and rejections of such orders to Authorized Participants as well as coordinate the transmission of such orders and instructions among the Sponsor and the Authorized Participants.

The Underlying Benchmark of each AccuShares Fund, other than the AccuShares Spot CBOE VIX Fund (the ''VIX Fund''), is constructed, calculated and published by S&P® Dow Jones Indices LLC (the ''Index Provider'').[30] The CBOE Volatility Index® (the ''VIX''), which is the Underlying Benchmark of the VIX Fund, is constructed by the CBOE and calculated and published by the Index Provider. Both the Index Provider and the CBOE are unaffiliated with the AccuShares Trust and the Sponsor.[31] As discussed, to the extent that an Underlying Benchmark is maintained by a broker-dealer or investment advisor, such broker-dealer or investment advisor will erect a ''firewall'' around personnel who have access to information concerning changes and adjustments to the Underlying Benchmark.

The Sponsor receives the Management Fee and otherwise bears all the routine ordinary expenses of each AccuShares Fund, including the fees and reimbursable expenses of the Trustee, the Investment Advisor, the Custodian, the Administrator, the Transfer Agent and the Index Provider. The AccuShares Funds bear all their tax liabilities, which are accrued daily, and their extraordinary, non-recurring expenses that are not assumed by the Sponsor under the Trust Agreement.

Authorized Participants

Each Authorized Participant must be a registered broker-dealer or other securities market participant such as a bank or other financial institution which is not required to register as a broker-dealer to engage in securities transactions, and a direct participant in The Depository Trust Company. In addition, each Authorized Participant must be a party to an Authorized Participant Agreement with the Sponsor setting forth the procedures for the creation and redemption of Creation Units in an AccuShares Fund. Only Authorized Participants may place orders to create or redeem one or more Creation Units.

Registration Statement

The offer and sale of Paired Class Shares of each AccuShares Fund will be registered with the SEC by means of the AccuShares Trust's registration statement on Form S–1 (the ''Registration Statement'') under the Securities Act of 1933 (the ''Securities Act''). The Registration Statement was filed on March 18, 2014 and will be effective as of the date of such offer and sale.

[29] The Sponsor selects all service providers for the AccuShares Trust and each AccuShares Fund, including each AccuShares Fund's investment advisor.

[30] The Underlying Benchmarks for all AccuShares Funds other than the VIX Fund are: (1) The S&P GSCI Spot index; (2) the S&P GSCI Agricultural and Livestock Spot index; (3) the S&P GSCI Industrial Metals Spot index; (4) the S&P GSCI Crude Oil Spot index; (5) the S&P GSCI Brent Crude Oil Spot index; and (6) the S&P GSCI Natural Gas Spot index, and are collectively referred to herein as the ''S&P GSCI Commodity Indices.''

[31] Should, however, the Index Provider become affiliated with the AccuShares Trust and the Sponsor, an appropriate firewall will be warranted.

Description of the Underlying Benchmarks

The S&P GSCI Commodity Indices

Each S&P GSCI Commodity Index is constructed, calculated and published by the Index Provider. The S&P GSCI Spot index (the ''S&P GSCI''), which serves as the Underlying Benchmark for the AccuShares S&P GSCI Spot Fund, is an index on a production-weighted basket of currently 24 principal physical commodities that satisfy criteria established by the Index Provider. The commodities included in the S&P GSCI are weighted, on a production basis, to reflect the relative significance (in the view of the Index Provider) of those commodities to the world economy. The referenced commodities within the S&P GSCI Agricultural and Livestock Spot index (the ''S&P GSCI–AL'') and the S&P GSCI Industrial Metals Spot index (the ''S&P GSCI–IN'') each receive weightings that differ from the weightings they receive in the broader S&P GSCI.[32] The value of the S&P GSCI has been normalized (the ''Normalizing Constant'') such that its hypothetical level on January 2, 1970 was 100.

The S&P GSCI Crude Oil Spot index (the ''S&P GSCI–CL''), the S&P GSCI Brent Crude Oil Spot index (the ''S&P GSCI–BR'') and the S&P GSCI Natural Gas Spot index (the ''S&P GSCI–NG'') are single commodity sub-indices of the S&P GSCI.[33] The S&P GSCI–AL and the S&P GSCI–IN are sub-indices of the S&P GSCI that comprise related groups of commodities otherwise contained in the broader S&P GSCI. All of the S&P GSCI Commodity Indices are the spot versions of such indices as further discussed below.

Each S&P GSCI Commodity Index reflects only the daily settlement prices (''Daily Contract Reference Prices'') of commodities futures contracts that are the components of such index (''Designated Contracts'') on each business day. Each S&P GSCI Commodity Index is based on the daily settlement prices of first nearby contract, except during the five day ''Roll Period'' where the ''Roll Contract Expirations'' shift to the next nearby contract and where the weighting of the first nearby contract is decreased in favor of the next expiry contract 20 percent per day during the Roll Period. Immediately following the Roll Period, the next expiry contract is used for the index until the next following Roll Period. When shifting to a next nearby contract, contract quantities remain consistent and relative values between the nearby and next nearby contracts may vary.

The daily value of the S&P GSCI Commodity Indices, therefore, is calculated solely based on the commodity production weightings assigned by the Index Provider of each Designated Contract, and of the Daily Contract Reference Prices of the nearby contract expiration of each Designated Contract, and do not reflect any roll yield.

The quantity of each of the contracts included in the S&P GSCI Commodity Indices is determined on the basis of a five year average, referred to as the ''world production average,'' of the production quantity of the underlying commodity as published by the United Nations Statistical Yearbook, the Industrial Commodity Statistics Yearbook and other official sources. However, if a commodity is primarily a regional commodity, based on its production, use, pricing, transportation or other factors, the Index Provider may calculate the weight of that commodity based on regional, rather than world, production data. At present, natural gas is the only commodity the weights of which are calculated on the basis of regional production data, with the relevant region defined as North America.

For a complete and current description the eligibility criteria, weighting and calculation methodologies the Index Provider utilizes in selecting commodities and Designated Contracts and their weights for an S&P GSCI Commodity Index, see the S&P GSCI Handbook, which is available at: *www.spindices.com/documents/methodologies/methodology-sp-gsci.pdf*.

The VIX

The Underlying Benchmark of the VIX Fund is the VIX. The VIX is constructed by the CBOE and calculated and published by the Index Provider. The VIX seeks to serve as a measure of the expected volatility of the S&P 500® total return stock index (the ''S&P 500 Index''). It is an up-to-the-minute market estimate of expected volatility that is calculated by using real-time S&P 500 Index option (ticker SPX) bid/ask quotes. The SPX is the Reference Asset of the VIX. Each business day, the VIX uses SPX options with at least eight days left to expiration, and then weights them to yield a constant, 30-day measure of the expected volatility of the S&P 500 Index.

The VIX is based on real-time option prices, which reflect investors' consensus view of future expected stock market volatility. During periods of financial stress, which are often accompanied by steep market declines, SPX options prices—and the VIX—tend to rise. As expectations of large market moves subside, SPX option prices tend to decline, which in turn causes the VIX to decline.

The VIX is quoted in percentage points and translates, roughly, to the expected movement in the S&P 500 Index over the next 30-day period, which is then annualized. The VIX is based on the spot variation of its Reference Asset and as such does not incorporate the effects of closing out an expiring contract and establishing a position in the next available contact. Consequently, the VIX does not reflect any roll yield in option contract turnover and is properly viewed as a spot measure of 30-day expiry expected S&P 500 Index volatility measured through SPX price movements. For additional information regarding the VIX, see the CBOE's Web site at *www.cboe.com/VIX*.

Description of the AccuShares Funds

Shares Issued in Pairs as ''Up Shares'' and ''Down Shares''

The AccuShares Trust will issue Shares on behalf of an AccuShares Fund in offsetting pairs, where one constituent of the pair, the Up Shares, is positively linked to the AccuShares Fund's Underlying Benchmark and the other constituent, the Down Shares, is negatively linked to the AccuShares Fund's Underlying Benchmark. Therefore, the AccuShares Trust will only issue, distribute, maintain and redeem equal quantities of Up Shares and Down Shares on behalf of an AccuShares Fund at all times. The AccuShares Trust will create and redeem Paired Class Shares on behalf of an AccuShares Fund in Creation Units for cash only.[34]

Use of Proceeds

Cash proceeds from the creation of Paired Class Shares by an AccuShares Fund may only be held by an

[32] The S&P GSCI–AL is comprised of contracts referencing the following Reference Assets: Corn, Chicago Wheat, Soybeans, Live Cattle, Lean Hogs, Sugar, Cotton, Kansas Wheat, Coffee, Feeder Cattle and Cocoa. The S&P GSCI–IN is comprised of contracts referencing the following Reference Assets: LME Copper, Aluminum, Nickel, Zinc and Lead. The S&P GSCI is comprised of contracts referencing the Reference Assets of the S&P GSCI–AL and the S&P GSCI–IN, as well as West Texas Intermediate Crude Oil, Brent Crude Oil, Gas Oil, Heating Oil, RBOB Gasoline, Gold, Natural Gas and Silver.

[33] The S&P GSCI–CL, the S&P GSCI–BR and the S&P GSCI–NG are comprised of contracts referencing West Texas Intermediate Crude Oil, Brent Crude Oil and Natural Gas, respectively.

[34] Once created, an AccuShares Fund's Paired Class Shares will trade independently of each other on the Exchange.

AccuShares Fund in Eligible Assets that serve the functions of (1) covering the AccuShares Fund's fees, expenses and taxes not assumed by the Sponsor, (2) providing cash distributions to investors based on income (after expenses) from the financial instruments held by the AccuShares Fund (each a ''net income distribution''), (3) providing cash proceeds for regular and special distributions to be made in cash in lieu of Paired Class Shares, (4) providing cash proceeds to be paid upon the redemption of Paired Class Shares and (5) providing cash proceeds for any AccuShares Fund liquidation distribution. Each AccuShares Fund will invest its assets so as to preserve its capital while, at the same time, earning an investment return that is consistent with such preservation of capital.

AccuShares Fund Assets

Each AccuShares Fund will maintain its Eligible Assets in a separate custody account maintained by the AccuShares Fund's Custodian that will be segregated from the assets of any other series of the AccuShares Trust, the Custodian or any other customer of the Custodian. Any date on which there is cash on deposit in an AccuShares Fund's custody account that is not required to make payments or to make distributions to shareholders all such cash will be either held as cash or invested by the Investment Advisor, acting in accordance with the Investment Advisory Agreement and on behalf of the AccuShares Fund, in cash bank deposits, Eligible Treasuries or Eligible Repos.[35]

Each AccuShares Fund will invest its cash in Eligible Treasuries or Eligible Repos in order to generate income to pay its fees, expenses and taxes and to generate income to shareholders from cash on deposit in the AccuShares Fund that is not immediately needed for other purposes pending a later net income distribution. Each AccuShares Fund will hold a portion of its assets in Eligible Repos, because these agreements mature and convert to cash within one business day, which will make it possible for the AccuShares Fund to have sufficient cash available on each business day to be able to effect any redemptions of its Creation Units.

The Trust Agreement will limit, and the Investment Advisory Agreement will direct the Investment Advisor to limit, each AccuShares Fund's holdings of Eligible Repos.

Daily, except on a distribution date where such proceeds are needed to effect redemptions or net income distributions or to distribute cash for regular and special distributions, the Investment Advisor, on behalf of the AccuShares Fund, will reinvest the proceeds received upon the maturity of the AccuShares Fund's Eligible Treasuries and Eligible Repos in Eligible Assets. The Investment Advisor will also invest in Eligible Assets all of an AccuShares Fund's cash funds delivered to it in connection with each creation of the AccuShares Fund's Creation Units. On the liquidation of an AccuShares Fund, all of the proceeds of the Eligible Treasuries and Eligible Repos held by the AccuShares Fund will be used to make final cash liquidating payments, less the fees, expenses and taxes of the AccuShares Fund not assumed by the Sponsor, to the AccuShares Fund's shareholders. Upon any redemption of an AccuShares Fund's Creation Units by an Authorized Participant, the cash of the AccuShares Fund will be used to pay the proceeds of such redemption to the redeeming Authorized Participant.

The Investment Advisor will select Eligible Treasuries and Eligible Repos for acquisition by an AccuShares Fund in accordance with the acquisition guidelines that are contained in the Investment Advisory Agreement and the applicable AccuShares Fund prospectus.

Determination of Class Value and Class Value per Share

The Custodian will daily determine the Class Value of each class of an AccuShares Fund, which is based on the value of the AccuShares Fund's Eligible Assets attributable to such class, (a) plus any accrued income or gains or losses on such assets attributable to such class (''Investment Income''), (b) less all fees, expenses and taxes attributable to such class not otherwise assumed by the Sponsor, where such income and gains after deduction of such fees, expenses and taxes is referred to as the class ''Net Investment Income.'' Such accrued income, gains, losses, fees, expenses and taxes will be allocated to each Share class on a daily basis, where such allocation is equal to the amount of such accrued income, gains, losses, fees, expenses and taxes multiplied by a fraction the numerator of which is the closing Class Value per Share of the referenced class and the denominator of which is the sum of the closing Class Values per Share of both classes of the AccuShares Fund.

The Class Value per Share of each AccuShares Fund's Up Shares will have a fixed one-to-one positive linear relationship with such AccuShares Fund's Underlying Benchmark (the ''Up Share Index Factor'') and the Class Value per Share of each AccuShares Fund's Down Shares will have a fixed one-to-one inverse linear relationship with such AccuShares Fund's Underlying Benchmark (the ''Down Share Index Factor'' and together with the Up Share Index Factor, the ''Share Index Factors''). The Down Share Index Factor will equal negative one times the Up Share Index Factor. At the inception of operations of each AccuShares Fund, the Sponsor will establish such AccuShares Fund's Share Index Factors. After any regular or special distribution by an AccuShares Fund, the AccuShares Fund will reset its Share Index Factors. This resetting of the Share Index Factors causes Class Values per Share to be equal following each such distribution, where the Class Values per Share will be equal to the lowest Class Value per Share of either class calculated in determining the distribution.

During any single distribution measurement period that starts with the prior distribution date (the ''Measuring Period'') and in order to create a balanced market for the Up Shares and Down Shares of the VIX Fund, the Class Value per Share of each Up Share of the VIX Fund will be reduced and the Class Value per Share of each Down Share of the VIX Fund will be increased by an additional daily amount (the ''Daily Amount''). In each Measuring Period where the VIX has a level that is below a threshold specified in the VIX Fund's prospectus on the prior distribution date, the Daily Amount will be a fixed percentage per day [36] of the Class Value per Share on the prior distribution date. If the level of the VIX is above the threshold specified in the VIX Fund's prospectus, the Daily Amount will be zero. The Daily Amount is intended to reflect an attribute of the market for long

[35] Eligible Repos will (i) be entered into with a seller that is a bank with at least one billion U.S. dollars in assets or a registered securities dealer that is deemed creditworthy by the AccuShares Fund's investment advisor, (ii) terminate the business day following their execution, (iii) be denominated in U.S. dollars, and (iv) be ''collateralized fully,'' meaning that (A) the value of the assets collateralizing the Eligible Repo (less transaction costs, including loss of interest, that the AccuShares Fund reasonably could expect to incur if the seller were to default) is, and during the entire term of the Eligible Repo remains, at least equal to the resale price payable by the seller under the Eligible Repo, (B) such assets are held by a custodian bank for the benefit of the AccuShares Fund during the term of the Eligible Repo, and (C) such assets consist entirely of United States Treasury Securities.

[36] The fixed percentage will vary according to the level of the VIX on the prior distribution date. If the level of the VIX on such prior distribution date was 30 or lower, the Daily Amount will be 0.15% of the Class Value per Share on such prior distribution date. If the level of the VIX was greater than 30, the Daily Amount will be zero.

financial instruments seeking exposure to the expected volatility of the S&P 500 Index implicit to options contracts on the performance of the S&P 500 Index. As reflected in the historical performance of the VIX, the market for such long instruments deteriorates over both long and short term time frames as both S&P 500 Index volatility and the VIX tend to return to a mean level. Under these circumstances, a long position on the VIX will tend to decrease in value over time while a short position will tend to increase in value. Thus, the VIX Fund will devalue its Up Shares and increase the value of its Down Shares over a Measuring Period by the fixed amount of the Daily Amount where the VIX is within a range consistent with its long run mean level.

The AccuShares Funds' assets are not managed to track the performance of their respective Underlying Benchmarks, and the Shares of the AccuShares Funds will not rely on the investment acumen of a manager or the precision of the investment tools used by a manager for performance or for tracking the targeted Underlying Benchmark. Rather, the return on an AccuShares Fund's Shares with respect to its Underlying Benchmark will be algorithmic and delivered to AccuShares Fund investors experiencing an increase in their Shares' Class Value per Share by regular and special distributions and to AccuShares Fund investors experiencing a decrease in their Shares' Class Value per Share by the dilution of their Shares' Class Value per Share due to regular and special distributions received by the class of Shares opposing their Shares. The Class Values and Class Values per Share for each AccuShares Fund will be calculated as set forth to the applicable AccuShares Fund prospectus.

Class Value and Class Value Per Share

The Class Value of each class of an AccuShares Fund is the portion of that fund's net asset value, or liquidation value, that is attributable to that class. Class Values and Class Values per Share of each AccuShares Fund will be calculated by the fund's custodian at the end of each Regular Market Session.[37] The Class Value of each class of an AccuShares Fund will be calculated by determining the liquidation value attributable to such class, as described below.

In determining liquidation value, each AccuShares Fund will value all assets consistent with generally accepted industry practice for valuation of cash and cash equivalent securities. Cash balances and cash equivalent securities will be valued at purchase price plus accrued interest and longer dated U.S. Treasury securities will be valued at market prices.

The Class Value of a specific class of an AccuShares Fund is the fund's liquidation value, adjusted for the total Net Investment Income, multiplied by a fraction, the numerator of which is the closing Class Value per Share of the referenced class and the denominator of which is the sum of the closing Class Values per Share of both classes of the AccuShares Fund. The Class Value per Share of all outstanding Shares of a class of an AccuShares Fund is its Class Value divided by the number of outstanding Shares of such class.

The Class Value per Share of each AccuShares Fund's Up Shares will be increased or decreased, as applicable, by an amount equal to the change in the fund's Underlying Benchmark since the prior distribution date multiplied by the fund's Up Share Index Factor. The Class Value per Share of each AccuShares Fund's Down Shares will be increased or decreased, as applicable, by an amount equal to the change in the fund's Underlying Benchmark since the prior distribution date multiplied by the fund's Down Share Index Factor.

Arbitrage

Similar to other exchange traded products, the AccuShares Funds will rely on the Share creation and redemption process to reduce any premium or discount that may occur in an AccuShares Fund's Share trading prices on the Exchange relative to that Share's Class Value per Share. Shares in each AccuShares Fund may be created or redeemed only by certain Authorized Participants who have entered into Authorized Participant Agreements with the AccuShares Trust and the Sponsor. The creation/redemption process is important for each AccuShares Fund in providing Authorized Participants with an arbitrage mechanism through which they may keep Share trading prices in line with each Share's Class Value per Share.

As an AccuShares Fund's Shares trade intraday on the Exchange, their market prices will fluctuate due to supply and demand. The following scenarios generally describe the conditions surrounding a creation/redemption:

- If the aggregate market prices of the two classes of Shares of an AccuShares Fund exceed their aggregate Class Values per Share,[38] an Authorized Participant can purchase both classes of Shares through a cash payment as part of a Creation Unit from the AccuShares Fund, and then sell the new Shares on the market at a profit, taking into account the value and market price of both classes of Shares. This process of increasing the supply of Shares is expected to bring the market prices of the Shares back to their aggregate Class Values per Share.
- If the aggregate Class Values per Share of the two classes of Shares of an AccuShares Fund exceed their aggregate market prices,[39] an Authorized Participant can purchase Shares on the market in an amount equal to a Creation Unit and redeem them for cash at their Class Values per Share at a profit, taking into account the value and market price of both classes of Shares. This process of increasing the demand for Shares on the Exchange through decreasing supply is expected to raise the trading price of a Share to meet its Class Value per Share.
- If the aggregate Class Values per Share of the two classes of Shares of an AccuShares Fund are equal to their aggregate market prices, but the market price of one of the classes of Shares exceeds its Class Value per Share and the Class Value per Share of the opposing class of Shares exceeds its market price, the redemption and creation mechanism may not create an arbitrage opportunity to eliminate this disparity. An AccuShares Fund's corrective distribution mechanism is designed to resolve this discrepancy. As discussed above, a corrective distribution will leave each shareholder of an AccuShares Fund with an equal number of Up Shares and Down Shares. As each shareholder would own both Up Shares and Down Shares, each holder could redeem their Shares through an Authorized Participant for cash at their respective Class Values per Share, which would eliminate the premium or discount. Even if a corrective distribution is not triggered, the existence of an AccuShares Fund's corrective distribution feature is

[37] The Class Values and Class Values per Share of each AccuShares Fund will be made available to all market participants at the same time.

[38] This would include a scenario where both classes of an AccuShares Fund are trading at a premium to their respective Class Values per Share, as well as where one class of an AccuShares Fund is trading at a premium to its Class Value per Share while the other class trades at Class Value per Share or at a discount that is smaller than the other class' [sic] premium.

[39] This would include a scenario where both classes of an AccuShares Fund are trading at a discount to their respective Class Values per Share, as well as where one class of an AccuShares Fund is trading at a discount to its Class Value per Share while the other class trades at Class Value per Share or at a premium that is smaller than the other class' [sic] discount.

expected to modify investor and Authorized Participant behavior to prevent persistent and material premium and discount conditions for Paired Class Shares from becoming locked.

The processes examined in the first two scenarios above are referred to as the ''arbitrage mechanism.'' The arbitrage mechanism helps to minimize the difference between the trading price of a Share of an AccuShares Fund and its Class Value per Share. Over time, these buying and selling pressures should balance out, and a Share's market trading price is expected to remain at a level that is at or close to its Class Value per Share. The arbitrage mechanism provided by the creation and redemption process is designed, and required, in order to maintain the relationship between the market trading price of Shares and their Class Values per Share between distribution dates.

Distributions

Each AccuShares Fund is expected to engage in four types of distributions as of certain distribution dates. The first type of distribution, regular distributions, will occur at regular intervals for each AccuShares Fund. Regular distributions will generally occur as long as there has been a change in the level of the Underlying Benchmark (and, in the case of the VIX Fund, the Daily Amount) as of the distribution date since the prior distribution date. Secondly, each AccuShares Fund expects to make net income distributions on each regular or special distribution date to the shareholders of any class of such AccuShares Fund whose class Net Investment Income is positive as of such distribution date.

The other two types of distributions are not expected to occur regularly and are mechanisms intended to protect the interests of investors by providing them with the expected value of their Shares upon specified events. Thus, the third type, special distributions, occurs where the change in the Underlying Benchmark exceeds a specified percentage value since the prior distribution date but before the next regular distribution. The fourth type, corrective distributions, occur only if the trading price of a class' Shares on the Exchange deviates for a specified length of time over a specified threshold amount from the Class Value per Share of such class.

Regular Distributions

Each AccuShares Fund will engage in regular distributions on either a monthly or quarterly basis as set forth in the applicable AccuShares Fund prospectus.[40] After each regular distribution, the applicable AccuShares Fund will reset its Share Index Factors. An investor receiving distributions in cash can then choose to either do nothing or reinvest all or part of the distribution in the desired class of Shares to gain more economic exposure to the Underlying Benchmark.

An investor receiving distributions in pairs of Shares can (i) sell the Shares received for cash and maintain the proceeds in cash, (ii) sell only the opposing class of Shares received and maintain proceeds in cash or (iii) sell only the opposing class of Shares received and reinvest the proceeds in the desired class of Shares to gain more economic exposure to the Underlying Benchmark.

Special Distributions

Special distributions are a measure designed to protect the AccuShares Funds and the investors in the AccuShares Funds during periods when the AccuShares Fund's Underlying Benchmark experiences unexpected degrees of volatility. The AccuShares Funds will effect a special distribution and a resetting of the Share Index Factors between regular distribution dates where the change in the Underlying Benchmark exceeds a specified percentage value since the prior distribution date, as set forth in the applicable AccuShares Fund prospectus.[41] A reverse share split may also be executed in conjunction with any special distributions.

Value of Regular and Special Distributions

When the Class Values per Share of the Up Shares and the Down Shares of an AccuShares Fund differ at the close of a Measuring Period (after adjusting for any net income distribution for such Shares), the Share class with the higher Class Value per Share is expected to receive a regular or special distribution on that distribution date.

The value of a distribution relating to each of an AccuShares Fund's Up Shares (where such Shares are valued at their respective Class Values per Share) entitled to a distribution on a distribution date will be equal to the positive amount, if any, of the closing Class Value per Share of the AccuShares Fund's Up Shares (after adjusting for any net income distribution) less the closing Class Value per Share of the AccuShares Fund's Down Shares (after adjusting for any net income distribution).

The value of a distribution relating to each of an AccuShares Fund's Down Shares (where such Shares are valued at their respective Class Values per Share) entitled to a distribution on a distribution date will be equal to the positive amount, if any, of the closing Class Value per Share of the AccuShares Fund's Down Shares (after adjusting for any net income distribution) less the closing Class Value per Share of the AccuShares Fund's Up Shares (after adjusting for any net income distribution).

Regular and special distributions will ordinarily be made in the form of cash during the first six months of trading in an AccuShares Fund's Shares. Thereafter, each AccuShares Fund will pay all or any part of any regular or special distribution in Paired Class Shares instead of cash where further cash distributions would adversely affect the liquidity of the market for the AccuShares Fund's Shares[42] or impact the AccuShares Fund's ability to meet minimum asset size Exchange listing standards.[43] All payments made in Paired Class Shares shall be made in equal numbers of Up and Down Shares. To the extent a Share distribution would result in the distribution of fractional Shares, cash in an amount equal to the value of the fractional Shares will be distributed rather than fractional Shares.

Corrective Distributions

Corrective distributions will occur for the AccuShares Funds after the trading price of an AccuShares Fund's Shares deviates materially and persistently from Class Value per Share according to fixed thresholds as set forth in the applicable AccuShares Fund prospectus. Corrective distributions are

[40] The VIX Fund and the AccuShares S&P GSCI Natural Gas Spot Fund will engage in monthly regular distributions on the 15th day of each calendar month (or the next following business day if the scheduled regular distribution date is not a business day). Each of the other five AccuShares Funds will engage in quarterly regular distributions on March 15, June 15, September 15 and December 15 of each year (or the next following business day if the scheduled regular distribution date is not a business day).

[41] The percentage value for special distributions for each of the AccuShares Funds will be 75%.

[42] The AccuShares Fund would engage in distributions of Paired Class Shares in order to maintain a net asset value sufficient to meet the net asset value expectations of certain institutional shareholders that condition their investment in ETPs to only those ETPs having more than a minimum amount of net assets. Consequently, Paired Class Share distributions will have the effect of preserving an AccuShares Fund's net assets (aggregate Class Values) to attract and retain these institutional investors and thereby increase the liquidity of the market for an AccuShares Fund's Shares for the benefit all of an AccuShares Fund's shareholders.

[43] For the minimum asset size Exchange listing standards, *see* proposed Rule 5713(f)(ii)(A)(iii).

a formulaic process that continuously measures for any material deviation between the Class Value per Share of the Shares and the closing trading prices of the Shares as reported on the Exchange. After a specified period of time following an AccuShares Fund's inception, if the closing trading prices of the Shares of the AccuShares Fund deviate significantly from their Class Value per Share by a specified amount over a specified period of time, as set forth in the applicable AccuShares Fund prospectus, the AccuShares Fund will make a corrective distribution in addition to a regular distribution or special distribution on the next scheduled regular distribution date or special distribution date if previously triggered.[44] In a corrective distribution, each Share (including those to be distributed on the related regular or special distribution date) will be resolved into a risk neutral position comprised of an equal number of Up Shares and Down Shares. The corrective distribution will distribute (1) a number of Down Shares equal to the number of outstanding Up Shares to the Up Shares holders and (2) a number of Up Shares equal to the number of outstanding Down Shares to the Down Shares holders. Once the requirements for a corrective distribution are triggered, the corrective distribution will occur on the next available regular or special distribution date.

Net Income Distributions

Whenever an AccuShares Fund engages in a regular or special distribution, such AccuShares Fund will determine whether any of its classes has a positive Net Investment Income. Shareholders of any class that has a positive Net Investment Income will receive a net income distribution. Net income distributions may occur for any class regardless of whether such class receives a regular or special distribution on that date.

Share Splits

Reverse share splits will be declared to maintain a positive Class Value per Share for either the Up Shares or the Down Shares of an AccuShares Fund should the Class Value per Share of either class approach zero. Reverse share splits are expected to occur in the context of special distributions and are expected to be triggered after Class Value per Share declines below a specified dollar threshold as set forth in the applicable AccuShares Fund prospectus.[45] No other share splits are expected to occur, although the Sponsor will have the right to declare in its sole discretion a share split, either forward or reverse, pursuant to the Trust Agreement. In the event of a reverse share split, the Share Index Factors and the per Share calculations for Net Investment Income will be adjusted to reflect the split to maintain continuity in tracking the AccuShares Fund's Underlying Benchmark.

Notification

Each AccuShares Fund engaging in a regular distribution, a special distribution, a corrective distribution or a net income distribution will provide at least three business days' advance notice (or longer advance notice as may be required by the Exchange)[46] of such an event. Each AccuShares Fund engaging in a share split will provide at least ten calendar days' advance notice (or longer advance notice as may be required by the Exchange)[47] of such an event. In each instance, the Sponsor will notify the Exchange, and post a notice of such event and its details on the Sponsor's Web site (*www.AccuShares.com*).

With respect to regular distributions, the information provided will consist of the schedule of distributions and associated distribution dates, and a notification, as of the record date for such regular distribution, on the Sponsor's Web site (*www.AccuShares.com*) as to whether or not the regular distribution will occur. For regular distributions that occur on schedule, the Sponsor will cause a press release to be issued identifying the receiving class, the amount of cash, the amount of Paired Class Shares (if any), and any other information the Sponsor deems relevant regarding the distribution and post such information on the Sponsor's Web site. This information will also be contained in the AccuShares Fund's quarterly and annual reports on Forms 10–Q and 10–K and annual reports to shareholders.

With respect to special distributions, corrective distributions and share splits, the information provided will include the relevant ex-, record and payment dates for each such event and relevant data concerning each such event. These events will also be reported in press releases, on the Sponsor's Web site (*www.AccuShares.com*) and under current reports on Form 8–K as material events as well as the AccuShares Fund's periodic reports.

In addition, notice of net income distributions for each class of an AccuShares Fund, if any, will also be included in the notifications of regular, special and corrective distributions.

Information Available to the Public

Information about the AccuShares Trust, the AccuShares Funds and Shares will appear in the AccuShares Fund prospectuses as well as in periodic and current reports by the AccuShares Trust under the Exchange Act. Information about the AccuShares Trust, the AccuShares Funds and the Shares will also be available from the Web site *www.AccuShares.com.*

Intraday Indicative Value

For each AccuShares Fund, an estimated value, defined in proposed Rule 5713(f)(ii)(D) as the ''Intraday Indicative Value,'' will be disseminated. The Intraday Indicative Value, made available by a major market vendor, will be based upon the previous day's Class Value per Share, as adjusted throughout the day based on changes in the value of the AccuShares Fund's Underlying Benchmark or the value of an equivalent front futures contract price, and will be updated and widely disseminated and broadly displayed on at least a 15-second delayed basis during the Regular Market Session.[48] Premiums and discounts between a Share's Intraday Indicative Value and its Class Value per Share may occur. The Intraday Indicative Value should not be viewed as an actual real-time update of Class Value per Share because Class Value per

[44] The corrective distribution threshold for the VIX Fund will be a 10.0% deviation for three consecutive business days. The corrective distribution threshold for the AccuShares S&P GSCI Natural Gas Spot Fund will be a 7.5% deviation for three consecutive business days. The corrective distribution threshold for each of the other five AccuShares Funds will be a 5.0% deviation over three consecutive business days.

[45] The specified dollar threshold for each AccuShares Fund will be $4.00.

[46] The Exchange may determine that longer notice is advisable in some circumstances (e.g. an extended, or unexpected, market break).

[47] *Id.*

[48] The value of an equivalent futures contract price may be used for calculation of the IIV only (a) during such time that the value of the AccuShares Fund's Underlying Benchmark is unavailable, and (b) if the equivalent futures contract price is available and used in calculation of the Underlying Benchmark. Once the Underlying Benchmark becomes available again, the calculation of the AccuShares Fund's IIV promptly will resume based on the Underlying Benchmark. During such time that an equivalent futures contract price is utilized, the Sponsor will so note for the affected AccuShares Fund on its Web site at *www.AccuShares.com.* The substitution of equivalent futures contract price in lieu of the Underlying Benchmark value may be needed where the provider of the Underlying Benchmark is unable to use the Underlying Benchmark for calculation of the IIV due to unforeseen circumstances arising with the provider of the Underlying Benchmark or its service providers (e.g., technical or continuity issues). The Exchange, the Sponsor and the AccuShares Trust believe that a substitution of an equivalent futures contract price in lieu of an Underlying Benchmark value would rarely, if ever, occur.

Share is calculated only once at the end of each business day. The Intraday Indicative Value also should not be viewed as a precise value of the Shares. The dissemination of the Intraday Indicative Value will provide a close estimate of that value throughout the trading day.

Trading Halts and Trading Pauses

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of an AccuShares Fund. NASDAQ will halt or pause trading in an AccuShares Fund's Shares under the conditions specified in NASDAQ Rules 4120 and 4121, including the trading pauses under NASDAQ Rules 4120(a)(11) and (12). Trading may be halted for reasons that, in the view of the Exchange, make trading in the AccuShares Fund's Shares inadvisable.[49] Additionally, trading in an AccuShares Fund's Shares will be subject to proposed Rule 5713(f)(ii), which sets forth additional circumstances under which trading in Paired Class Shares may be halted.

If the intraday level of an AccuShares Fund's Underlying Benchmark or the Intraday Indicative Value is not being disseminated as required, the Exchange may halt trading during the day in which the disruption occurs; if the interruption persists past the day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. The Exchange will obtain a representation from the AccuShares Trust on behalf of each AccuShares Fund that the Class Value per Share of each of its Up Shares and Down Shares will be calculated daily and that these Class Values per Share and information about the assets of the AccuShares Fund will be made available to all market participants at the same time.

Availability of Information

The Sponsor's Web site (*www.AccuShares.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for each AccuShares Fund that may be downloaded. The Sponsor's Web site will include additional information updated on a daily basis, including, for each AccuShares Fund: (1) The prior business day's reported Class Values and Class Values per Share; and (2) notifications with respect to distributions and share splits.

Investors will also be able to obtain each AccuShares Fund's annual and quarterly reports (together, ''Reports''). Each AccuShares Fund's Reports will be available free upon request from the AccuShares Trust, and those documents may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information will also be available via NASDAQ proprietary quote and trade services, as well as in accordance with any UTP plans for an AccuShares Fund's Shares, if applicable. The value of each AccuShares Fund's Underlying Benchmark will be published by one or more major market data vendors on at least a 15-second delayed basis during the Regular Market Session. Information about each AccuShares Fund's Underlying Benchmark constituents, the weighting of the constituents, the Underlying Benchmark's methodology and the Underlying Benchmark's rules will be available at no charge on the Index Provider's Web site at us.spindices.com or, in the case of the VIX Fund, the CBOE's Web site at *www.cboe.com/VIX.*

Additional information regarding the AccuShares Funds and the Shares, including risks, creation and redemption procedures, fees, distributions and taxes, is included in the Registration Statement.

Trading Rules

The Exchange deems the Shares to be equity securities, which include, among other things, exchange traded funds and exchange traded notes, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of such securities. The Exchange will allow trading Paired Class Shares during all trading sessions.[50] As provided in Rule 4613(a)(2)(I), the minimum quotation increment for quotations of $1.00 and above in Paired Class Shares on the Exchange is $0.01.

Surveillance

The Exchange represents that trading in Paired Class Shares will be subject to the existing trading surveillances, administered by both the Exchange and the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[51] The Exchange represents that these procedures are adequate to properly monitor trading of Paired Class Shares and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Paired Class Shares and in the securities in which the AccuShares Fund will invest with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG'') or with which the Exchange has in place a comprehensive surveillance sharing agreement.[52] In addition, FINRA may obtain trading information regarding trading in the Shares and in the securities in which the AccuShares Fund will invest with such markets and other entities; and the Exchange may obtain information regarding trading in the Shares and in the securities in which the AccuShares Fund will invest from markets and other entities that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading Paired Class Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Paired Class Shares; (2) Rule 2111A, which imposes suitability obligations on Exchange members with respect to recommending transactions in Paired Class Shares to customers; (3)

[49] For instance, a trading halt may be instituted where unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

[50] *See* Commentary .02.

[51] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[52] For a list of the current members of ISG, *see www.isgportal.org.*

how information regarding the Underlying Benchmark and Intraday Indicative Value is disseminated; (4) the risks involved in trading Paired Class Shares during the Pre-Market and Post-Market sessions when an updated Underlying Benchmark and Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Paired Class Shares; (6) trading information; and (7) how information regarding distributions and share splits is disseminated and the requirements of public notification of these events.[53]

The Exchange believes that its proposal to establish a rule to enable listing Paired Class Shares is, as noted, substantively similar to the Arca rule to establish listing PTS. In approving Arca's PTS Rule 8.400, the Commission stated that ''. . .the Exchange's proposed rules and procedures for the listing and trading of the Paired Trust Shares are consistent with the Act. The Paired Trust Shares will trade as equity securities subject to the Exchange's existing rules governing the trading of equity securities.'' [54] Similarly, the Exchange's existing equity rules will be applicable to Paired Class Shares.

The Exchange believes that this proposal will allow investors to execute trading and hedging decisions using a new product, Paired Class Shares, which offers the ability to invest in securities tied to increases or decreases in the prices of securities, commodities or other financial assets on an unleveraged basis. Paired Class Shares accomplishes this result without the need to replicate the return profile using other financial assets and thus reduces or avoids typical portfolio costs and risks, such as portfolio transaction costs, country risk, counterparty risk and liquidity risk associated with the underlying investments. As such, the Exchange believes that Paired Class Shares will benefit market participants and the market in general.[55]

Moreover, we believe that the structure of Paired Class Shares in terms of paired Up Shares and Down Shares have characteristics that would provide unique benefits and opportunities to market participants.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [56] in general, and furthers the objectives of Section 6(b)(5) of the Act [57] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.[58]

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that, to be listed, each Fund [59] must meet newly-established initial listing standards per proposed Rule 5713 that include: (1) A minimum number of Paired Class Shares for each Fund required to be outstanding at the time of commencement of trading on NASDAQ, (2) a representation from the Trust issuing Paired Class Shares on behalf of each Fund that the underlying value per share of each Up Share and Down Share will be calculated daily and that these underlying values and information about the assets of the Fund will be made available to all market participants at the same time, and (3) an appropriate ''firewall'' if the Underlying Benchmark is maintained by a broker-dealer or investment advisor. Similarly, once listed, each Fund must meet continued listing standards.

The proposed rule change is also designed to promote just and equitable principles of trade and to protect investors and the public interest through its distribution provision. Once listed each Fund may engage in (1) scheduled regular distributions, (2) special distributions that are automatically triggered upon the Underlying Benchmark exceeding a fixed rate of change since the Fund's prior distribution date, and (3) corrective distributions that are automatically triggered when the trading price of a Paired Class Share deviates by a specified amount from its Class Value per Share for a specified period of time. These distributions provide investors with the expected value of their Paired Class Shares periodically as well as upon the occurrence of specified events, and are also expected to limit the frequency and magnitude of oscillations between fund trading price premiums and discounts to Class Value per Share.

Moreover, a large amount of information will be publicly available regarding the Funds and their Paired Class Shares, thereby promoting market transparency. The Intraday Indicative Value of each listed Up Share and Down Share of a Fund, and the intraday level of each Fund's Underlying Benchmark, will be widely disseminated by one or more major market data vendors, such as Reuters or Bloomberg, and broadly displayed on at least a 15-second delayed basis during the Regular Market Session. Information regarding market price and trading volume of each Fund's Up Shares and Down Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will also be available via NASDAQ proprietary quote and trade services, as well as in accordance with any UTP plans for a Fund's paired Class Shares, if applicable.

Trading in a Fund's Paired Class Shares will be halted or paused under the conditions specified in NASDAQ Rules 4120 and 4121, including the trading pauses under NASDAQ Rules 4120(a)(11) and (12). Trading may be halted for reasons that, in the view of the Exchange, make trading in the Paired Class Shares inadvisable, and trading in Paired Class Shares will be subject to proposed Rule 5713(f)(ii), which sets forth additional circumstances under which trading in Paired Class Shares may be halted. In addition, as noted above, investors will have ready access to information

[53] In addition, the Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

[54] In the PTS approval order, the Commission stated further that it ''. . .finds that proposed NYSE Arca Equities Rule 8.400(e) establishing certain restrictions on [members] acting as registered Market Makers in Paired Trust Shares is reasonably designed to address potential conflicts of interest in connection with [members] acting as registered Market Makers in Paired Trust Shares. The Commission believes that the listing and delisting criteria for the Paired Trust Shares should help to maintain a minimum level of liquidity and therefore minimize the potential for manipulation of the Paired Trust Shares.'' *See* Securities Exchange Act Release No. 55033 (December 29, 2006), 72 FR 1253 (January 10, 2007)(SR–NYSEArca–2006–75).

[55] As discussed, the uniqueness of Paired Class Shares in comparison to PTS lies in the periodic distributions, periodic Share Index Factor resets, and active market monitoring of Paired Class Shares. These unique factors allow Paired Class Shares to provide investors with: (i) A reduction of persistent or cumulative deviations in share trading price to actual index performance; (ii) improved correlations over the life of the securities between percentage changes in the index and percentage changes in the share price of the Fund shares; and (iii) significant reduction of the need to liquidate the issuer in response to large movements in its related index.

[56] 15 U.S.C. 78f(b).

[57] 15 U.S.C. 78f(b)(5).

[58] The proposal is likewise consistent with Section 11A(a)(1)(C)(iii) of the Act, 15 U.S.C. 78k-1(a)(1)(C)(iii), which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

[59] The Exchange notes that the Statutory Basis discussion applies equally to the AccuShares Funds and the AccuShares Trust.

regarding each Fund's Intraday Indicative Values and Underlying Benchmark, as well as quotation and last sale information for each Fund's Paired Class Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. In addition, as noted above, investors will have ready access to information regarding each Fund's Intraday Indicative Values and Underlying Benchmark, as well as quotation and last sale information for each Fund's Paired Class Shares.

For the above reasons, NASDAQ believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that no burden exists in that no other Exchange has a listing rule regarding this product. Paired Class Shares represent a significant improvement over a product that is no longer traded, PTS, because of the periodic distributions, periodic index resets, and active market monitoring of Paired Class Shares. These unique factors allow Paired Class Shares to provide investors with: (i) A reduction of persistent or cumulative deviations in share trading price to actual index performance; (ii) improved correlations over the life of the securities between percentage changes in the index and the percentage changes in the share price of the shares; and (iii) significant reduction of the need to liquidate the issuer in response to large movements in its related index, which represent significant benefits to traders and investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days after publication (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2014–065 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–NASDAQ–2014–065. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2014–065, and should be submitted on or before July 14, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[60]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–14540 Filed 6–20–14; 8:45 am]

BILLING CODE 8011–01–P

[60] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72406; File No. SR–BX–2014–033]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Exercise Limits

June 17, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 11, 2014, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to correct rule text related to an options rule at Chapter III, Section 9, pertaining to Exercise Limits.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend an error in rule text in Chapter III, Section 9 (Exercise Limits) that was inadvertently inserted into a recent rule change.[3] The Exchange recently amended rules pertaining to the trading of options overlying NASDAQ OMX PHLX LLC (''Phlx'') proprietary indexes and Phlx U.S. Dollar-Settled Foreign Currencies on BX.[4] Specifically, the Exchange amended the exercise rules at Section 9 of Chapter III to provide that, ''no Options Participant shall exercise, for any account in which it has an interest or for the account of any Customer, a long position in any options contract where such Options Participant or Customer, acting alone or in concert with others, directly or indirectly, has or will have . . . exceed the applicable *position* limit fixed from time-to-time by PHLX with respect to U.S. Dollar-Settled Foreign Currency Options.'' [5] The word ''position'' should have instead referred to ''exercise'' because the rule is applicable to exercise limits. The Exchange is proposing to correct this error in rule text to avoid confusion.

Additionally, the Exchange is proposing to amend the word ''exceed'' in two places in the rule to ''exceeded'' for consistency.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [6] in general, and furthers the objectives of Section 6(b)(5) of the Act [7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that correcting the error in the rule text will make the rule clear to Participants. The insertion of the word ''position'' was in error as the rule relates to exercise limits. The Exchange's proposal to amend the word to ''exercise'' will correct this error. Also, amending the words ''exceed'' to ''exceeded'' within the rule text will conform the wording in the rule for clarity.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change seeks to correct an error in rule text and make other clarifying changes to conform rule text to avoid confusion.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved. The Exchange has provided the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2014–033 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2014–033. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from

[3] *See* Securities Exchange Act Release No. 71977 (April 21, 2014), 79 FR 23023 (April 25, 2014) (SR–BX–2014–019).

[4] *Id.*

[5] *Id.*

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–BX–2014–033 and should be submitted on or before July 14, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–14536 Filed 6–20–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72408; File No. SR–MIAX–2014–28]

Self-Regulatory Organizations: Notice of Filing of a Proposed Rule Change by Miami International Securities Exchange LLC To Amend Rule 515

June 17, 2014.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 5, 2014, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 515.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing*, at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 515(c)(2) in order to provide that the liquidity refresh pause will be terminated early and normal trading will resume if during a liquidity refresh pause, the ABBO on the same side of the market as the initiating order crosses the original NBBO price on the opposite side of the market. The proposed change is designed to codify existing functionality during the liquidity refresh pause. The proposed change will allow the liquidity refresh pause to terminate and normal trading resume without delay, thus freeing up the initiating order and any same side joiners received during the timer, when the market has changed in a manner that renders the initiating order and same side joiners no longer marketable. Once normal trading resumes, the initiating order and any same side joiners held within the liquidity refresh pause would be free to compete for executions with the new revised same side ABBO at additional price points which may lead to additional execution opportunities.

The following examples describe how a new revised same side ABBO that crosses the original NBBO on the opposite side of the market will terminate the Liquidity Refresh Pause early.

EXAMPLE 1—SAME SIDE ABBO TERMINATES THE LIQUIDITY REFRESH PAUSE EARLY

Market	Bid	Ask
ABBO	1.00 (10)	1.14 (10)
PLMM	1.00 (10)	1.10 (10)
LMM 1	1.00 (10)	1.12 (10)
LMM 2	1.00 (10)	1.15 (10)
RMM 1	1.00 (10)	1.16 (10)

• Order 1: Buy limit of 1.13 for 20 contacts with a price protection instruction of 3 MPVs

• NBBO at time of arrival = 1.00 (50) × 1.10 (10)

• Order 1 is price protected at 1.13 (which is 1.10 + 3 MPV = 1.13)

○ Order 1 trades 10 contracts with PLMM @1.10

○ Liquidity Refresh Pause is triggered because the MBO of 1.10 was alone at NBBO and PLMM's 1.10 offer was exhausted

▪ MBBO 1.10 (10) × 1.12 (10)

▪ Liquidity Refresh message is broadcasted on the Exchange's data feeds: Buy 10 contracts, exhausted MBO of 1.10

○ ABB updates to 1.12 for 10 contracts; ABBO = 1.12 (10) × 1.14 (10)

○ Liquidity Refresh Pause is terminated early due to the ABB improving the original NBO of 1.10.

○ Order 1 trades 10 contracts with LMM1 @1.12. Order 1 has been fully executed.

○ New MBBO: 1.00 (40) × 1.15 (10). New NBBO: 1.12(10) × 1.15(10)

EXAMPLE 2—SAME SIDE ABBO TERMINATES THE LIQUIDITY REFRESH PAUSE EARLY

Market	Bid	Ask
ABBO	1.00 (10)	1.14 (10)
PLMM	1.00 (10)	1.10 (10)
LMM 1	1.00 (10)	1.12 (20)
LMM 2	1.00 (10)	1.15 (10)
RMM 1	1.00 (10)	1.16 (10)

• Order 1: Buy limit of 1.13 for 20 contacts with a price protection instruction of 3 MPVs

• NBBO at time of arrival = 1.00 (50) × 1.10 (10)

• Order 1 is price protected at 1.13 (which is 1.10 + 3 MPV = 1.13)

○ Order 1 trades 10 contracts with PLMM @1.10

○ Liquidity Refresh Pause is triggered because the MBO of 1.10 was alone at NBBO and PLMM's 1.10 offer was exhausted

▪ MBBO 1.10 (10) × 1.12 (20)

▪ Liquidity Refresh message is broadcasted on the Exchange's data feeds: Buy 10 contracts, exhausted MBO of 1.10[3]

○ ABB updates to 1.12 for 10 contracts; ABBO = 1.12 (10) × 1.14 (10)

○ Liquidity Refresh Pause is terminated early due to the ABB improving the original NBO of 1.10.

○ Order 1 trades 10 contracts with LMM1 @1.12. Order 1 has been fully executed.

○ LMM1's remaining 10 contracts would be managed and reposted as firm at 1.13. New MBBO: 1.00 (40) × 1.13 (10). New NBBO: 1.12(10) × 1.13(10)

As mentioned above, the proposed change is designed to codify existing functionality that terminates the liquidity refresh pause early if during a liquidity refresh pause, the ABBO on

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Note that the pricing information contained in the Liquidity Refresh message (Buy 10 contracts, exhausted MBO of 1.10) corresponds to the MBB (1.10 (10)).

the same side of the market as the initiating order crosses the original NBBO price on the opposite side of the market. The Exchange believes that this change will help facilitate transactions, remove impediments to and perfect the mechanism of a free and open market by freeing up interest in the liquidity refresh pause when conditions have changed that renders the initiating order and same side joiners no longer marketable to the benefit of market participants. The proposed change will also help eliminate potential confusion on behalf of market participants by clearly stating the System's functionality in this situation.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act [4] in general, and furthers the objectives of Section 6(b)(5) of the Act [5] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposal to end the liquidity refresh pause due to the ABBO on the same side of the market as the initiating order crosses the original NBBO price on the opposite side of the market is designed to facilitate transactions, to remove impediments to and perfect the mechanism of a free and open market by freeing up interest in the liquidity refresh pause when conditions have changed that renders the initiating order and same side joiners no longer marketable to the benefit of market participants. The proposal also promotes the protection of investors and the public interest by codifying existing functionality in a manner that should reduce confusion for Exchange members regarding the termination of a liquidity refresh pause.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes the proposed changes will not impose any burden on intra-market competition because it applies to all MIAX participants equally. In addition, the Exchange does not believe the proposal will impose any burden on inter-market competition as the proposal is intended to protect investors by providing further transparency regarding the Exchange's price protection functionality.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission shall: (a) By order approve or disapprove such proposed rule change, or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email *to rule-comments@sec.gov.* Please include File Number SR–MIAX–2014–28 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–MIAX–2014–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MIAX–2014–28 and should be submitted on or before July 14, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–14535 Filed 6–20–14; 8:45 am]

BILLING CODE 8011–01–P

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day Notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA) (44 U.S.C. Chapter 35), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

DATES: Submit comments on or before July 23, 2014.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of

Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov*.

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION: The purpose of this data collection is to monitor loan payment information on SBA loan portfolios arising from the Immediate Disaster Assistance Program. This exercise will involve monthly updates on the payments received by lenders from small businesses that have received funding through this guaranty program. The Agency looks to better manage the program's effectiveness by having lenders provide this form of periodic reporting to SBA.

Summary of Information Collections

(1) *Title:* Guaranteed Disaster Assistance Program—Payment Reporting.

Description of Respondents: IDAP Lender Participants.

Form Number: Data 1.

Estimated Annual Responses: 5,604.

Estimated Annual Hour Burden: 467.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2014–14502 Filed 6–20–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day Notice.

SUMMARY: The Small Business Administration (SBA) is publishing this notice to comply with requirements of the Paperwork Reduction Act (PRA) (44 U.S.C. Chapter 35), which requires agencies to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission. This notice also allows an additional 30 days for public comments.

DATES: Submit comments on or before July 23, 2014.

ADDRESSES: Comments should refer to the information collection by name and/or OMB Control Number and should be sent to: *Agency Clearance Officer,* Curtis Rich, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and *SBA Desk Officer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030 *curtis.rich@sba.gov*.

Copies: A copy of the Form OMB 83–1, supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

SUPPLEMENTARY INFORMATION: Small Business Administration requires this information by lenders and small business applicants for a loan under the Immediate Disaster Assistance Program (IDAP.) The information will be used among other things, to determine applicant's eligibility, perform lender oversight and portfolio risk management, evaluate program's effectiveness in reaching population, and general loan data reporting.

Summary of Information Collections

(1) *Title:* Immediate Disaster Assistance Loan Program Application and Eligibility Data.

Description of Respondents: IDAP Lender Participants.

Form Number's: 2410, 2411, 2412.

Estimated Annual Responses: 984.

Estimated Annual Hour Burden: 934.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2014–14501 Filed 6–20–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14030 and #14031]

Nebraska Disaster #NE–00060

AGENCY: U.S. Small Business Administration

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Nebraska (FEMA–4179–DR), dated 06/17/2014.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 05/11/2014 through 05/12/2014.

Effective Date: 06/17/2014.

Physical Loan Application Deadline Date: 08/18/2014.

Economic Injury (Eidl) Loan Application Deadline Date: 03/17/2015.

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 President's major disaster declaration on 06/17/2014, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications 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: Clay, Fillmore, Saline, Saunders, Seward, York.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14030B and for economic injury is 14031B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2014–14583 Filed 6–20–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13986 and #13987]

Florida Disaster Number FL–00101

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Florida (FEMA–4177–DR), dated 05/14/2014.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 04/28/2014 through 05/06/2014.

Effective Date: 06/13/2014.

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: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Florida, dated 05/14/2014, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Bay, Calhoun, Holmes, Washington, Jackson.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2014–14581 Filed 6–20–14; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes a revision of an OMB-approved information collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*

The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than August 22, 2014. Individuals can obtain copies of the collection instrument by writing to the above email address.

Electronic Records Express—20 CFR 404.1512 and 416.912—0960–0753

Electronic Records Express (ERE) is a web-based SSA program that allows medical and educational providers to electronically submit disability claimant data to SSA. Both medical providers and other third parties with connections to disability applicants or recipients (e.g., teachers and school administrators for child disability applicants) use this system once they complete the registration process. SSA employees and State agency employees request the medical and educational records collected through the ERE Web site. The agency uses the information collected through ERE to make a determination on an Application for Benefits. We also use the ERE Web site to order and receive consultative examinations when we are unable to collect enough medical records to determine disability findings. The respondents are medical providers who evaluate or treat disability claimants or recipients, and other third parties with connections to disability applicants or recipients (ex: Teachers and school administrators for child disability applicants), who voluntarily choose to use ERE for submitting information.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
ERE	4,508,968	1	10	751,495

Dated: June 18, 2014.

Faye Lipsky,

Reports Clearance Director, Social Security Administration.

[FR Doc. 2014–14559 Filed 6–20–14; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 8773]

60-Day Notice of Proposed Information Collection: Grant Request Automated Submission Program

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 *August 22, 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 8773'' in the Search bar. If necessary, use the Narrow by Agency filter option on the Results page.
- *Email: MillerKD2@state.gov.*
- *Mail:* Keith D. Miller, Office of Overseas Schools, U.S. Department of State, Room H–328, 2301 C Street NW., Washington, DC 20522–0132.
- *Fax:* 202–261–8224.
- *Hand Delivery or Courier:* Keith D. Miller, Office of Overseas Schools, U.S. Department of State, Room H–328, 2401 E Street NW., Washington, DC 20037.

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 Keith D. Miller, Office of Overseas Schools, U.S. Department of State, Room H–328, 2401 C Street NW., Washington, DC 20522–0132, who may be reached on 202–261–8200 or at *MillerKD2@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Overseas Schools Grant Request Automated Submissions Program (GRASP).
- *OMB Control Number:* 1405–0036.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Administration, A/OPR/OS.
- *Form Number:* DS–573, DS–574, DS–575, and DS–576.
- *Respondents:* Recipients of grants.
- *Estimated Number of Respondents:* 198.
- *Estimated Number of Responses:* 198.
- *Average Time per Response:* 90 minutes.
- *Total Estimated Burden Time:* 297 hours.
- *Frequency:* Annually.
- *Obligation to Respond:* Required to Obtain 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: In accordance with the Consolidated Overseas Schools Program as outlined in 2 FAM 610, the Office of Overseas Schools of the Department of State (A/OPR/OS) is responsible for determining that adequate educational opportunities exist at Foreign Service posts for dependents of U.S. Government personnel stationed abroad and for assisting American-sponsored overseas schools to demonstrate U.S. educational philosophy and practice. The information gathered enables A/OPR/OS to advise the Department and other foreign affairs agencies regarding current and constantly changing conditions, and enables A/OPR/OS to make judgments regarding assistance to schools for the improvement of educational opportunities.

Methodology: Information is collected via electronic media.

Dated: June 10, 2014.

William S. Amoroso,

Executive Director, Bureau of Administration, Department of State.

[FR Doc. 2014–14599 Filed 6–20–14; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 8774]

Culturally Significant Object Imported for Exhibition Determinations: ''The Horse''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the object to be included in the exhibition ''The Horse,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit object at the Natural History Museum of Utah, Salt Lake City, UT, from on or about July 21, 2014, until on or about January 4, 2015; Museum at Prairiefire, Overland Park, KS, from on or about September 5, 2015, until on or about January 10, 2016, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit object, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: June 16, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–14598 Filed 6–20–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8772]

In the Matter of the Designation of Shawki Ali Ahmed al-Badani, Also Known as Shawqi Ali Ahmad al-Ba'dani, Also Known as Shawqi al-Ba'dani, Also Known as Shawqi Ali Ahmad al-Baadani, Also Known as Shawqi Ali Ahmad Muhammad al Badani as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Shawki Ali Ahmed al-Badani, also known as Shawqi Ali Ahmad al-Ba'dani, also known as Shawqi al-Ba'dani, also known as Shawqi Ali Ahmad al-Baadani, also known as Shawqi Ali Ahmad Muhammad al-Badani, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: May 12, 2014.

John F. Kerry,

Secretary of State.

[FR Doc. 2014–14601 Filed 6–20–14; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending June 7, 2014

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2014–0095.

Date Filed: June 2, 2014.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: June 23, 2014.

Description: Application of Azul Linhas Aereas Brasileiras S.A. requesting an exemption and foreign air carrier permit authorizing it to engage in scheduled and charter foreign air transportation of persons, property and mail from any point or points behind Brazil, via Brazil and intermediate points, to any point or points in the United States and beyond, to the full extent permitted by the Air Transport Agreement between the Government of the United States of America and the Government of the Federative Republic of Brazil.

Barbara J. Hairston,

Supervisory Dockets Officer, Docket Operations, Federal Register Liaison.

[FR Doc. 2014–14605 Filed 6–20–14; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on the New York Gateway Connections Improvement Project to the U.S. Peace Bridge Plaza, Erie County, New York

AGENCY: Federal Highway Administration (FHWA), New York State Department of Transportation (NYSDOT), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA and Other Federal Agencies.

SUMMARY: This notice announces actions taken by the FHWA and other Federal agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to the New York Gateway Connections Improvement Project. Those actions grant approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before November 20, 2014. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Jonathan D. McDade, Division Administrator, Federal Highway Administration, Leo W. O'Brien Federal Building, Albany, New York 12207, Telephone (518) 431–4127.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA and other Federal agencies have taken final agency actions by issuing approvals for the following highway project in the State of New York: Gateway Connections Improvement Project, City of Buffalo, New York. The New York Gateway Connections Project will consist of the addition of a new ramp that provides direct access from the US Peace Bridge Plaza to northbound I–190, removal of Baird Drive from Front Park, and replacement of the Porter Avenue Bridge over I–190.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Federal Highway Administration (FHWA) Final Environmental Impact Statement (FEIS) for the project, approved by FHWA in the Record of Decision (ROD) issued on June 3, 2014, and in other documents in the FHWA administrative record. The FEIS, ROD, and other documents in the FHWA administrative record file are available by contacting the FHWA, or NYSDOT, at the addresses provided above. The FEIS and ROD can be viewed and downloaded from the project Web site at *http://www.dot.ny.gov/nygateway*.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. General: National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].
2. Air: Clean Air Act, 42 U.S.C. 7401–7671(q).
3. Land: Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers), 23 U.S.C. 319.
4. Wildlife: Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].
5. Historic and Cultural Resources: Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) et seq.]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].
6. Social and Economic: Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996].
7. Wetlands and Water Resources: Coastal Zone Management Act, 16 U.S.C. 1451–1465; Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601–4604; Safe Drinking Water Act (SDWA), 42 U.S.C. 300(f)–300(j)(6); 33 U.S.C. 401–406; Flood Disaster Protection Act, 42 U.S.C. 4001–4128.
8. Hazardous Materials: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601–9675; Superfund Amendments and Reauthorization Act of 1986 (SARA); Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901–6992(k).
9. Executive Orders: E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514

Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: June 11, 2014.

Jonathan D. McDade,

Division Administrator, Albany, NY.

[FR Doc. 2014–14212 Filed 6–20–14; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2014–0030]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated March 25, 2014, the Gulf & Ohio Railways, Inc. (G&O), on behalf of one of its companies, the Knoxville & Holston River Railroad (KXHR), petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 215, Railroad Freight Car Safety Standards. FRA assigned the petition Docket Number FRA–2014–0030.

G&O requests a waiver on behalf of KXHR from the stenciling requirement specified in 49 CFR 215.303, *Stenciling of restricted cars,* for nine freight cars. The nine cars' reporting marks, car numbers, type, capacity, condition, status, and year built are listed in a table contained in the petition letter.

KXHR operates over 22 miles of track in and around Knoxville, TN. Established in 1998, it normally handles in excess of 7,000 carloads annually. It also operates the Three Rivers Rambler excursion train, owned by a sister company, which travels to and from Knoxville over a 5.5-mile portion of the railroad along the Tennessee River. The excursion train, powered mostly by a steam locomotive, uses three passenger cars built about 80 years ago. Between the two companies, they own nine freight cars that are more than 50 years of age. These cars are being preserved because of their educational value, usefulness in creating an antique freight train that can be operated for photographs, and as a backdrop for the antique passenger train. The maximum operating speed of these cars will be 10 mph. These cars have been examined and are safe to operate under the conditions in this petition. In the case of cars that are not yet operable, they will be examined and not operated unless they are found to be safe under the conditions requested in this petition. These nine cars will not be interchanged with other railroads.

G&O states that these cars are a collection of antique equipment that is not intended for operation except (1) for repositioning when needed and (2) for photo freight trains, not to exceed three times per year, 20 miles per trip, except that Car KXHR 9 will operate as an open air passenger car on the Three Rivers Rambler excursion train at 10 mph.

In addition, G&O has requested a Special Approval for these nine cars to continue in service in accordance with 49 CFR 205.203(c).

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by August 7, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on June 17, 2014.

Ron Hynes,

Director, Office of Safety Assurance and Compliance.

[FR Doc. 2014–14525 Filed 6–20–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2014–0044]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 of the Code of Federal Regulations (CFR), this document provides the public notice that by a document dated May 5, 2014, Rouge Valley Terminal Railroad Corporation (RVTC) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 223, Safety Glazing Standards—Locomotives, Passenger Cars, and Cabooses. FRA assigned the petition Docket Number FRA–2014–0044.

RVTC petitioned for a waiver of compliance for one locomotive from the requirements of 49 CFR 223.11, *Requirements for existing locomotives,* which requires certified glazing in all locations. The subject locomotive is a leased EMD Model SW1 Locomotive built in 1949 and bearing the number WRIX 1001. This locomotive is operated over 9.5 miles of RVTC track and 2 miles of Central Oregon and Pacific Railroad track (for interchange of freight cars), all within the Medford Industrial Park in White City, OR. Speeds do not exceed 10 mph. It is equipped with glazing that meets an ASI rating of AS–1. This locomotive operates over the same trackage under glazing waiver FRA–2008–0106, issued to former operator White City Terminal and Utility Railway, for the last 5 years with no incidents of vandalism to the glazing or any other railroad property. This new waiver petition was necessitated by a

change in corporate ownership. RVTC also cites economic conditions in its request to continue use of the locomotive as presently equipped. A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave. SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by August 7, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on June 17, 2014.

Ron Hynes,

Director, Office of Safety Assurance and Compliance.

[FR Doc. 2014–14526 Filed 6–20–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Early Scoping Reopening Notification for the Alternatives Analysis of the GA 400 Transit Initiative in Fulton County, Georgia

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of reopening of early scoping and comment periods and announcement of additional scoping meetings.

SUMMARY: The Federal Transit Administration (FTA) and the Metropolitan Atlanta Rapid Transit Authority (MARTA) issue this early scoping notice to advise other agencies and the public that they intend to conduct another round of early scoping. The additional early scoping period will continue the examination of potential alternatives for providing high-capacity transit in the Georgia (GA) 400 corridor in north Fulton County, GA from Dunwoody to Alpharetta. The alternatives would improve transit linkages and coverage to communities within this corridor and would enhance mobility and accessibility to and within the corridor by providing a more robust transit network that offers an alternative to automobile travel. This notice invites the public and agency officials to provide input to the ongoing alternatives analysis and system planning effort by commenting on the project's purpose and need, the project study area, the alternatives being considered, the transportation problems that are being addressed by the alternatives analysis study, public participation and outreach methods, the relevant transportation and community impacts and benefits being considered, known environmental issues raised by public and agency coordination to date, and the projected capital and operating costs of this project.

The early scoping process is intended to support the alternatives analysis and a future National Environmental Policy Act (NEPA) scoping process and will help streamline the future development of an environmental impact statement (EIS), if warranted. In addition, the early scoping process supports FTA planning requirements associated with the New Starts (''Section 5309'') funding program for certain kinds of major capital investments. Although recent legislation has led to changes in the New Starts process, MARTA will comply with all relevant FTA requirements relating to planning and project development to help analyze and screen alternatives in preparation for the NEPA process.

The planned public meetings are described immediately below. A more detailed discussion of the project and this early scoping process is included in sections that follow.

DATES: Three early scoping meetings where the public and interested agencies can learn more about and comment on the scope of the alternatives analysis will be held on the following dates at the locations indicated under **ADDRESSES** below:

- Tuesday, July 8, 2014.
- Thursday, July 10, 2014.
- Thursday, July 17, 2014.

At the early scoping meetings, MARTA will provide information on the alternatives analysis progress along with opportunities for written comments. Written or electronic scoping comments are requested by August 8, 2014, and can be sent or emailed to the MARTA project manager at the address below. Comments may also be offered at the early scoping meetings and will be accepted after the deadline as practicable.

ADDRESSES: Written or electronic comments should be sent to Mark Eatman, P.E., Project Manager, MARTA, 2424 Piedmont Road NE., Atlanta GA 30324–3330 or by email to *connect400@itsmarta.com*. If submitting an electronic comment, please type ''*Connect 400 Early Scoping Comment for MARTA*'' in the subject line of the email. MARTA maintains a Facebook page for the Connect 400 project and will notify Facebook followers, in conjunction with publication of this notice, to submit comments to the aforementioned email address as well.

Early Scoping meetings will be held at the following locations:

- Tuesday, July 8, 2014, 6:30 to 8:00 p.m., at Johns Creek Environmental Campus, 8100 Holcomb Bridge Road, Roswell, GA 30022.
- Thursday, July 10, 2014, 6:30 to 8:00 p.m., at Georgia State University Alpharetta Center, 3775 Brookside Pkwy, Alpharetta, GA 30022.
- Thursday, July 17, 2014, 6:30 p.m.–8:00 p.m., Hampton Inn Atlanta—Perimeter Center, 769 Hammond Dr. NE., Atlanta, GA 30328.

The meeting locations are accessible to persons with disabilities. If translation, signing services, or other

special accommodations are needed, please contact the Project Manager, Mr. Mark Eatman at *mreatman@itsmarta.com* or 404–848–4494, or the Senior Transit System Project Planner, Ms. Janide Sidifall at *jsidifall@itsmarta.com* or 404–848–5828 at least one week before the scoping meetings.

FOR FURTHER INFORMATION CONTACT: Mr. Keith Melton, Community Planner, FTA Region IV, 230 Peachtree Street NW., Suite 800, Atlanta, GA 30303 or email: *keith.melton@dot.gov*.

SUPPLEMENTARY INFORMATION:

Early Scoping

Early scoping is an optional early step in the NEPA process that precedes NEPA scoping, which normally begins when the FTA and the grant applicant publish a notice of intent to prepare an EIS. FTA encourages the use of early scoping for major planning activities and studies that may receive other FTA funding as a way to start the NEPA process during earlier project planning phases. Early scoping is intended to generate public and agency review and comments on the scope of a planning effort within a defined transportation corridor, which helps the agency to determine which particular alignment variations, should receive more focused study and development to streamline the NEPA process. Early scoping can serve not only to streamline the NEPA process, but also to firmly link transportation planning and NEPA, making sure that the public and interested agencies are given the opportunity to review and provide comments on the results of planning activities and studies that can then be used to inform the NEPA process.

Early scoping for the GA 400 Transit Initiative was initially announced in 78 FR 53187, August 28, 2013, and is being conducted in support of NEPA requirements and in accordance with the Council on Environmental Quality's (CEQ) and FTA's regulations and guidance for implementing NEPA (40 CFR 1501.2 through 1501.8 and through 23 CFR 771.111), which encourage federal agencies to initiate NEPA early in their planning processes. Early scoping allows the scoping process to begin as soon as there is enough information to describe the proposal so that the public and relevant agencies can participate effectively. This is particularly useful in situations when a proposed action involves a broadly defined corridor with an array of transit investment alternatives. This notice reopens early scoping and invites public and agency involvement with the ongoing supplementary planning activities and studies for the GA 400 Transit Initiative, including review of the (a) purpose and need, (b) the proposed alternatives, and (c) the potential environmental, transportation, and community impacts and benefits to consider during the NEPA process.

The GA 400 Transit Initiative and the Regional Transit System

The GA 400 Corridor Alternatives Analysis (AA) was initiated by MARTA in late 2011 to identify potential and feasible transit modal alternatives in the GA 400 corridor to address travel demands. The GA 400 corridor is the transportation spine of northern Fulton County, one of the fastest growing sub-regions in the metro-Atlanta region. The GA 400 Corridor AA addressed the travel market in a study area generally extending north along GA 400 from I–285 in Dunwoody to the Fulton/Forsyth County line north of Alpharetta, a distance of approximately 15 miles. The corridor is home to many employment centers, including Perimeter Center in the southern portion of the corridor, one of the largest employment centers for the region. Transit service to and within the study area is provided primarily by MARTA heavy rail and bus. The Georgia Regional Transportation Authority (GRTA) also operates two bus routes that connect the southern portion of the GA 400 corridor with express bus service at peak hours to/from the north and southeast outside the GA 400 corridor. Rail service extends from Downtown Atlanta to the major retail and employment centers, including the Medical Center and Perimeter Center in Dunwoody and Sandy Springs in the southern portion of the corridor. MARTA bus service primarily functions as feeder service to MARTA heavy rail stations from areas to the north, including Roswell, Alpharetta and Milton. A number of the bus routes and the MARTA heavy rail stations serve park-and-ride facilities.

Purpose and Need for the Proposed Project

MARTA invites comments on the following preliminary statement of the project's purpose and need.

The purpose of the project is to provide reliable, convenient, efficient, and sustainable transit service in the GA 400 corridor by:

- Providing high capacity transit (bus and/or rail) through the GA 400 corridor study area;
- Improving transit linkages and coverage to communities within the study area; and
- Enhancing mobility and accessibility to and within the study area by providing a more robust transit network that offers an alternative to automobile travel.

The need for this project arises from the following:

- Travel demand—Increased travel demand and traffic congestion;
- Transit mobility—There is inadequate transit connectivity within the northern Fulton study area and between the study area and DeKalb, Gwinnett, and Cobb Counties and central Atlanta. In addition, east-west transit connectivity is inadequate. The limited routes across the Chattahoochee River reflect the inadequate transit connectivity;
- Transit travel times—Transit travel times are not competitive with auto travel times due to the lack of express service; this is true for north-south trips within the study area and for trips with origins and destinations outside the study area. Transit and auto travel times cannot be compared for east-west trips as there is no east-west transit service;
- Economic development—Traffic congestion caused by insufficient transportation system capacity affects both personal travel and goods movement, which constrains economic development opportunities; and
- Air quality—The continued growth of vehicular travel will negatively affect air quality in the study area and the region.

Potential Alternatives

MARTA has been exploring alternative transit mode, alignment, and design options for high capacity transit service in the GA 400 corridor using a three-step evaluation process. The three-step evaluation process includes a Fatal Flaw Analysis, Screen 1 and Screen 2 and is generally characterized by the application of an increasingly detailed and comprehensive set of performance measures to a decreasing number of alternatives. Each step in the evaluation process focuses the analysis on progressively fewer alternatives with higher levels of scrutiny. In addition, the Build Alternatives are compared not only to each other but also to the No-Build Alternative, which provides the benchmark for establishing the travel benefits, environmental impacts of the alternatives and the cost-effectiveness of the alternatives. The GA 400 Corridor Transit Initiative is currently in Screen 2. After consideration of the findings of the first and second steps in the evaluation process, MARTA has identified an alignment that would provide approximately 11.9 miles of transit service along the GA 400 corridor within existing right-of-way from the existing North Springs MARTA station

to Windward Parkway. This alignment is referred to as the GA 400–1A Build Alternative. Bus rapid transit (BRT), heavy rail transit (HRT), and light rail transit (LRT) are the three transit modes or technologies being considered for this corridor. The three modes each have the same general alignment, following GA 400 from North Springs MARTA station to Windward Parkway. The LRT and the BRT alternatives have six stations, from south to north: Northridge, Holcomb Bridge, Mansell Road, North Point Mall, Old Milton and Windward Parkway. The HRT alternative is similar, but it does not currently include a station at Old Milton. The outcome of Screen 2 will be the recommendation of the preferred alternative. MARTA may also consider other alternatives that arise during the early scoping comment period.

FTA Procedures

At the end of the alternatives analysis process, FTA and MARTA anticipate identifying a preferred mode and corridor for further evaluation during the NEPA process. The classification of the NEPA documentation will be determined by the FTA at the end of the alternatives analysis. If the preferred mode and alignment involve the potential for significant environmental impacts an EIS may be required. If an EIS is required, a Notice of Intent to Prepare an EIS will be published in the **Federal Register** by FTA and the public and interested agencies will have the opportunity to participate in a review and comment period on the scope of the EIS.

Dated: June 18, 2014.

Yvette G. Taylor,

Regional Administrator Federal Transit Administration, Region IV.

[FR Doc. 2014–14560 Filed 6–20–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Agency Information Collection Activities; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint notice and Request for Comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (the agencies) may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), have approved the publication for public comment of proposed revisions to the risk-weighted assets portion of Schedule RC–R, Regulatory Capital, and to line items related to securities lent and borrowed in Schedule RC–L, Derivatives and Off-Balance Sheet Items, in the Consolidated Reports of Condition and Income (Call Report or FFIEC 031 and FFIEC 041). The proposed revisions to the Call Report are consistent with the revised regulatory capital rules published by the agencies (revised regulatory capital rules).[1]

For all institutions required to file the Call Report, the proposed revised risk-weighted assets portion of Schedule RC–R and the proposed changes to Schedule RC–L would take effect as of the March 31, 2015, report date.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the FFIEC and the agencies should modify the proposed reporting revisions prior to giving final approval. The agencies will then submit the proposed reporting revisions to OMB for review and approval.

DATES: Comments must be submitted on or before August 22, 2014.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: Commenters are encouraged to submit comments by email. Please use the title ''FFIEC 031 and 041'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Email: regs.comments@occ.treas.gov.*
- *Mail:* Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''FFIEC 031 and 041'' in your comment. In general, OCC will enter all comments received into the docket and publish them on the Regulations.gov Web site without change, including any business or personal information that you provide such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Board: You may submit comments, which should refer to ''FFIEC 031 and FFIEC 041,'' by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at: *http://www.federalreserve.gov/apps/foia/proposedregs.aspx#icp.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include reporting form number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert DeV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's

[1] 78 FR 62018 (Oct. 11, 2013) (OCC and Board) and 78 FR 55340 (Sept. 10, 2013) (FDIC).

Martin Building (20th and C Streets NW.,) between 9:00 a.m. and 5:00 p.m. on weekdays.

FDIC: You may submit comments, which should refer to ''FFIEC 031 and FFIEC 041,'' by any of the following methods:

- *Agency Web site: http://www.fdic.gov/regulations/laws/federal/propose.html*. Follow the instructions for submitting comments on the FDIC Web site.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Email: comments@FDIC.gov*. Include ''FFIEC 031and FFIEC 041'' in the subject line of the message.
- *Mail:* Gary A. Kuiper, Counsel, Attn: Comments, Room NYA–5046, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html* including any personal information provided. Comments may be inspected at the FDIC Public Information Center, Room E–1002, 3501 Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 5 p.m. on business days.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW., Washington, DC 20503; by fax to (202) 395–6974; or by email to *oira_submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: For further information about the proposed revisions to the Call Report discussed in this notice, please contact any of the agency clearance officers whose names appear below. In addition, copies of the proposed revised FFIEC 031 and FFIEC 041 forms and instructions can be obtained at the FFIEC's Web site (*http://www.ffiec.gov/ffiec_report_forms.htm*).

OCC: Mary H. Gottlieb and Johnny Vilela, OCC Clearance Officers, (202) 649–5490, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

Board: Cynthia Ayouch, Federal Reserve Board Clearance Officer, (202) 452–3829, Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263–4869.

FDIC: Gary A. Kuiper, Counsel, (202) 898–3877, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The agencies are proposing to revise and extend for three years the Call Report, which is currently an approved collection of information for each agency.

Report Title: Consolidated Reports of Condition and Income (Call Report).

Form Number: Call Report: FFIEC 031 (for banks and savings associations with domestic and foreign offices) and FFIEC 041 (for banks and savings associations with domestic offices only).

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

OCC:

OMB Number: 1557–0081.

Estimated Number of Respondents: 1,675 national banks and federal savings associations.

Estimated Time per Response: 59.64 burden hours per quarter to file.

Estimated Total Annual Burden: 399,588 burden hours to file.

Board:

OMB Number: 7100–0036.

Estimated Number of Respondents: 846 state member banks.

Estimated Time per Response: 60.07 burden hours per quarter to file.

Estimated Total Annual Burden: 203,277 burden hours to file.

FDIC:

OMB Number: 3064–0052.

Estimated Number of Respondents: 4,237 insured state nonmember banks and state savings associations.

Estimated Time per Response: 44.74 burden hours per quarter to file.

Estimated Total Annual Burden: 758,254 burden hours to file.

The estimated time per response for the quarterly filings of the Call Report is an average that varies by agency because of differences in the composition of the institutions under each agency's supervision (e.g., size distribution of institutions, types of activities in which they are engaged, and existence of foreign offices). The average reporting burden for the filing of the Call Report as it is proposed to be revised is estimated to range from 20 to 775 hours per quarter, depending on an individual institution's circumstances.

General Description of Reports

The Call Report information collections are mandatory for the following institutions: 12 U.S.C. 161 (national banks), 12 U.S.C. 324 (state member banks), 12 U.S.C. 1817 (insured state nonmember banks), and 12 U.S.C. 1464 (savings associations) (collectively, Call Report filers). At present, except for selected data items, the Call Report information collections are not given confidential treatment.

Abstract

Institutions submit Call Report data to the agencies each quarter for the agencies' use in monitoring the condition, performance, and risk profile of individual institutions and the industry as a whole. Call Report data provide the most current statistical data available for evaluating institutions' corporate applications, identifying areas of focus for on-site and off-site examinations, and monetary and other public policy purposes. The agencies use Call Report data in evaluating interstate merger and acquisition applications to determine, as required by law, whether the resulting institution would control more than ten percent of the total amount of deposits of insured depository institutions in the United States. Call Report data also are used to calculate institutions' deposit insurance and Financing Corporation assessments and national banks' and federal savings associations' semiannual assessment fees.

Current Actions

I. Overview of the Proposed Changes

A. Summary of Proposed Changes

Call Report Schedule RC–R collects regulatory data on tier 1, tier 2, and total capital and regulatory capital ratios (regulatory capital components and ratios portion) and on risk-weighted assets (risk-weighted assets portion). On January 14, 2014, the agencies published a final PRA notice in the **Federal Register** pertaining to their submissions to OMB for review and approval of revised reporting requirements for the regulatory capital components and ratios portion of Call Report Schedule RC–R, consistent with the revised regulatory capital rules.[2]

[2] For report dates in 2014, the regulatory capital components and ratios portion of Schedule RC–R will be designated Parts I.A and I.B. Call Report filers that are not advanced approaches institutions will file Part I.A, which includes existing data items 1 through 33 of current Schedule RC–R. Call Report filers that are subject to the advanced approaches and to the revised regulatory capital rules effective January 1, 2014, will file Part I.B, which includes the revised reporting requirements consistent with the revised regulatory capital rules. In March 2015, Part I.A would be removed and Part I.B would be designated Part I; all Call Report filers would then

Continued

The agencies are proposing at this time to revise the reporting requirements for the risk-weighted assets portion of Call Report Schedule RC–R by incorporating the standardized approach, consistent with the revised regulatory capital rules.[3] Compared to the current schedule, the proposed risk-weighted assets portion of Schedule RC–R would provide a more detailed breakdown of on-balance sheet asset and off-balance sheet item categories, remove the ratings-based approach from the calculation of risk-weighted assets, reflect alternative risk-weighting approaches not reliant on credit ratings, and include an expanded number of risk-weight categories, consistent with the revised regulatory capital rules. The revisions to the risk-weighted assets portion of Schedule RC–R would take effect as of the March 31, 2015, report date. The proposed changes to Call Report Schedule RC–R are discussed in more detail in section II below.

The agencies are proposing changes to Schedule RC–R in two stages to allow interested parties to better understand the proposed revisions and focus their comments on areas of particular interest. Therefore, for report dates in 2014, all Call Report filers would continue to report risk-weighted assets in the portion of Schedule RC–R that currently contains existing data items 34 through 62 and Memoranda items 1 and 2, but this portion of the schedule would be designated Part II.

Call Report Schedule RC–L collects regulatory data on derivatives and off-balance sheet items. The agencies are proposing at this time to revise the reporting requirements for off-balance sheet exposures related to securities lent and borrowed, consistent with the revised regulatory capital rules. Compared to the current schedule, the proposed changes to Schedule RC–L would require all institutions to report the amount of securities borrowed. At present, institutions include the amount of securities borrowed in the total amount of all other off-balance sheet liabilities if the amount of securities borrowed is more than 10 percent of total bank equity capital and disclose the amount of securities borrowed if that amount is more than 25 percent of total bank equity capital. In addition, the proposed changes to Schedule RC–L would place the line item for securities borrowed immediately after the line item for securities lent.

B. Timing of Implementation of the Proposed Reporting Requirements

Call Report Filers

All Call Report filers, including all advanced approaches institutions that file Call Reports, would continue to report their risk-weighted assets by applying the general risk-based capital rules[4] and using the current template of Schedule RC–R, items 34 through 62 and Memoranda items 1 through 2, for report dates in 2014, and this portion of the schedule has been designated Part II. All institutions would begin using proposed revised Schedule RC–R, Part II, to report their risk-weighted assets under the standardized approach effective for the March 31, 2015, report date.

All Call Report filers would continue to report securities lent (item 6) and securities borrowed (items 9 and 9.a, as appropriate) in current Schedule RC–L for report dates in 2014. These institutions would begin to use the updated line items for securities lent and borrowed in Schedule RC–L effective for the March 31, 2015, report date.

Advanced Approaches Institutions

Reporting risk-weighted assets: As discussed above, an advanced approaches institution that is a Call Report filer, regardless of whether it is in a parallel run period or has completed a satisfactory parallel run, would complete the current version of the risk-weighted assets portion of Schedule RC–R (which has been designated Part II of the schedule) by applying the general risk-based capital rules for report dates in 2014 and it would complete the proposed revised version of Schedule RC–R, Part II, by applying the standardized approach for report dates beginning in 2015. In addition, an advanced approaches institution that is a Call Report filer and is in a parallel run period would report its risk-weighted assets (as calculated under the general risk-based capital rules for report dates in 2014 and under the standardized approach for report dates beginning in 2015) and its risk-based capital ratios on proposed revised FFIEC 101[5] Schedule A (line items 60 through 63), and on proposed Call Report Schedule RC–R, Part I.B (line item 40.a and line items 41 through 43, Column A). Furthermore, such an institution would apply the revised advanced approaches rules to report its risk-weighted assets and risk-based capital ratios on a confidential basis in proposed revised FFIEC 101 Schedule A (line items 87 through 90).

For report dates beginning in 2014, an advanced approaches banking organization that is a Call Report filer and has completed a satisfactory parallel run would report its advanced approaches risk-weighted assets and risk-based capital ratios on proposed revised FFIEC 101 Schedule A (line items 60 through 63) and on proposed revised Call Report Schedule RC–R, Part I.B (line item 40.b and line items 41 through 43, Column B). Part I.B would be designated Part I of Schedule RC–R for report dates beginning in 2015.

Initial Reporting

For the March 31, 2015, report date, institutions may provide reasonable estimates for any new or revised Call Report items initially required to be reported as of that date for which the requested information is not readily available. The specific wording of the captions for the new or revised Call Report data items discussed in this proposal and the numbering of these data items should be regarded as preliminary. Similarly, the text of the draft instructions for proposed revised Schedule RC–R, Part II, and the proposed revisions to Schedule RC–L for securities lent and borrowed should be regarded as preliminary.

II. Discussion of Proposed Revised Call Report Schedule RC–R, Part II

This section describes the proposed changes to Call Report Schedule RC–R

submit Part I. *See* 79 FR 2527 (Jan. 14, 2014) for the revised regulatory reporting requirements.

An advanced approaches institution as defined in section 100 of the agencies' revised regulatory capital rules (i) has consolidated total assets (excluding assets held by an insurance underwriting subsidiary) on its most recent year-end regulatory report equal to $250 billion or more; (ii) has consolidated total on-balance sheet foreign exposure on its most recent year-end regulatory report equal to $10 billion or more (excluding exposures held by an insurance underwriting subsidiary), as calculated in accordance with the FFIEC 009 Country Exposure Report; (iii) is a subsidiary of a depository institution that uses the advanced approaches pursuant to subpart E of 12 CFR part 3 (OCC), 12 CFR part 217 (Board), or 12 CFR part 325 (FDIC) to calculate its total risk-weighted assets; (iv) is a subsidiary of a bank holding company or savings and loan holding company that uses the advanced approaches pursuant to 12 CFR part 217 to calculate its total risk-weighted assets; or (v) elects to use the advanced approaches to calculate its total risk-weighted assets. See 78 FR 62204 (OCC and Board); 78 FR 55523 (FDIC).

[3] 78 FR 62018 (Oct. 11, 2013) (OCC and Board) and 78 FR 55340 (Sept. 10, 2013) (FDIC).

[4] The agencies' general risk-based capital rules are at 12 CFR part 3, appendix A (national banks); 12 CFR part 167 (federal savings associations); 12 CFR part 208, appendix A (state member banks); 12 CFR part 225, appendix A (bank holding companies); 12 CFR part 325, appendix A (state nonmember banks); and 12 CFR part 390, subpart Z (state savings associations).

[5] FFIEC 101, Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework, OMB Numbers: For the OCC: 1557–0239; for the Board: 7100–0319; and for the FDIC: 3064–0159. For the proposed revised FFIEC 101, *see* 79 FR 2527 (Jan. 14, 2014).

to implement the reporting of risk-weighted assets consistent with the revised regulatory capital rules. As previously discussed, effective for the March 31, 2015, report date, the existing risk-weighted assets portion of Schedule RC–R (items 34 through 62 and Memoranda items 1 and 2, which was designated Part II as of the March 31, 2014, report date) would be replaced by a revised Part II that would be completed by all institutions that file the Call Report. Call Report filers should refer to the revised regulatory capital rules and the proposed reporting instructions for revised Schedule RC–R, Part II, for further information.

Proposed revised Part II of Schedule RC–R would be divided into the following sections: (A) On-balance sheet asset categories; (B) derivatives and off-balance sheet items; (C) totals; and (D) memoranda items for derivatives. A brief description of each of these sections and the corresponding line items is provided below.

A. Schedule RC–R, Part II, Items 1–11: Balance Sheet Asset Categories and Securitization Exposures

Proposed line items 1 through 8 reflect on-balance sheet asset categories (excluding those assets within each category that meet the definition of a securitization exposure), similar to the asset categories included in the current version of Schedule RC–R, but the proposed items would capture greater reporting detail. The number of risk-weight categories to which the individual assets in each asset category would be allocated would be expanded consistent with the revised regulatory capital rules. On-balance sheet assets and off-balance sheet items that meet the definition of a securitization exposure would be reported in items 9 and10, respectively. In addition to the proposed instructions for revised Schedule RC–R, Part II, institutions also should refer to the revised regulatory capital rules to determine the appropriate risk-weight category allocations for each on-balance sheet asset category and the appropriate risk-weight calculations for securitization exposures.

Subject to the separate reporting of securitization exposures from the related on-balance sheet asset category, total on-balance sheet assets are equal to the sum of: (Item 1) cash and balances due from depository institutions; securities, excluding securitization exposures, which are composed of (item 2.a) held-to-maturity (HTM) securities and (item 2.b) available-for-sale (AFS) securities; (item 3) federal funds sold and securities purchased under agreements to resell; loans and leases held for sale, which are composed of (item 4.a) residential mortgage exposures, (item 4.b) high volatility commercial real estate (HVCRE) exposures, (item 4.c) exposures past due 90 days or more or on nonaccrual, and (item 4.d) all other exposures; loans and leases, net of unearned income, which are composed of (item 5.a) residential mortgage exposures, (item 5.b) HVCRE exposures, (item 5.c) exposures past due 90 days or more or on nonaccrual, and (item 5.d) all other exposures; less (item 6) allowance for loan and lease losses; (item 7) trading assets, excluding securitization exposures that receive standardized charges; (item 8) all other assets; and on-balance sheet securitization exposures, which are composed of (item 9.a) HTM securities, (item 9.b) AFS securities, (item 9.c) trading assets that receive standardized charges, and (item 9.d) all other on-balance sheet securitization exposures. As mentioned above, off-balance-sheet securitization exposures would be reported in item 10.

Line item 11 would collect total information on the institution's on-balance sheet asset categories and on-balance sheet securitization exposures, including for each risk-weight category, calculated as the sum of items 1 through 9.

B. Schedule RC–R, Part II, Items 12–21: Derivatives and Off-Balance Sheet Items

Proposed line items 12 through 21 pertain to the reporting of derivatives and off-balance sheet items, excluding those that meet the definition of a securitization exposure (which are reported in item 10 as discussed above). Consistent with the revised regulatory capital rules, new line items would be added and the number of risk-weight categories to which the credit equivalent amounts of derivatives and off-balance sheet items would be allocated would be expanded. In addition to the proposed instructions for revised Schedule RC–R, Part II, institutions also should refer to the revised regulatory capital rules to determine the appropriate risk-weight category allocations for each derivative and off-balance item sheet category.

Derivatives and off-balance sheet items consist of: (Item 12) financial standby letters of credit; (item 13) performance standby letters of credit and transaction-related contingent items; (item 14) commercial and similar letters of credit with an original maturity of one year or less; (item 15) retained recourse on small business obligations sold with recourse; (item 16) repo-style transactions (excluding reverse repos), which includes securities borrowed, securities lent, and securities sold under agreements to repurchase; (item 17) all other off-balance sheet liabilities; unused commitments, which is composed of (item 18.a) the unused portion of commitments with an original maturity of one year or less, excluding asset-backed commercial paper (ABCP) conduits, (item 18.b) the unused portion of eligible ABCP liquidity facilities with an original maturity of one year or less, and (item 18.c) the unused portion of commitments and commercial and similar letters of credit that have an original maturity exceeding one year; (item 19) unconditionally cancelable commitments; (item 20) the credit equivalent amount of over-the-counter derivative contracts; and (item 21) the credit equivalent amount of centrally cleared derivative contracts.

C. Schedule RC–R, Part II, Items 22–30: Totals

Proposed items 22 through 30 apply the risk-weight factors to the exposure amounts reported for assets, derivatives, and off-balance sheet items in items 11 through 21 and calculate an institution's total risk-weighted assets.

Line item 24 would collect information on an institution's risk-weighted assets by risk-weight category. For each column, this is equal to the product of the amount reported (item 22) for total assets, derivatives, and off-balance sheet items by risk-weight category, multiplied by (item 23) the applicable risk-weight factor.

Line item 25 would collect an institution's measurement of risk-weighted assets for purposes of calculating the institution's 1.25 percent of risk-weighted assets limit on the allowance for loan and lease losses.

Line item 26 would collect an institution's standardized market risk-weighted assets, if applicable.

Line item 30 would collect an institution's total risk-weighted assets, calculated as (item 27) risk-weighted assets before deductions for excess allowance of loan and lease losses and allocated transfer risk reserve less (item 28) excess allowance for loan and lease losses, and less (item 29) allocated transfer risk reserve.

D. Schedule RC–R, Part II, Memorandum Items 1–3: Derivatives

In proposed memorandum items 1 through 3, an institution would report the current credit exposure and notional principal amounts of its derivative contracts. Consistent with the revised regulatory capital rules, existing memorandum item 2 would be revised.

Memorandum item 1 would continue to collect the institution's total current credit exposure amount for all interest rate, foreign exchange rate, gold, credit, commodity, equity, and other derivative contracts covered by the revised regulatory capital rules after considering applicable legally enforceable bilateral netting agreements.

Memorandum items 2 and 3, respectively, would collect, by remaining maturity and type of contract, the notional principal amounts of the institution's over-the-counter and centrally cleared derivative contracts subject to the revised regulatory capital rules. Data on interest rate, foreign exchange rate and gold, credit (investment grade reference assets), credit (non-investment grade reference assets), equity, precious metals (except gold), and other derivative contracts would be reported separately. At present, institutions report these notional principal amounts and remaining maturities, but without distinguishing between over-the-counter and centrally cleared derivatives. In addition, foreign exchange rate contracts and gold contracts would be combined in Memorandum items 2 and 3, whereas each of these two types of contracts currently is reported separately in Memorandum item 2.

III. Discussion of Proposed Changes to Call Report Schedule RC–L

This section describes the proposed changes to Call Report Schedule RC–L to implement the reporting of securities lent and borrowed consistent with the revised regulatory capital rules. Effective for the March 31, 2015, report date, the existing line item for securities lent (current item 6 of Schedule RC–L) would be renumbered and the existing reporting requirements for securities borrowed (current items 9 and 9.a) would be revised as described below. Call Report filers should refer to the revised regulatory capital rules and the proposed reporting instructions for revised Schedule RC–L for further information.

In current Schedule RC–L, securities lent and borrowed are reported separately, not in sequential order. Furthermore, all institutions must report securities lent, but securities borrowed are reported and disclosed only if the amount exceeds specified thresholds. Securities borrowed are included in item 9, ''All other off-balance sheet liabilities,'' if the amount of securities borrowed is more than 10 percent of Schedule RC, item 27.a, ''Total bank equity capital.'' If the amount of securities borrowed is greater than 25 percent of total bank equity capital, then that amount is reported separately in item 9.a, ''Securities borrowed.''

Proposed line item 6.a would be used for reporting securities lent and item 6.b would be used for reporting securities borrowed. The total amount of securities borrowed would be reported in line item 6.b regardless of amount, *not* just when the amount is more than the 10 percent bank equity capital threshold, as is currently the case.

IV. Scope and Frequency of Reporting

The proposed regulatory reporting changes to the risk-weighted assets portion of Call Report Schedule RC–R and to the reporting of securities lent and borrowed in Schedule RC–L would apply to all Call Report filers for report dates beginning in 2015. Each reporting entity would continue to submit the applicable quarterly reports on the same due dates as are currently in effect for the reporting entity. In addition, the agencies expect all reporting entities to meet the existing reporting standards for accuracy and other requirements as currently mandated by their primary federal supervisor.

See section I.B of this notice for a detailed discussion of the timing for the implementation of the proposed reporting changes.

V. Request for Comment

Public comment is requested on all aspects of this joint notice. In particular, do institutions expect that making any specific line items on the proposed revised risk-weighted assets portion of Call Report Schedule RC–R public would cause them competitive or other harm? If so, identify the specific line items and describe in detail the nature of the harm.

Specifically, comments are invited on:

(a) Whether the collections of information that are the subject of this notice are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections as they are proposed to be revised, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections 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.

Comments submitted in response to this joint notice will be shared among the agencies and will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record.

Dated: June 16, 2014.

Stuart Feldstein,

Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, June 16, 2014.

Robert deV. Frierson,

Secretary of the Board.

Dated at Washington, DC, this 16 day of June, 2014.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2014–14549 Filed 6–20–14; 8:45 am]

BILLING CODE 4810–33–P;6210–01–P;6714–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8849

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 8849, Claim for Refund of Excise Taxes.

DATES: Written comments should be received on or before August 22, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Claim for Refund of Excise Taxes.

OMB Number: 1545–1420.

Form Number: 8849.

Abstract: IRC Sections 6402, 6404, 6511 and sections 301.6402–2, 301.6404–1, and 301.6404–3 of the regulations allow for refunds of taxes (except income taxes) or refund, abatement, or credit or interest, penalties, and additions to tax in the event of errors or certain actions by the IRS. Form 8849 is used by taxpayers to claim refunds of excise taxes.

Current Actions: Changes were made to Schedule 3 (Form 8849) as a result of the expiration of credits for biodiesel and renewable diesel, and alternative fuel and alternative fuel mixtures after 12/31/2013. These credits had previously expired at the end of 2011 and were extended retroactively in 2013. As a result of the expiration, Schedule 3 (Form 8849) is only used to claim the Alternative Fuel Credit, for Liquefied Hydrogen. Changes to Schedule 3 (Form 8849), will decrease the overall burden by 26,660 hours.

Type of Review: Revisions of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, and not-for-profit institutions, farms, and Federal, state, local or tribal governments.

Estimated Number of Responses: 111,147.

Estimated Time per Response: 8 hours, 31 minutes.

Estimated Total Annual Burden Hours: 946,827.

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: June 17, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–14609 Filed 6–20–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Pricing for the 50th Anniversary Kennedy Half-Dollar Silver Coin Collection and 50th Anniversary Kennedy Half-Dollar Uncirculated Coin Set

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing a price of $99.95 for the 50th Anniversary Kennedy Half-Dollar Silver Coin Collection and a price of $9.95 for the 50th Anniversary Kennedy Half-Dollar Uncirculated Coin Set.

FOR FURTHER INFORMATION CONTACT: Marc Landry, Acting Associate Director for Sales and Marketing; United States Mint; 801 9th Street NW., Washington, DC 20220; or call 202–354–7500.

Authority: 31 U.S.C. 5111, 5112 & 9701.

Dated: June 17, 2014.

Richard A. Peterson,

Deputy Director, United States Mint.

[FR Doc. 2014–14587 Filed 6–20–14; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Marine Geophysical Survey in the Atlantic Ocean off the Eastern Seaboard, August to September 2014 and April to August 2015; Notice

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD214

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Marine Geophysical Survey in the Atlantic Ocean off the Eastern Seaboard, August to September 2014 and April to August 2015

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

ACTION: Notice; proposed Incidental Harassment Authorization; request for comments.

SUMMARY: NMFS has received an application from the United States (U.S.) Geological Survey (USGS), Lamont-Doherty Earth Observatory of Columbia University (L–DEO), and National Science Foundation (NSF) for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment, incidental to conducting a marine geophysical (seismic) survey in the Atlantic Ocean off the Eastern Seaboard, August to September 2014 and April to August 2015. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an IHA to USGS to incidentally harass, by Level B harassment only, 34 species of marine mammals during the specified activity.

DATES: Comments and information must be received no later than July 23, 2014.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Supervisor, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *ITP.Goldstein@noaa.gov*. Please include 0648–XD214 in the subject line. Comments sent via email, including all attachments, must not exceed a 25-megabyte file size. NMFS is not responsible for email comments sent to addresses other than the one provided here.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications* 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.

An electronic copy of the application may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**) or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*. The following associated documents are also available at the same internet address: ''Draft Environmental Assessment for Seismic Reflection Scientific Research Surveys during 2014 and 2015 in Support of Mapping the U.S. Atlantic Seaboard Extended Continental Margin and Investigating Tsunami Hazards.'' Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

The USGS, which is funding the proposed seismic survey, included with its application a ''Draft Environmental Assessment for Seismic Reflection Scientific Research Surveys during 2014 and 2015 in Support of Mapping the U.S. Atlantic Seaboard Extended Continental Margin and Investigating Tsunami Hazards,'' prepared by RPS Evan-Hamilton, Inc. in association with YOLO Environmental, Inc., GeoSpatial Strategy Group, and Ecology and Environment, Inc., on behalf of USGS, which is also available at the same internet address. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Howard Goldstein or Jolie Harrison, Office of Protected Resources, NMFS, 301–427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*), directs the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for the incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On March 27, 2014, NMFS received an application from the USGS, L–DEO, and NSF (hereafter referred to as USGS) requesting that NMFS issue an IHA for the take, by Level B harassment only, of small numbers of marine mammals incidental to conducting a marine seismic survey within the Exclusive Economic Zone (EEZ) and on the high seas (i.e., International Waters) to map the U.S. Atlantic Eastern Seaboard Extended Continental Shelf (ECS) region and investigate tsunami hazards during August to September 2014 and April to August 2015. USGS plan to use one source vessel, the R/V *Marcus G. Langseth* (*Langseth*) and a seismic airgun array and a hydrophone streamer to collect seismic data as part of the proposed seismic survey in the Atlantic Ocean off the Eastern Seaboard. In addition to the proposed operation of the seismic airgun array and hydrophone streamer, USGS intends to operate a multi-beam echosounder and a sub-bottom profiler continuously during the seismic operations in order to map the ocean floor. The multi-beam echosounder and sub-bottom profiler would not be operated during transits at the beginning and end of the seismic survey. NMFS determined that the IHA application was adequate and complete on May 14, 2014.

Acoustic stimuli (i.e., increased underwater sound) generated during the operation of the seismic airgun array are likely to result in the take of marine mammals. Take, by Level B harassment only, of individuals of 34 species of marine mammals is anticipated to result

from the proposed specified activity. Take is not expected to result from the use of the multi-beam echosounder or sub-bottom profiler, for reasons discussed in this notice; nor is take expected to result from collision with the source vessel because it is a single vessel moving at a relatively slow speed (4.5 knots [kts]; 8.5 kilometers per hour [km/hr]; 5.3 miles per hour [mph]) during seismic acquisition within the survey, for a relatively short period of time (approximately two 17 to 18 day legs), and it is likely that any marine mammal would be able to avoid the vessel.

Description of the Proposed Specified Activity

Overview

USGS plans to conduct a marine seismic survey within the EEZ and on the high seas to map the U.S. Atlantic Eastern Seaboard ECS region and investigate tsunami hazards during August to September 2014 and April to August 2015. USGS proposes to use one source vessel, the *Langseth,* and a 36-airgun array and one 8 kilometer (km) (4.3 nautical mile [nmi]) hydrophone streamer to conduct the conventional seismic survey. In addition to the operations of airguns, the USGS intends to operate a multi-beam echosounder and a sub-bottom profiler on the *Langseth* during the proposed seismic survey to map the ocean floor.

Dates and Duration

The *Langseth* would depart from Newark, New Jersey on August 15, 2014. The seismic survey is expected to take approximately 16 days to complete. Approximately one day transit would be required at the beginning and end of the program. When the 2014 survey is completed, the *Langseth* would then transit to Norfolk, Virginia. The survey schedule is inclusive of weather and other contingency (e.g., equipment failure) time. The proposed activities for 2015 would be virtually identical to the proposed activities for 2014 as geographic area, duration, and trackline coverage are similar. The exact dates for the proposed activities in 2015 are uncertain, but are scheduled to occur within the April to August timeframe. The exact dates of the proposed activities depend on logistics and weather conditions.

Specified Geographic Region

The proposed survey would be bounded by the following geographic coordinates:

40.5694° North, –66.5324° West;
38.5808° North, –61.7105° West;
29.2456° North, –72.6766° West;
33.1752° North, –75.8697° West;
39.1583° North, –72.8697° West;

The proposed activities for 2014 would generally occur towards the periphery of the proposed study area (see Figures 1 and 2 of the IHA application). The proposed activities for 2015 would survey more of the central portions of the study area. The tracklines proposed for both 2014 and 2015 would be in International Waters (approximately 80% in 2014 and 90% in 2015) and in the U.S. EEZ. Water depths range from approximately 1,450 to 5,400 meters (m) (4,593.2 to 17,716.5 feet [ft]) (see Figure 1 and 2 of the IHA application); no survey lines would extend to water depths less than 1,000 m.

Detailed Description of the Proposed Specified Activity

USGS, Coastal and Marine Geology Program, (Primary Investigator [PI], Dr. Deborah Hutchinson) proposes to conduct a regional high-energy, two-dimensional (2D) seismic survey in the northwest Atlantic Ocean within the U.S. EEZ and extending into International Waters as far as 648.2 km (350 nmi) from the U.S. coast (see Figure 1 of the IHA application). Water depths in the survey area range from approximately 1,400 to greater than 5,400 meters (m) (4,593.2 to 17,716.5 feet [ft]). The proposed seismic survey would be scheduled to occur in two phases; the first phase during August to September 2014 (for approximately 17 to 18 days), and the second phase between April and August 2015 (for approximately 17 to 18 days, specific dates to be determined). The proposed activities for both Phase 1 and Phase 2 are included in this IHA application (see Figure 2 of the IHA application). Some minor deviation from these dates is possible, depending on logistics and weather.

USGS proposes to use conventional seismic methodology to: (1) Identify the outer limits of the U.S. continental shelf, also referred to as the ECS as defined by Article 76 of the Convention of the Law of the Sea; and (2) study the sudden mass transport of sediments down the continental shelf as submarine landslides that may pose significant tsunamigenic (i.e., tsunami-related) hazards to the Atlantic and Caribbean coastal communities.

The proposed survey would involve one source vessel, the *Langseth*. The *Langseth* would deploy an array of 36 airguns as an energy source with a total volume of approximately 6,600 in^3. The receiving system would consist of one 8,000 m (26,246.7 ft) hydrophone streamer. As the airgun array is towed along the survey lines, the hydrophone streamer would receive the returning acoustic signals from the towed airgun array and transfer the data to the on-board processing system. The data would be processed on-board the *Langseth* as the survey occurs.

Each proposed leg of the survey (2014 and 2015) would be 17 to 18 days in duration (exclusive of transit and equipment deployment and recovery) and would comprise of approximately 3,165 km (1,709 nmi) of tracklines of 2D seismic reflection coverage. The airgun array would operate continuously during the proposed survey (except for equipment testing, repairs, implemented mitigation measures, etc.). Data would continue to be acquired between line changes, as the successive track segments can be surveyed as almost one continuous line. Line turns of 90 and no greater than 120 degrees would be required to move from one line segment to the next. The 2014 proposed survey design consists primarily of the tracklines that run along the periphery of the overall study area, including several internal tracklines (see Figure 2 of the IHA application). The 2015 proposed survey design consists of additional dip and tie lines (i.e., dip lines are lines that are perpendicular to the north-south trend of the continental margin; strike lines are parallel to the margin; and tie lines are any line that connects other lines). The 2015 proposed survey design may be modified based on the 2014 results.

In addition to the operations of the airgun array, a Kongsberg EM 122 multi-beam echosounder and a Knudsen Model 3260 Chirp sub-bottom profiler would also be operated from the *Langseth* continuously during airgun operations throughout the survey to map the ocean floor. The multi-beam and sub-bottom profiler would not operate during transits at the beginning and end of the survey. All planned geophysical data acquisition activities would be conducted by USGS with on-board assistance by the scientists who have proposed the study. The vessel would be self-contained, and the crew would live aboard the vessel for the entire cruise.

Vessel Specifications

The *Langseth,* a seismic research vessel owned by the National Science Foundation (NSF) and operated by the Lamont-Doherty Earth Observatory of Columbia University (L–DEO), would tow the 36 airgun array, as well as the hydrophone streamer(s), along predetermined lines (see Figure 2 of the IHA application). When the *Langseth* is

towing the airgun array and the hydrophone streamer(s), the turning rate of the vessel is limited to three degrees per minute (2.5 km [1.5 mi]). Thus, the maneuverability of the vessel is limited during operations with the streamer. The vessel would ''fly'' the appropriate U.S. Coast Guard-approved day shapes (mast head signals used to communicate with other vessels) and display the appropriate lighting to designate the vessel has limited maneuverability.

The vessel has a length of 71.5 m (235 ft); a beam of 17.0 m (56 ft); a maximum draft of 5.9 m (19 ft); and a gross tonnage of 3,834. The *Langseth* was designed as a seismic research vessel with a propulsion system designed to be as quiet as possible to avoid interference with the seismic signals emanating from the airgun array. The ship is powered by two 3,550 horsepower (hp) Bergen BRG–6 diesel engines which drive two propellers directly. Each propeller has four blades and the shaft typically rotates at 750 revolutions per minute. The vessel also has an 800 hp bowthruster, which is not used during seismic acquisition. The *Langseth's* operation speed during seismic data acquisition is typically 7.4 to 9.3 km per hour (hr) (km/hr) (4 to 5 knots [kts]). When not towing seismic survey gear, the *Langseth* typically cruises at 18.5 to 24 km/hr (10 to 12 kts). The *Langseth* has a range of 25,000 km (13,499 nmi) (the distance the vessel can travel without refueling).

The vessel also has an observation tower from which Protected Species Visual Observers (PSVO) would watch for marine mammals before and during the proposed airgun operations. When stationed on the observation platform, the PSVO's eye level would be approximately 21.5 m (71 ft) above sea level providing the PSVO an unobstructed view around the entire vessel. More details of the *Langseth* can be found in the IHA application and the ''Final Programmatic Environmental Impact Statement/Overseas Environmental Impact Statement for Marine Seismic Research funded by the National Science Foundation or Conducted by the U.S. Geological Survey'' (2011) and the Record of Decision (2012) (NSF/USGS PEIS).

Acoustic Source Specifications

Seismic Airguns

The *Langseth* would deploy a 36-airgun array, consisting of two 18 airgun (plus 2 spares) sub-arrays. Each sub-array would have a volume of approximately 3,300 cubic inches (in^3) for a total volume of 6,600 in^3 for the 36-airgun array. The airgun array would consist of a mixture of Bolt 1500LL and Bolt 1900LLX airguns ranging in size from 40 to 360 in^3, with a firing pressure of 1,900 pounds per square inch (psi). The 18 airgun sub-arrays would be configured as two identical linear arrays or ''strings'' (see Figure 2.11 of the NSF/USGS PEIS). Each string would have 10 airguns, with the first and last airguns in the strings spaced 16 m (52.5 ft) apart. Of the 10 airguns, nine airguns in each string would be fired simultaneously (1,650 in^3), whereas the tenth would be kept in reserve as a spare, to be turned on in case of failure of another airgun. The sub-arrays would be fired simultaneously during the survey. The two airgun sub-arrays would be distributed across an area of approximately 12 x 16 m (40 x 52.5 ft) behind the *Langseth* and would be towed approximately 140 m (459.3 ft) behind the vessel. Discharge intervals depend on both the ship's speed. The shot interval would be 50 m (164 ft) during the study. The shot interval would be approximately 20 to 24 seconds (s) based on an assumed boat speed of 4.5 knots. During firing, a brief (approximately 0.1 s) pulse sound is emitted; the airguns would be silent during the intervening periods. The dominant frequency components range from 2 to 188 Hertz (Hz). The firing pressure of the airgun array is 2,000 pounds per square inch (psi).

The tow depth of the airgun array would be 9 m (29.5 ft) during the surveys. Because the actual source is a distributed sound source (36 airguns) rather than a single point source, the highest sound measurable at any location in the water would be less than the nominal source level. In addition, the effective source level for sound propagating in near-horizontal directions would be substantially lower than the nominal omni-directional source level applicable to downward propagation because of the directional nature of the sound from the airgun array (i.e., sound is directed downward).

Hydrophone Streamer

Acoustic signals would be recorded using a system array of one hydrophone streamer, which would be towed behind the *Langseth.* The streamer is Thompson-Marconi SENTRY solid cable construction and is approximately 8 km long. Cable-leveling birds would be used to keep the streamer cable and hydrophone at a constant depth. Cable-leveling birds would be spaced every 300 m (984.3 ft) with extra redundancy at the head and tail sections.

Metrics Used in This Document

This section includes a brief explanation of the sound measurements frequently used in the discussions of acoustic effects in this document. Sound pressure is the sound force per unit area, and is usually measured in micropascals (μPa), where 1 pascal (Pa) is the pressure resulting from a force of one newton exerted over an area of one square meter. Sound pressure level (SPL) is expressed as the ratio of a measured sound pressure and a reference level. The commonly used reference pressure level in underwater acoustics is 1 μPa, and the units for SPLs are dB re 1 μPa. SPL (in decibels [dB]) = 20 log (pressure/reference pressure).

SPL is an instantaneous measurement and can be expressed as the peak, the peak-to-peak (p-p), or the root mean square (rms). Root mean square (rms), which is the square root of the arithmetic average of the squared instantaneous pressure values, is typically used in discussions of the effects of sounds on vertebrates and all references to SPL in this document refer to the root mean square unless otherwise noted.

Characteristics of the Airgun Pulses

Airguns function by venting high-pressure air into the water, which creates an air bubble. The pressure signature of an individual airgun consists of a sharp rise and then fall in pressure, followed by several positive and negative pressure excursions caused by the oscillation of the resulting air bubble. The oscillation of the air bubble transmits sounds downward through the seafloor and the amount of sound transmitted in the near horizontal directions is reduced. However, the airgun array also emits sounds that travel horizontally toward non-target areas.

The nominal source levels of the airgun arrays used by L–DEO on the *Langseth* are 236 to 265 dB re 1 μPa (p-p) and the rms value for a given airgun pulse is typically 16 dB re 1 μPa lower than the peak-to-peak value (Greene, 1997; McCauley *et al.,* 1998, 2000a). However, the difference between rms and peak or peak-to-peak values for a given pulse depends on the frequency content and duration of the pulse, among other factors.

Accordingly, L–DEO has predicted the received sound levels in relation to distance and direction from the 36 airgun array and the single Bolt 1900LL 40 in^3 airgun, which would be used during power-downs. A detailed description of L–DEO modeling for this

survey's marine seismic source arrays for protected species mitigation is provided in the NSF/USGS PEIS (see Appendix H). NMFS refers the reviewers to the IHA application and NSF/USGS PEIS documents for additional information.

Predicted Sound Levels for the Airguns

Tolstoy *et al.* (2009) and Diebold *et al.* (2010) reported results for propagation measurements of pulses from the *Langseth's* 36 airgun, 6,600 in^3 array in shallow water (approximately 50 m [164 ft]), intermediate water (a slope site), and deep water depths (approximately 1,600 m [5,249 ft]) in the Gulf of Mexico in 2007 and 2008. Results of the Gulf of Mexico calibration study (Tolstoy *et al.,* 2009; Diebold *et al.,* 2010) showed that radii around the airguns for various received levels varied with water depth and that sound propagation varied with array tow depth.

The L–DEO used the results from the Gulf of Mexico study to determine the algorithm for its model that calculates the mitigation exclusion zones for the 36-airgun array and the single airgun. L–DEO has used these calculated values to determine buffer (i.e., 160 dB) and exclusion zones for the 36 airgun array and previously modeled measurements by L–DEO for the single airgun, to designate exclusion zones for purposes of mitigation, and to estimate take for marine mammals in the northwest Atlantic Ocean. A detailed description of the modeling effort is provided in the NSF/USGS PEIS.

Comparison of the Tolstoy *et al.* (2009) calibration study with the L–DEO's model for the *Langseth's* 36-airgun array indicates that the model represents the actual received levels, within the first few kilometers and the locations of the predicted exclusion zones. However, the model for deep water (greater than 1,000 m; 3,280 ft) overestimated the received sound levels at a given distance but is still valid for defining exclusion zones at various tow depths. Because the tow depth of the array in the calibration study is less shallow (6 m [19.7 ft]) than the tow depths in the proposed survey (9 m [29.5 ft]), L–DEO used the following correction factors for estimating the received levels during the proposed surveys (see Table 1). The correction factors are the ratios of the 160, 180, and 190 dB distances from the modeled results for the 6,600 in^3 airgun arrays towed at 6 m (19.7 ft) versus 9, 12, or 15 m (29.5, 39.4, or 49.2 ft) (LGL, 2008). For a single airgun, the tow depth has minimal effect on the maximum near-field output and the shape of the frequency spectrum for the single airgun; thus, the predicted exclusion zones are essentially the same at different tow depths. The L–DEO's model does not allow for bottom interactions, and thus is most directly applicable to deep water.

Using the model (airgun array and single airgun), Table 1 (below) shows the distances at which three rms sound levels are expected to be received from the 36 airgun array and a single airgun. To avoid the potential for injury or permanent physiological damage (Level A harassment), NMFS's (1995, 2000) current practice is that cetaceans and pinnipeds should not be exposed to pulsed underwater noise at received levels exceeding 180 dB re 1 μPa and 190 dB re 1 μPa, respectively. L–DEO used these levels to establish the proposed exclusion zones. If marine mammals are detected within or about to enter the appropriate exclusion zone, the airguns would be powered-down (or shut-down, if necessary) immediately. NMFS also assumes that marine mammals exposed to levels exceeding 160 dB re 1 μPa may experience Level B harassment. Table 1 summarizes the predicted distances at which sound levels (160, 180, and 190 dB [rms]) are expected to be received from the 36 airgun array and a single airgun operating in deep water depths.

TABLE 1—MEASURED (ARRAY) OR PREDICTED (SINGLE AIRGUN) DISTANCES TO WHICH SOUND LEVELS ≥190, 180, AND 160 DB RE 1 μPA (RMS) COULD BE RECEIVED IN DEEP WATER DURING THE PROPOSED SEISMIC SURVEY IN THE NORTHWEST ATLANTIC OCEAN OFF THE EASTERN SEABOARD, AUGUST TO SEPTEMBER 2014 AND APRIL TO AUGUST 2015

Sound source and volume	Tow depth (m)	Water depth (m)	Predicted RMS radii distances (m)		
			190 dB	180 dB	160 dB
Single Bolt airgun (40 in^3)	9	>1,000	13 m (42.7 ft) *100 m would be used for pinnipeds as well as cetaceans.	100 m (328.1 ft)	388 m (1,273 ft).
36 airguns (6,600 in^3)	9	>1,000	286 m (938.3 ft)	927 m (3,041.3 ft)	5,780 m (18,963.3 ft).

Along with the airgun operations, two additional acoustical data acquisition systems would be operated from the *Langseth* continuously during seismic operations during the survey. The ocean floor would be mapped with the Kongsberg EM 122 multi-beam echosounder and a Knudsen 320B sub-bottom profiler. These sound sources would be operated continuously from the *Langseth* throughout the cruise, except for during transits at the beginning and end of the proposed survey.

Multi-Beam Echosounder

The *Langseth* would operate a Kongsberg EM 122 multi-beam echosounder concurrently during airgun operations to map characteristics of the ocean floor. The hull-mounted multi-beam echosounder emits brief pulses of sound (also called a ping) (10.5 to 13, usually 12 kHz) in a fan-shaped beam that extends downward and to the sides of the ship. The transmitting beamwidth is 1° or 2° fore-aft and 150° athwartship and the maximum source level is 242 dB re 1 μPa.

Each ping consists of eight (in water greater than 1,000 m) or four (less than 1,000 m) successive, fan-shaped transmissions, each ensonifying a sector that extends 1° fore-aft. Continuous-wave pulses increase from 2 to 15 milliseconds (ms) long in water depths up to 2,600 m (8,350.2 ft), and frequency modulated (FM) chirp pulses up to 100 ms long are used in water greater than 2,600 m. The successive transmissions span an overall cross-track angular extent of about 150°, with 2 ms gaps between the pulses for successive sectors (see Table 1 of the IHA application).

Sub-Bottom Profiler

The *Langseth* would also operate a Knudsen Chirp 3260 sub-bottom profiler

continuously throughout the cruise simultaneously with the multi-beam echosounder to map and provide information about the sedimentary features and bottom topography. The beam is transmitted as a 27° cone, which is directed downward by a 3.5 kHz transducer in the hull of the *Langseth.* The nominal power output is 10 kilowatts (kW), but the actual maximum radiated power is 3 kW or 222 dB re 1 μPam. The ping duration is up to 64 milliseconds (ms). The ping interval is three to five seconds, depending on water depth. The sub-bottom profiler is capable of reaching water depths of 10,000 m (32,808.4 ft) and penetrating tens of meters into the sediments.

Both the multi-beam echosounder and sub-bottom profiler are operated continuously during survey operations. The multi-beam echosounder and sub-bottom profiler would not operate during transits at the beginning and end of the proposed seismic survey. Actual operating parameters would be established at the time of the survey.

NMFS expects that acoustic stimuli resulting from the proposed operation of the single airgun or the 36 airgun array has the potential to harass marine mammals. NMFS does not expect that the movement of the *Langseth,* during the conduct of the seismic survey, has the potential to harass marine mammals because of the relatively slow operation speed of the vessel (approximately 4.5 knots [kts]; 8.5 km/hr; 5.3 mph) during seismic acquisition.

Description of the Marine Mammals in the Area of the Proposed Specified Activity

Forty-five species of marine mammal (37 cetaceans [whales, dolphins, and porpoises] including 30 odontocetes and 7 mysticetes, 7 pinnipeds [seals and sea lions], and 1 sirenian [manatees]) are known to occur in the western North Atlantic Ocean study area (Read *et al.,* 2009; Waring *et al.,* 2013). Of those 45 species of marine mammals, 34 cetaceans and 4 pinnipeds could be found or are likely to occur in the proposed study area during the spring/summer/fall months. Several of these species are listed as endangered under the U.S. Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*), including the North Atlantic right (*Eubalaena glacialis*), humpback (*Megaptera novaeangliae*), sei (*Balaenoptera borealis*), fin (*Balaenoptera physalus*), blue (*Balaenoptera musculus*), and sperm (*Physeter macrocephalus*) whales. Fourteen cetacean species, although present in the wider western North Atlantic Ocean, are considered rare and likely would not be found near the proposed study area. The harbor porpoise (*Phocoena phocoena*) does not occur in deep offshore waters. The four pinniped species (harbor [*Phoca vitulina*], harp [*Phoca groenlandica*], gray [*Halichoerus grypus*], and hooded [*Cystophora cristata*] seals) are also considered coastal species (any sightings would be considered extralimital) and are not known to occur in the deep waters of the proposed survey area. No pinnipeds are expected to be present in the proposed study area. The West Indian manatee (*Trichechus manatus latirostris*) is listed as endangered under the ESA and is managed by the U.S. Fish and Wildlife Service and is not considered further in this proposed IHA notice.

General information on the taxonomy, ecology, distribution, seasonality and movements, and acoustic capabilities of marine mammals are given in sections 3.6.1, 3.7.1, and 3.8.1 of the NSF/USGS PEIS. The general distribution of mysticetes, odontocetes, and pinnipeds in the North Atlantic Ocean is discussed in sections 3.6.3.4, 3.7.3.4, and 3.8.3.4 of the NSF/USGS PEIS, respectively. In addition, Section 3.1 of the ''Atlantic OCS Proposed Geological and Geophysical Activities Mid-Atlantic and South Atlantic Planning Areas Draft Programmatic Environmental Impact Statement'' (Bureau of Ocean Energy Management, 2012) reviews similar information for all marine mammals that may occur within the proposed study area.

Various systematic surveys have been conducted throughout the western North Atlantic Ocean, including within sections of the proposed study area. Records from the Ocean Biogeographic Information System (OBIS) database hosted by Rutgers University and Duke University (Read *et al.,* 2009) were used as the main source of information. The database includes survey data collected during the Cetaceans and Turtle Assessment Program (CeTAP) conducted between 1978 and 1982 that consists of both aerial and vessel-based surveys between Cape Hatteras, North Carolina, and the Gulf of Maine. The database also includes survey data collected during the NMFS Northeast Fisheries Science Center and Southeast Fisheries Science Center stock assessment surveys conducted in 2004 (surveys between Nova Scotia, Canada, and Florida).

No known current regional or stock abundance estimates are available in the proposed study area of the northwest Atlantic Ocean for the Bryde's whale (*Balaenoptera edeni*), Fraser's (*Lagenodelphis hosei*), spinner (*Stenella longirostris*), and Clymene dolphin (*Stenella clymene*), and melon-headed (*Peponocephala electra*), pygmy killer (*Feresa attenuata*), false killer (*Pseudorca crassidens*), and killer whales (*Orcinus orca*). Although NMFS does not have current regional population or stock abundance estimates for these species in the northwest Atlantic Ocean, abundance estimates from other areas such as the northern Gulf of Mexico stock, regional ocean basins (e.g., eastern tropical Pacific Ocean), or global summation are available. These abundance estimates are considered the best available information.

Bryde's whales are distributed worldwide in tropical and sub-tropical waters. In the western North Atlantic Ocean, Bryde's whales are reported from off the southeastern U.S. and the southern West Indies to Cabo Frio, Brazil (Leatherwood and Reeves, 1983). No stock of Bryde's whales has been identified in U.S. waters of the Atlantic coast. The northern Gulf of Mexico population is considered a separate stock and has a best abundance estimate of 33 animals. It has been postulated that the Bryde's whales found in the northern Gulf of Mexico may represent a resident stock (Schmidly, 1981; Leatherwood and Reeves, 1983).

Fraser's dolphins are distributed worldwide in tropical waters and are assumed to be part of the cetacean fauna of the tropical western North Atlantic (Perrin *et al.,* 1994). There are no abundance estimates for either the western North Atlantic or the northern Gulf of Mexico stocks. The western North Atlantic population is provisionally being considered a separate stock for management purposes, although there is currently no information to differentiate this stock from the northern Gulf of Mexico stock. The numbers of Fraser's dolphins off the U.S. or Canadian Atlantic coast are unknown, and seasonal abundance estimates are not available for this stock, since it was rarely seen in any surveys. The population size for Fraser's dolphins is unknown; however, about 289,000 animals occur in the eastern tropical Pacific Ocean (Jefferson *et al.,* 2008).

Spinner dolphins are distributed in oceanic and coastal tropical waters (Leatherwood *et al.,* 1976). This is presumably an offshore, deep-water species, and its distribution in the Atlantic is poorly known (Schmidly, 1981; Perrin and Gilpatrick, 1994). The western North Atlantic population of spinner dolphins is provisionally being considered a separate stock for

management purposes, although there is currently no information to differentiate this stock from the northern Gulf of Mexico stock. The numbers of spinner dolphins off the U.S. or Canadian Atlantic coast are unknown, and seasonal abundance estimates are not available for this stock since it was rarely seen in any of the surveys. The best abundance estimate available for the northern Gulf of Mexico spinner dolphins is 11,441 animals.

The Clymene dolphin is endemic to tropical and sub-tropical waters of the Atlantic (Jefferson and Curry, 2003). The western North Atlantic population of Clymene dolphins is provisionally considered a separate stock for management purposes, although there is currently no information to differentiate this stock from the northern Gulf of Mexico stock. The numbers of Clymene dolphins off the U.S. or Canadian Atlantic coast are unknown, and seasonal abundance estimates are not available for this species since it was rarely seen in any surveys. The best abundance estimate for the Clymene dolphin in the western North Atlantic was 6,086 in 2003 and represents the first and only estimate to date for this species in the U.S. Atlantic EEZ; however this estimate is older than eight years and is deemed unreliable (Wade and Angliss, 1997; Mullin and Fulling, 2003).

The melon-headed whale is distributed worldwide in tropical to sub-tropical waters (Jefferson *et al.,* 1994). The western North Atlantic population is provisionally being considered a separate stock from the northern Gulf of Mexico stock. The numbers of melon-headed whales off the U.S. or Canadian Atlantic coast are unknown, and seasonal abundance estimates are not available for this stock, since it was rarely seen in any surveys. The best abundance estimate available for northern Gulf of Mexico melon-headed whales is 2,235 animals.

The pygmy killer whale is distributed worldwide in tropical to sub-tropical waters and is assumed to be part of the cetacean fauna of the tropical western North Atlantic (Jefferson *et al.,* 1994). The western North Atlantic population of pygmy killer whales is provisionally being considered one stock for management purposes. The numbers of pygmy killer whales off the U.S. or Canadian Atlantic coast are unknown, and seasonal abundance estimates are not available for this stock, since it was rarely seen in any surveys. The best abundance estimate available for the northern Gulf of Mexico pygmy killer whale is 152 animals.

The false killer whale is distributed worldwide throughout warm temperate and tropical oceans (Leatherwood and Reeves, 1983). No stock has been identified for false killer whales in U.S. waters off the Atlantic coast. The Gulf of Mexico population is provisionally being considered one stock for management purposes, although there is currently no information to differentiate this stock from the Atlantic Ocean stock. The current population size for the false killer whale in the northern Gulf of Mexico is unknown because the survey data is more than 8 years old; however, the most recent abundance estimate pooled from 2003 to 2004 was 777 animals (Wade and Angliss, 1997; Mullin, 2007).

Killer whales are characterized as uncommon or rare in waters of the U.S. Atlantic EEZ (Katona *et al.,* 1988). Their distribution, however, extends from the Arctic ice-edge to the West Indies, often in offshore and mid-ocean areas. The size of the western North Atlantic stock population off the eastern U.S. coast is unknown. No information on stock differentiation for the Atlantic Ocean population exists, although an analysis of vocalizations of killer whales from Iceland and Norway indicated that whales from these areas may represent different stocks (Moore *et al.,* 1988). The northern Gulf of Mexico population is provisionally being considered a separate stock for management purposes, although there is currently no information to differentiate this stock from the Atlantic Ocean stock. The best abundance estimate available for northern Gulf of Mexico killer whales is 28 animals. There are estimated to be at least approximately 92,500 killer whales worldwide (i.e., 80,000 south of Antarctic Convergence, 445 in Norway, 8,500 in eastern tropical Pacific Ocean, 1,500 in North America coastal waters, and 2,000 in Japanese waters) (Jefferson *et al.,* 2008).Table 2 (below) presents information on the abundance, distribution, population status, and conservation status of the species of marine mammals that may occur in the proposed study area during August to September 2014 and April to August 2015.

TABLE 2—THE HABITAT, OCCURRENCE, RANGE, ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE PROPOSED SEISMIC SURVEY AREA IN THE NORTHWEST ATLANTIC OCEAN OFF THE EASTERN SEABOARD

[See text and Table 3 in USGS's IHA application for further details]

Species	Habitat	Occurrence	Range in Atlantic Ocean	Population estimate in the North Atlantic region/ stock/other [3]	ESA [1]	MMPA [2]
Mysticetes:						
North Atlantic right whale (*Eubalaena glacialis*).	Pelagic, shelf and coastal	Regular	Canada to Florida	455/455 (Western Atlantic stock).	EN	D
Humpback whale (*Megaptera novaeangliae*).	Mainly nearshore, banks	Regular	Canada to Caribbean	11,600 [4]/823 (Gulf of Maine stock).	EN	D
Minke whale (*Balaenoptera acutorostrata*).	Pelagic and coastal	Regular	Arctic to Caribbean	138,000 [5]/20,741 (Canadian East Coast stock).	NL	NC
Bryde's whale (*Balaenoptera edeni*).	Coastal, offshore	Rare	40° North to 40° South	NA/NA/33 (Northern Gulf of Mexico stock)/20,000 to 30,000 [16] (North Pacific Ocean).	NL	NC
Sei whale (*Balaenoptera borealis*).	Primarily offshore, pelagic	Rare	Canada to New Jersey	10,300 [6]/357 (Nova Scotia stock).	EN	D

TABLE 2—THE HABITAT, OCCURRENCE, RANGE, ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE PROPOSED SEISMIC SURVEY AREA IN THE NORTHWEST ATLANTIC OCEAN OFF THE EASTERN SEABOARD—Continued

[See text and Table 3 in USGS's IHA application for further details]

Species	Habitat	Occurrence	Range in Atlantic Ocean	Population estimate in the North Atlantic region/stock/other [3]	ESA [1]	MMPA [2]
Fin whale (*Balaenoptera physalus*).	Continental slope, pelagic	Regular	Canada to North Carolina	26,500 [7]/3,522 (Western North Atlantic stock).	EN	D
Blue whale (*Balaenoptera musculus*).	Pelagic, shelf, coastal	Rare	Arctic to Florida	855 [8]/440 (Western North Atlantic stock).	EN	D
Odontocetes:						
Sperm whale (*Physeter macrocephalus*).	Pelagic, slope, canyons, deep sea.	Regular	Canada to Caribbean	13,190 [9]/2,288 (North Atlantic stocks).	EN	D
Pygmy sperm whale (*Kogia breviceps*).	Deep waters off shelf	Rare	Massachusetts to Florida	NA/3,785 (Western North Atlantic stock).	NL	NC
Dwarf sperm whale (*Kogia sima*).	Deep waters off shelf	Rare	Massachusetts to Florida		NL	NC
Cuvier's beaked whale (*Ziphius cavirostris*).	Pelagic, slope, canyons	Rare	Canada to Caribbean	NA/6,532 (Western North Atlantic stock).	NL	NC
Northern bottlenose whale (*Hyperoodon ampullatus*).	Pelagic	Rare	Arctic to New Jersey	40,000 [10]/NA (Western North Atlantic stock).	NL	NC
True's beaked whale (*Mesoplodon mirus*).	Pelagic, slope, canyons	Rare	Canada to Bahamas	NA/7,092 (Western North Atlantic stock).	NL	NC
Gervais' beaked whale (*Mesoplodon europaeus*).	Pelagic, slope, canyons	Rare	Canada to Florida		NL	NC
Sowerby's beaked whale (*Mesoplodon bidens*).	Pelagic, slope, canyons	Rare	Canada to Florida		NL	NC
Blainville's beaked whale (*Mesoplodon densirostris*).	Pelagic, slope, canyons	Rare	Canada to Florida		NL	NC
Bottlenose dolphin (*Tursiops truncatus*).	Coastal, oceanic, shelf break.	Regular	Canada to Florida	NA/77,532 (Western North Atlantic Offshore stock).	NL	NC
Atlantic white-sided dolphin (*Lagenorhynchus acutus*).	Shelf and slope	Regular	Greenland to North Carolina.	10,000 to 100,000s [11]/48,819 (Western North Atlantic stock).	NL	NC
Fraser's dolphin (*Lagenodelphis hosei*).	Shelf and slope	Rare	North Carolina to Florida	NA/NA (Western North Atlantic stock)/289,000 [16] (eastern tropical Pacific Ocean).	NL	NC
Atlantic spotted dolphin (*Stenella frontalis*).	Shelf, offshore	Regular	Massachusetts to Caribbean.	NA/44,715 (Western North Atlantic stock).	NL	NC
Pantropical spotted dolphin (*Stenella attenuata*).	Coastal, shelf, slope	Regular	Massachusetts to Florida	NA/3,333 (Western North Atlantic stock).	NL	NC
Striped dolphin (*Stenella coeruleoalba*).	Off continental shelf, convergence zones, upwelling.	Regular	Canada to Caribbean	NA/54,807 (Western North Atlantic stock).	NL	NC
Spinner dolphin (*Stenella longirostris*).	Mainly nearshore	Rare	Maine to Caribbean	NA/NA (Western North Atlantic stock)/11,441 (Northern Gulf of Mexico stock)/1,250,000 [16] (eastern tropical Pacific Ocean).	NL	NC
Clymene dolphin (*Stenella clymene*).	Coastal, shelf, slope	Rare	North Carolina to Florida	NA/NA (Western North Atlantic stock—6,086 in 2003)/129 (Northern Gulf of Mexico stock).	NL	NC
Short-beaked common dolphin (*Delphinus delphis*).	Shelf, pelagic, seamounts	Regular	Canada to Georgia	NA/173,486 (Western North Atlantic stock).	NL	NC

TABLE 2—THE HABITAT, OCCURRENCE, RANGE, ABUNDANCE, AND CONSERVATION STATUS OF MARINE MAMMALS THAT MAY OCCUR IN OR NEAR THE PROPOSED SEISMIC SURVEY AREA IN THE NORTHWEST ATLANTIC OCEAN OFF THE EASTERN SEABOARD—Continued

[See text and Table 3 in USGS's IHA application for further details]

Species	Habitat	Occurrence	Range in Atlantic Ocean	Population estimate in the North Atlantic region/stock/other [3]	ESA [1]	MMPA [2]
Rough-toothed dolphin (*Steno bredanensis*).	Pelagic	Rare	New Jersey to Florida	NA/271 (Western North Atlantic stock).	NL	NC
Risso's dolphin (*Grampus griseus*).	Shelf, slope, seamounts	Regular	Canada to Florida	NA/18,250 (Western North Atlantic stock).	NL	NC
Melon-headed whale (*Peponocephala electra*).	Deep waters off shelf	Rare	North Carolina to Florida	NA/NA (Western North Atlantic stock)/2,235 (Northern Gulf of Mexico stock)/45,000 [16] (eastern tropical Pacific Ocean).	NL	NC
Pygmy killer whale (*Feresa attenuata*).	Pelagic	Rare	NA	NA/NA (Western North Atlantic stock)/152 (Northern Gulf of Mexico stock)/39,000 [16] (eastern tropical Pacific Ocean).	NL	NC
False killer whale (*Pseudorca crassidens*).	Pelagic	Rare	NA	NA/NA/777 in 2003–2004 (Northern Gulf of Mexico stock).	NL	NC
Killer whale (*Orcinus orca*).	Pelagic, shelf, coastal	Rare	Arctic to Caribbean	NA/NA (Western North Atlantic stock)/28 (Northern Gulf of Mexico stock)/At least ~92,500 [16] Worldwide.	NL	NC
Short-finned pilot whale (*Globicephala macrorhynchus*).	Mostly pelagic, high relief	Regular	Massachusetts to Florida	780,000 [12]/21,515 short-finned pilot whale 26,535 long-finned pilot whale (Western North Atlantic stock).	NL	NC
Long-finned pilot whale (*Globicephala melas*).	Mostly pelagic	Regular	Canada to South Carolina	NL	NC	
Harbor porpoise (*Phocoena phocoena*).	Shelf, coastal, pelagic	Rare	Canada to North Carolina	~500,000 [13]/79,883 (Gulf of Maine/Bay of Fundy stock).	NL	NC
Pinnipeds:						
Harbor seal (*Phoca vitulina concolor*).	Coastal	Rare	Canada to North Carolina	NA/70,142 (Western North Atlantic stock).	NL	NC
Gray seal (*Halichoerus grypus*).	Coastal, pelagic	Rare	Canada to North Carolina	NA/331,000 (Western North Atlantic stock).	NL	NC
Harp seal (*Phoca groenlandica*).	Ice whelpers, pelagic	Rare	Canada to New Jersey	8.6 to 9.6 million [14]/7.1 million (Western North Atlantic stock).	NL	NC
Hooded seal (*Cystophora cristata*).	Ice whelpers, pelagic	Rare	Canada to Caribbean	600,000/592,100 (Western North Atlantic stock).	NL	NC

NA = Not available or not assessed.
[1] U.S. Endangered Species Act: EN = Endangered, T = Threatened, DL = Delisted, NL = Not listed.
[2] U.S. Marine Mammal Protection Act: D = Depleted, NC = Not Classified.
[3] NMFS Marine Mammal Stock Assessment Reports.
[4] Best estimate for western North Atlantic 1992 to 1993 (IWC, 2014).
[5] Best estimate for North Atlantic 2002 to 2007 (IWC, 2014).
[6] Estimate for the Northeast Atlantic in 1989 (Cattanach *et al.,* 1993).
[7] Best estimate for North Atlantic 2007 (IWC, 2014) .
[8] Central and Northeast Atlantic 2001 (Pike *et al.,* 2009).
[9] North Atlantic (Whitehead, 2002).
[10] Eastern North Atlantic (NAMMCO, 1995).
[11] North Atlantic (Reeves et al., 1999).
[12] *Globicephala* spp. combined, Central and Eastern North Atlantic (IWC, 2014).
[13] North Atlantic (Jefferson *et al.,* 2008).
[14] Northwest Atlantic (DFO, 2012).
[15] Northwest Atlantic (Andersen et al., 2009).
[16] Jefferson *et al.* (2008).

Further detailed information regarding the biology, distribution, seasonality, life history, and occurrence of these marine mammal species in the proposed project area can be found in sections 3 and 4 of USGS's IHA application. NMFS has reviewed these data and determined them to be the best available scientific information for the purposes of the proposed IHA.

Potential Effects of the Specified Activity on Marine Mammals

This section includes a summary and discussion of the ways that the types of stressors associated with the specified activity (e.g., seismic airgun operation, vessel movement, gear deployment) have been observed to impact marine mammals. This discussion may also include reactions that we consider to rise to the level of a take and those that we do not consider to rise to the level of take (for example, with acoustics), we may include a discussion of studies that showed animals not reacting at all to sound or exhibiting barely measureable avoidance). This section is intended as a background of potential effects and does not consider either the specific manner in which this activity would be carried out or the mitigation that would be implemented, and how either of those would shape the anticipated impacts from this specific activity. The ''Estimated Take by Incidental Harassment'' section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken by this activity. The ''Negligible Impact Analysis'' section will include the analysis of how this specific activity would impact marine mammals and will consider the content of this section, the ''Estimated Take by Incidental Harassment'' section, the ''Proposed Mitigation'' section, and the ''Anticipated Effects on Marine Mammal Habitat'' section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that on the affected marine mammal populations or stocks.

When considering the influence of various kinds of sound on the marine environment, it is necessary to understand that different kinds of marine life are sensitive to different frequencies of sound. Based on available behavioral data, audiograms have been derived using auditory evoked potentials, anatomical modeling, and other data, Southall *et al.* (2007) designate ''functional hearing groups'' for marine mammals and estimate the lower and upper frequencies of functional hearing groups'' for marine mammals and estimate the lower and upper frequencies of functional hearing of the groups. The functional groups and the associated frequencies are indicated below (though animals are less sensitive to sounds at the outer edge of their functional range and most sensitive to sounds of frequencies within a smaller range somewhere in the middle of their functional hearing range):

- Low-frequency cetaceans (13 species of mysticetes): Functional hearing is estimated to occur between approximately 7 Hz and 30 kHz;
- Mid-frequency cetaceans (32 species of dolphins, six species of larger toothed whales, and 19 species of beaked and bottlenose whales): Functional hearing is estimated to occur between approximately 150 Hz and 160 kHz;
- High-frequency cetaceans (eight species of true porpoises, six species of river dolphins, *Kogia* spp., the franciscana [*Pontoporia blainvillei*], and four species of cephalorhynchids): Functional hearing is estimated to occur between approximately 200 Hz and 180 kHz; and
- Phocid pinnipeds in water: Functional hearing is estimated to occur between approximately 75 Hz and 100 kHz;
- Otariid pinnipeds in water: Functional hearing is estimated to occur between approximately 100 Hz and 40 kHz.

As mentioned previously in this document, 38 marine mammal species (34 cetacean and 4 pinniped species) are likely to occur in the proposed seismic survey area. Of the 34 cetacean species likely to occur in USGS's proposed action area, 7 are classified as low-frequency cetaceans (i.e., North Atlantic right, humpback, minke, Bryde's, sei, fin, and blue whale), 24 are classified as mid-frequency cetaceans (i.e., sperm, Cuvier's, True's, Gervais', Sowerby's, Blainville's, Northern bottlenose, melon-headed, pygmy killer, false killer, killer, short-finned, and long-finned whale, bottlenose, Atlantic white-sided, Fraser's, Atlantic spotted, pantropical spotted, striped, spinner, Clymene, short-beaked common, rough-toothed, and Risso's dolphin), and 3 are classified as high-frequency cetaceans (i.e., pygmy sperm and dwarf sperm whale and harbor porpoise) (Southall *et al.,* 2007). A species' functional hearing group is a consideration when we analyze the effects of exposure to sound on marine mammals.

Acoustic stimuli generated by the operation of the airguns, which introduce sound into the marine environment, may have the potential to cause Level B harassment of marine mammals in the proposed survey area. The effects of sounds from airgun operations might include one or more of the following: Tolerance, masking (of natural sounds including inter- and intra-specific calls), behavioral disturbance, temporary or permanent hearing impairment, or non-auditory physical or physiological effects (Richardson *et al.,* 1995; Gordon *et al.,* 2004; Nowacek *et al.,* 2007; Southall *et al.,* 2007; Wright *et al.,* 2007; Tyack, 2009). Permanent hearing impairment, in the unlikely event that it occurred, would constitute injury, but temporary threshold shift (TTS) is not an injury (Southall *et al.,* 2007). Although the possibility cannot be entirely excluded, it is unlikely that the proposed project would result in any cases of temporary or permanent hearing impairment, or any significant non-auditory physical or physiological effects. Based on the available data and studies described here, some behavioral disturbance is expected. A more comprehensive review of these issues can be found in the NSF/USGS PEIS (2011) and L–DEO's ''Draft Environmental Assessment of a Marine Geophysical Survey by the R/V *Marcus G. Langseth* in the Atlantic Ocean off Cape Hatteras, September to October 2014.''

Tolerance

Richardson *et al.* (1995) defines tolerance as the occurrence of marine mammals in areas where they are exposed to human activities or man-made noise. In many cases, tolerance develops by the animal habituating to the stimulus (i.e., the gradual waning of responses to a repeated or ongoing stimulus) (Thorpe, 1963; Richardson, *et al.,* 1995), but because of ecological or physiological requirements, many marine animals may need to remain in areas where they are exposed to chronic stimuli (Richardson, *et al.,* 1995).

Numerous studies have shown that pulsed sounds from airguns are often readily detectable in the water at distances of many kilometers. Several studies have shown that marine mammals at distances more than a few kilometers from operating seismic vessels often show no apparent response (Malme *et al.,* 1985; Richardson *et al.,* 1986; Ljungblad *et al.,* 1988; McCauley *et al.,* 2000a). That is often true even in cases when the pulsed sounds must be readily audible to the animals based on measured received levels and the hearing sensitivity of the marine mammal group. Although various baleen and toothed whales, and (less frequently) pinnipeds have been shown to react behaviorally to airgun pulses

under some conditions, at other times marine mammals of all three types have shown no overt reactions. The relative responsiveness of baleen and toothed whales and pinnipeds are quite variable and depend on factors such as species, age, and previous exposures of the animal to human-generated sound.

Masking

The term masking refers to the inability of a subject to recognize the occurrence of an acoustic stimulus as a result of the interference of another acoustic stimulus (Clark *et al.,* 2009). Introduced underwater sound may, through masking, reduce the effective communication distance of a marine mammal species if the frequency of the source is close to that used as a signal by the marine mammal, and if the anthropogenic sound is present for a significant fraction of the time (Richardson *et al.,* 1995).

Masking effects of pulsed sounds (even from large arrays of airguns) on marine mammal calls and other natural sounds are expected to be limited. Because of the intermittent nature and low duty cycle of seismic airgun pulses, animals can emit and receive sounds in the relatively quiet intervals between pulses. However, in some situations, reverberation occurs for much or the entire interval between pulses (e.g., Simard *et al.,* 2005; Clark and Gagnon, 2006) which could mask calls. Some baleen and toothed whales are known to continue calling in the presence of seismic pulses, and their calls can usually be heard between the seismic pulses (e.g., Richardson *et al.,* 1986; McDonald *et al.,* 1995; Greene *et al.,* 1999; Nieukirk *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005a,b, 2006; and Dunn and Hernandez, 2009). However, Clark and Gagnon (2006) reported that fin whales in the North Atlantic Ocean went silent for an extended period starting soon after the onset of a seismic survey in the area. Similarly, there has been one report that sperm whales ceased calling when exposed to pulses from a very distant seismic ship (Bowles *et al.,* 1994). However, more recent studies found that they continued calling in the presence of seismic pulses (Madsen *et al.,* 2002; Tyack *et al.,* 2003; Smultea *et al.,* 2004; Holst *et al.,* 2006; and Jochens *et al.,* 2008). Dilorio and Clark (2009) found evidence of increased calling by blue whales during operations by a lower-energy seismic source (i.e., sparker). Dolphins and porpoises commonly are heard calling while airguns are operating (e.g., Gordon *et al.,* 2004; Smultea *et al.,* 2004; Holst *et al.,* 2005a, b; and Potter *et al.,* 2007). The sounds important to small odontocetes are predominantly at much higher frequencies than are the dominant components of airgun sounds, thus limiting the potential for masking.

Marine mammals are thought to be able to compensate for masking by adjusting their acoustic behavior through shifting call frequencies, increasing call volume, and increasing vocalization rates. For example, blue whales are found to increase call rates when exposed to noise from seismic surveys in the St. Lawrence Estuary (Dilorio and Clark, 2009). The North Atlantic right whales exposed to high shipping noise increased call frequency (Parks *et al.,* 2007), while some humpback whales respond to low-frequency active sonar playbacks by increasing song length (Miller *et al.,* 2000). In general, NMFS expects the masking effects of seismic pulses to be minor, given the normally intermittent nature of seismic pulses.

Behavioral Disturbance

Marine mammals may behaviorally react to sound when exposed to anthropogenic noise. Disturbance includes a variety of effects, including (but not limited to) subtle to conspicuous changes in behavior, movement, and displacement (Nowacek *et al.,* 2007; Tyack, 2009). Reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2004; Southall *et al.,* 2007; Weilgart, 2007). These behavioral reactions are often shown as: Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior (such as tail/fluke slapping or jaw clapping); avoidance of areas where noise sources are located; and/or flight responses (e.g., pinnipeds flushing into the water from haul-outs or rookeries). If a marine mammal does react briefly to an underwater sound by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (e.g., Lusseau and Bejder, 2007; Weilgart, 2007).

The biological significance of many of these behavioral disturbances is difficult to predict, especially if the detected disturbances appear minor. However, the consequences of behavioral modification could be expected to be biologically significant if the change affects growth, survival, and/or reproduction. Some of these significant behavioral modifications include:

- Change in diving/surfacing patterns (such as those thought to be causing beaked whale stranding due to exposure to military mid-frequency tactical sonar);
- Habitat abandonment due to loss of desirable acoustic environment; and
- Cessation of feeding or social interaction.

The onset of behavioral disturbance from anthropogenic noise depends on both external factors (characteristics of noise sources and their paths) and the receiving animals (hearing, motivation, experience, demography) and is also difficult to predict (Richardson *et al.,* 1995; Southall *et al.,* 2007). Given the many uncertainties in predicting the quantity and types of impacts of noise on marine mammals, it is common practice to estimate how many mammals would be present within a particular distance of industrial activities and/or exposed to a particular level of sound. In most cases, this approach likely overestimates the numbers of marine mammals that would be affected in some biologically-important manner.

Baleen Whales—Baleen whales generally tend to avoid operating airguns, but avoidance radii are quite variable (reviewed in Richardson *et al.,* 1995; Gordon *et al.,* 2004). Whales are often reported to show no overt reactions to pulses from large arrays of airguns at distances beyond a few kilometers, even though the airgun pulses remain well above ambient noise levels out to much longer distances. However, baleen whales exposed to strong noise pulses from airguns often react by deviating from their normal migration route and/or interrupting their feeding and moving away. In the cases of migrating gray (*Eschrichtius robustus*) and bowhead (*Balaena mysticetus*) whales, the observed changes in behavior appeared to be of little or no biological consequence to the animals (Richardson, *et al.,* 1995). They simply avoided the sound source by displacing their migration route to varying degrees, but within the natural boundaries of the migration corridors (Malme *et al.,* 1984; Malme and Miles, 1985; Richardson *et al.,* 1995).

Studies of gray, bowhead, and humpback whales have shown that seismic pulses with received levels of 160 to 170 dB re 1 μPa (rms) seem to cause obvious avoidance behavior in a

substantial fraction of the animals exposed (Malme *et al.,* 1986, 1988; Richardson *et al.,* 1995). In many areas, seismic pulses from large arrays of airguns diminish to those levels at distances ranging from 4 to 15 km (2.2 to 8.1 nmi) from the source. A substantial proportion of the baleen whales within those distances may show avoidance or other strong behavioral reactions to the airgun array. Subtle behavioral changes sometimes become evident at somewhat lower received levels, and studies have shown that some species of baleen whales, notably bowhead, gray, and humpback whales, at times, show strong avoidance at received levels lower than 160 to 170 dB re 1 μPa (rms).

Researchers have studied the responses of humpback whales to seismic surveys during migration, feeding during the summer months, breeding while offshore from Angola, and wintering offshore from Brazil. McCauley *et al.* (1998, 2000a) studied the responses of humpback whales off western Australia to a full-scale seismic survey with a 16-airgun array (2,678 in^3) and to a single airgun (20 in^3) with source level of 227 dB re 1 μPa (p-p). In the 1998 study, they documented that avoidance reactions began at 5 to 8 km (2.7 to 4.3 nmi) from the array, and that those reactions kept most pods approximately 3 to 4 km (1.6 to 2.2 nmi) from the operating seismic boat. In the 2000 study, they noted localized displacement during migration of 4 to 5 km (2.2 to 2.7 nmi) by traveling pods and 7 to 12 km (3.8 to 6.5 nmi) by more sensitive resting pods of cow-calf pairs. Avoidance distances with respect to the single airgun were smaller but consistent with the results from the full array in terms of the received sound levels. The mean received level for initial avoidance of an approaching airgun was 140 dB re 1 μPa (rms) for humpback pods containing females, and at the mean closest point of approach distance from the received level was 143 dB re 1 μPa (rms). The initial avoidance response generally occurred at distances of 5 to 8 km (2.7 to 4.3 nmi) from the airgun array and 2 km (1.1 nmi) from the single airgun. However, some individual humpback whales, especially males, approached within distances of 100 to 400 m (328 to 1,312 ft), where the maximum received level was 179 dB re 1 μPa (rms) (McCauley *et al.,* 1998, 2000b).

Data collected by observers during several seismic surveys in the Northwest Atlantic showed that sighting rates of humpback whales were significantly greater during non-seismic periods compared with periods when a full array was operating (Moulton and Holst, 2010). In addition, humpback whales were more likely to swim away and less likely to swim towards a vessel during seismic vs. non-seismic periods (Moulton and Holst, 2010).

Humpback whales on their summer feeding grounds in southeast Alaska did not exhibit persistent avoidance when exposed to seismic pulses from a 1.64–L (100 in^3) airgun (Malme *et al.,* 1985). Some humpbacks seemed ''startled'' at received levels of 150 to 169 dB re 1 μPa. Malme *et al.* (1985) concluded that there was no clear evidence of avoidance, despite the possibility of subtle effects, at received levels up to 172 dB re 1 μPa (rms). However, Moulton and Holst (2010) reported that humpback whales monitored during seismic surveys in the Northwest Atlantic had lower sighting rates and were most often seen swimming away from the vessel during seismic periods compared with periods when airguns were silent.

Studies have suggested that South Atlantic humpback whales in the South Atlantic Ocean wintering off Brazil may be displaced or even strand upon exposure to seismic surveys (Engel *et al.,* 2004). The evidence for this was circumstantial and subject to alternative explanations (IAGC, 2004). Also, the evidence was not consistent with subsequent results from the same area of Brazil (Parente *et al.,* 2006), or with direct studies of humpbacks exposed to seismic surveys in other areas and seasons. After allowance for data from subsequent years, there was ''no observable direct correlation'' between strandings and seismic surveys (IWC, 2007: 236).

Reactions of migrating and feeding (but not wintering) gray whales to seismic surveys have been studied. Malme *et al.* (1986, 1988) studied the responses of feeding Eastern North Pacific gray whales to pulses from a single 100 in^3 airgun off St. Lawrence Island in the northern Bering Sea. They estimated, based on small sample sizes, that 50 percent of feeding gray whales stopped feeding at an average received pressure level of 173 dB re 1 μPa on an (approximate) rms basis, and that 10 percent of feeding whales interrupted feeding at received levels of 163 dB re 1 μPa (rms). Those findings were generally consistent with the results of experiments conducted on larger numbers of gray whales that were migrating along the California coast (Malme *et al.,* 1984; Malme and Miles, 1985), and Western North Pacific gray whales feeding off Sakhalin Island, Russia (Wursig *et al.,* 1999; Gailey *et al.,* 2007; Johnson *et al.,* 2007; Yazvenko *et al.,* 2007a, b), along with data on gray whales off British Columbia (Bain and Williams, 2006).

Various species of *Balaenoptera* (blue, sei, fin, and minke whales) have occasionally been seen in areas ensonified by airgun pulses (Stone, 2003; MacLean and Haley, 2004; Stone and Tasker, 2006), and calls from blue and fin whales have been localized in areas with airgun operations (e.g., McDonald *et al.,* 1995; Dunn and Hernandez, 2009; Castellote *et al.,* 2010). Sightings by observers on seismic vessels off the United Kingdom from 1997 to 2000 suggest that, during times of good sightability, sighting rates for mysticetes (mainly fin and sei whales) were similar when large arrays of airguns were shooting vs. silent (Stone, 2003; Stone and Tasker, 2006). However, these whales tended to exhibit localized avoidance, remaining significantly further (on average) from the airgun array during seismic operations compared with non-seismic periods (Stone and Tasker, 2006). Castellote *et al.* (2010) reported that singing fin whales in the Mediterranean moved away from an operating airgun array.

Ship-based monitoring studies of baleen whales (including blue, fin, sei, minke, and humpback whales) in the Northwest Atlantic found that overall, this group had lower sighting rates during seismic vs. non-seismic periods (Moulton and Holst, 2010). Baleen whales as a group were also seen significantly farther from the vessel during seismic compared with non-seismic periods, and they were more often seen to be swimming away from the operating seismic vessel (Moulton and Holst, 2010). Blue and minke whales were initially sighted significantly farther from the vessel during seismic operations compared to non-seismic periods; the same trend was observed for fin whales (Moulton and Holst, 2010). Minke whales were most often observed to be swimming away from the vessel when seismic operations were underway (Moulton and Holst, 2010).

Data on short-term reactions by cetaceans to impulsive noises are not necessarily indicative of long-term or biologically significant effects. It is not known whether impulsive sounds affect reproductive rate or distribution and habitat use in subsequent days or years. However, gray whales have continued to migrate annually along the west coast of North America with substantial increases in the population over recent years, despite intermittent seismic exploration (and much ship traffic) in that area for decades (Appendix A in

Malme *et al.,* 1984; Richardson *et al.,* 1995; Allen and Angliss, 2010). The Western North Pacific gray whale population did not seem affected by a seismic survey in its feeding ground during a previous year (Johnson *et al.,* 2007). Similarly, bowhead whales have continued to travel to the eastern Beaufort Sea each summer, and their numbers have increased notably, despite seismic exploration in their summer and autumn range for many years (Richardson *et al.,* 1987; Allen and Angliss, 2010). The history of coexistence between seismic surveys and baleen whales suggests that brief exposures to sound pulses from any single seismic survey are unlikely to result in prolonged effects.

Toothed Whales—There is little systematic information available about reactions of toothed whales to noise pulses. Few studies similar to the more extensive baleen whale/seismic pulse work summarized above have been reported for toothed whales. However, there are recent systematic studies on sperm whales (e.g., Gordon *et al.,* 2006; Madsen *et al.,* 2006; Winsor and Mate, 2006; Jochens *et al.,* 2008; Miller *et al.,* 2009). There is an increasing amount of information about responses of various odontocetes to seismic surveys based on monitoring studies (e.g., Stone, 2003; Smultea *et al.,* 2004; Moulton and Miller, 2005; Bain and Williams, 2006; Holst *et al.,* 2006; Stone and Tasker, 2006; Potter *et al.,* 2007; Hauser *et al.,* 2008; Holst and Smultea, 2008; Weir, 2008; Barkaszi *et al.,* 2009; Richardson *et al.,* 2009; Moulton and Holst, 2010).

Seismic operators and Protected Species Observers (PSOs) on seismic vessels regularly see dolphins and other small toothed whales near operating airgun arrays, but in general there is a tendency for most delphinids to show some avoidance of operating seismic vessels (e.g., Goold, 1996a,b,c; Calambokidis and Osmek, 1998; Stone, 2003; Moulton and Miller, 2005; Holst *et al.,* 2006; Stone and Tasker, 2006; Weir, 2008; Richardson *et al.,* 2009; Barkaszi *et al.,* 2009; Moulton and Holst, 2010). Some dolphins seem to be attracted to the seismic vessel and floats, and some ride the bow wave of the seismic vessel even when large arrays of airguns are firing (e.g., Moulton and Miller, 2005). Nonetheless, small toothed whales more often tend to head away, or to maintain a somewhat greater distance from the vessel, when a large array of airguns is operating than when it is silent (e.g., Stone and Tasker, 2006; Weir, 2008; Barry *et al.,* 2010; Moulton and Holst, 2010). In most cases, the avoidance radii for delphinids appear to be small, on the order of one km (0.5 nmi) or less, and some individuals show no apparent avoidance. Based on observations from seismic surveys off the United Kingdom, small odontocetes exhibited greater avoidance to operating airguns than previously reported (Stone *et al.,* 2003; Gordon *et al.,* 2004; Stone and Tasker, 2006). The observer data also indicated that small odontocetes were feeding less and were interacting with the vessel less during active seismic surveys. Captive bottlenose dolphins and beluga whales (*Delphinapterus leucas*) exhibited changes in behavior when exposed to strong pulsed sounds similar in duration to those typically used in seismic surveys (Finneran *et al.,* 2000, 2002, 2005). However, the animals tolerated high, received levels of sound before exhibiting aversive behaviors.

Results of reactions to seismic operations for porpoises depend on species. The limited available data suggest that harbor porpoises show stronger avoidance of seismic operations than do Dall's porpoises (*Phocoenoides dalli*) (Stone, 2003; MacLean and Koski, 2005; Bain and Williams, 2006; Stone and Tasker, 2006). Dall's porpoises seem relatively tolerant of airgun operations (MacLean and Koski, 2005; Bain and Williams, 2006), although they too have been observed to avoid large arrays of operating airguns (Calambokidis and Osmek, 1998; Bain and Williams, 2006). This apparent difference in responsiveness of these two porpoise species is consistent with their relative responsiveness to boat traffic and some other acoustic sources (Richardson *et al.,* 1995; Southall *et al.,* 2007).

Most studies of sperm whales exposed to airgun sounds indicate that the sperm whale shows considerable tolerance of airgun pulses (e.g., Stone, 2003; Moulton *et al.,* 2005, 2006a; Stone and Tasker, 2006; Weir, 2008). In most cases the whales do not show strong avoidance, and they continue to call. However, controlled exposure experiments in the Gulf of Mexico indicate that foraging behavior was altered upon exposure to airgun sound (Jochens *et al.,* 2008; Miller *et al.,* 2009; Tyack, 2009).

There are almost no specific data on the behavioral reactions of beaked whales to seismic surveys. However, some northern bottlenose whales remained in the general area and continued to produce high-frequency clicks when exposed to sound pulses from distant seismic surveys (Gosselin and Lawson, 2004; Laurinolli and Cochrane, 2005; Simard *et al.,* 2005). Most beaked whales are illusive and tend to avoid approaching vessels of other types (e.g., Wursig *et al.,* 1998). They may also dive for an extended period when approached by a vessel (e.g., Kasuya, 1986), although it is uncertain how much longer such dives may be as compared to dives by undisturbed beaked whales, which also are often quite long (Baird *et al.,* 2006; Tyack *et al.,* 2006). Based on a single observation, Aguilar-Soto *et al.* (2006) suggested that foraging efficiency of Cuvier's beaked whales may be reduced by close approach of vessels. In any event, it is likely that most beaked whales would also show strong avoidance of an approaching seismic vessel, although this has not been documented definitively. In fact, Moulton and Holst (2010) reported 15 sightings of beaked whales during seismic studies in the Northwest Atlantic; seven of those sightings were made at times when at least one airgun was operating. There was little evidence to indicate that beaked whale behavior was affected by airgun operations; sighting rates and distances were similar during seismic and non-seismic periods (Moulton and Holst, 2010).

There are indications that some beaked whales may strand when naval exercises involving mid-frequency sonar operation are ongoing nearby (e.g., Simmonds and Lopez-Jurado, 1991; Frantzis, 1998; NOAA and USN, 2001; Jepson *et al.,* 2003; Hildebrand, 2005; Barlow and Gisiner, 2006; see also the ''Stranding and Mortality'' section in this notice). These strandings are apparently a disturbance response, although auditory or other injuries or other physiological effects may also be involved. Whether beaked whales would ever react similarly to seismic surveys is unknown. Seismic survey sounds are quite different from those of the sonar in operation during the above-cited incidents.

Odontocete reactions to large arrays of airguns are variable and, at least for delphinids and Dall's porpoises, seem to be confined to a smaller radius than has been observed for the more responsive of some mysticetes. However, other data suggest that some odontocete species, including harbor porpoises, may be more responsive than might be expected given their poor low-frequency hearing. Reactions at longer distances may be particularly likely when sound propagation conditions are conducive to transmission of the higher frequency components of airgun sound to the animals' location (DeRuiter *et al.,* 2006; Goold and Coates, 2006; Tyack *et al.,* 2006; Potter *et al.,* 2007).

Pinnipeds—Information on the reaction of pinniped species to pulsed seismic airgun sounds is limited. Based on early observations, pinnipeds appear

to be quite tolerant of pulsed sounds. Other reports indicate that pinnipeds were tolerant of loud, pulsed sounds when they were strongly attracted to an area for feeding or reproductive purposes (Mate and Harvey, 1987; Reeves *et al.,* 1996). In most recent studies, avoidance of pinnipeds during seismic surveys has been reported as being relatively small, within 100 to few hundred meters. Many seals remained within 100 to 200 m (328.1 to 656.2 ft) of the survey tracklines while an operating seismic survey passed (Harris *et al.,* 2001; Moulton and Lawson, 2002). Other observations made during seismic surveys in the Chukchi and Beaufort Seas reported that pinnipeds (i.e., ringed seals [*Phoca hispida*]) were observed less when seismic airguns were operating than when they were silent (Miller *et al.,* 2005). In Puget Sound, sighting distances for harbor seals and California sea lions (Zalophus californianus) tended to be larger when airguns were operating (Calambokidis and Osmek, 1998). Previous telemetry work suggests that avoidance and other behavioral reactions may be stronger than evident to date from visual studies (Thompson *et al.,* 1998). Overall, behavioral reactions from pinnipeds to pulsed seismic sounds are variable. It is expected that localized avoidance of operating seismic airguns may occur; however, it cannot be guaranteed that these species would fully avoid an operating seismic vessel during active surveys.

Hearing Impairment and Other Physical Effects

Exposure to high intensity sound for a sufficient duration may result in auditory effects such as a noise-induced threshold shift—an increase in the auditory threshold after exposure to noise (Finneran, Carder, Schlundt, and Ridgway, 2005). Factors that influence the amount of threshold shift include the amplitude, duration, frequency content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of threshold shift just after exposure is called the initial threshold shift. If the threshold shift eventually returns to zero (i.e., the threshold returns to the pre-exposure value), it is called temporary threshold shift (TTS) (Southall *et al.,* 2007).

Researchers have studied TTS in certain captive odontocetes and pinnipeds exposed to strong sounds (reviewed in Southall *et al.,* 2007). However, there has been no specific documentation of TTS let alone permanent hearing damage, i.e., permanent threshold shift (PTS), in free-ranging marine mammals exposed to sequences of airgun pulses during realistic field conditions.

Temporary Threshold Shift—TTS is the mildest form of hearing impairment that can occur during exposure to a strong sound (Kryter, 1985). While experiencing TTS, the hearing threshold rises and a sound must be stronger in order to be heard. At least in terrestrial mammals, TTS can last from minutes or hours to (in cases of strong TTS) days. For sound exposures at or somewhat above the TTS threshold, hearing sensitivity in both terrestrial and marine mammals recovers rapidly after exposure to the noise ends. Few data on sound levels and durations necessary to elicit mild TTS have been obtained for marine mammals, and none of the published data concern TTS elicited by exposure to multiple pulses of sound. Available data on TTS in marine mammals are summarized in Southall *et al.* (2007). Table 1 (above) presents the estimated distances from the *Langseth's* airguns at which the received energy level (per pulse, flat-weighted) would be expected to be greater than or equal to 180 or 190 dB re 1 μPa (rms).

To avoid the potential for injury (i.e., Level A harassment), NMFS (1995, 2000) concluded that cetaceans and pinnipeds should not be exposed to pulsed underwater noise at received levels exceeding 180 and 190 dB re 1 μPa (rms), respectively. The established 180 and 190 dB (rms) criteria are not considered to be the levels above which TTS might occur. Rather, they are the received levels above which, in the view of a panel of bioacoustics specialists convened by NMFS before TTS measurements for marine mammals started to become available, one could not be certain that there would be no injurious effects, auditory or otherwise, to marine mammals. NMFS also assumes that cetaceans and pinnipeds exposed to levels exceeding 160 dB re 1 μPa (rms) may experience Level B harassment.

For toothed whales, researchers have derived TTS information for odontocetes from studies on the bottlenose dolphin and beluga. The experiments show that exposure to a single impulse at a received level of 207 kPa (or 30 psi, p-p), which is equivalent to 228 dB re 1 Pa (p-p), resulted in a 7 and 6 dB TTS in the beluga whale at 0.4 and 30 kHz, respectively. Thresholds returned to within 2 dB of the pre-exposure level within 4 minutes of the exposure (Finneran *et al.,* 2002). For the one harbor porpoise tested, the received level of airgun sound that elicited onset of TTS was lower (Lucke *et al.,* 2009). If these results from a single animal are representative, it is inappropriate to assume that onset of TTS occurs at similar received levels in all odontocetes (*cf.* Southall *et al.,* 2007). Some cetaceans apparently can incur TTS at considerably lower sound exposures than are necessary to elicit TTS in the beluga or bottlenose dolphin.

For baleen whales, there are no data, direct or indirect, on levels or properties of sound that are required to induce TTS. The frequencies to which baleen whales are most sensitive are assumed to be lower than those to which odontocetes are most sensitive, and natural background noise levels at those low frequencies tend to be higher. As a result, auditory thresholds of baleen whales within their frequency band of best hearing are believed to be higher (less sensitive) than are those of odontocetes at their best frequencies (Clark and Ellison, 2004). From this, it is suspected that received levels causing TTS onset may also be higher in baleen whales than those of odontocetes (Southall *et al.,* 2007).

Permanent Threshold Shift—When PTS occurs, there is physical damage to the sound receptors in the ear. In severe cases, there can be total or partial deafness, whereas in other cases, the animal has an impaired ability to hear sounds in specific frequency ranges (Kryter, 1985). There is no specific evidence that exposure to pulses of airgun sound can cause PTS in any marine mammal, even with large arrays of airguns. However, given the possibility that mammals close to an airgun array might incur at least mild TTS, there has been further speculation about the possibility that some individuals occurring very close to airguns might incur PTS (e.g., Richardson *et al.,* 1995, p. 372*ff;* Gedamke *et al.,* 2008). Single or occasional occurrences of mild TTS are not indicative of permanent auditory damage, but repeated or (in some cases) single exposures to a level well above that causing TTS onset might elicit PTS.

Relationships between TTS and PTS thresholds have not been studied in marine mammals, but are assumed to be similar to those in humans and other terrestrial mammals (Southall *et al.,* 2007). PTS might occur at a received sound level at least several dBs above that inducing mild TTS if the animal were exposed to strong sound pulses with rapid rise times. Based on data from terrestrial mammals, a precautionary assumption is that the PTS threshold for impulse sounds (such as airgun pulses as received close to the source) is at least 6 dB higher than the

TTS threshold on a peak-pressure basis, and probably greater than 6 dB (Southall *et al.,* 2007).

Given the higher level of sound necessary to cause PTS as compared with TTS, it is considerably less likely that PTS would occur. Baleen whales generally avoid the immediate area around operating seismic vessels, as do some other marine mammals. Some pinnipeds show avoidance reactions to airguns, but their avoidance reactions are generally not as strong or consistent as those of cetaceans, and occasionally they seem to be attracted to operating seismic vessels (NMFS, 2010).

Non-auditory Physiological Effects—Non-auditory physiological effects or injuries that theoretically might occur in marine mammals exposed to strong underwater sound include stress, neurological effects, bubble formation, resonance, and other types of organ or tissue damage (Cox *et al.,* 2006; Southall *et al.,* 2007). Studies examining such effects are limited. However, resonance effects (Gentry, 2002) and direct noise-induced bubble formations (Crum *et al.,* 2005) are implausible in the case of exposure to an impulsive broadband source like an airgun array. If seismic surveys disrupt diving patterns of deep-diving species, this might perhaps result in bubble formation and a form of the bends, as speculated to occur in beaked whales exposed to sonar. However, there is no specific evidence of this upon exposure to airgun pulses.

In general, very little is known about the potential for seismic survey sounds (or other types of strong underwater sounds) to cause non-auditory physical effects in marine mammals. Such effects, if they occur at all, would presumably be limited to short distances and to activities that extend over a prolonged period. The available data do not allow identification of a specific exposure level above which non-auditory effects can be expected (Southall *et al.,* 2007), or any meaningful quantitative predictions of the numbers (if any) of marine mammals that might be affected in those ways. Marine mammals that show behavioral avoidance of seismic vessels, including most baleen whales, some odontocetes, and some pinnipeds, are especially unlikely to incur non-auditory physical effects.

Stranding and Mortality—When a living or dead marine mammal swims or floats onto shore and becomes ''beached'' or incapable of returning to sea, the event is termed a ''stranding'' (Geraci *et al.,* 1999; Perrin and Geraci, 2002; Geraci and Lounsbury, 2005; NMFS, 2007). The legal definition for a stranding under the MMPA is that ''(A) a marine mammal is dead and is (i) on a beach or shore of the United States; or (ii) in waters under the jurisdiction of the United States (including any navigable waters); or (B) a marine mammal is alive and is (i) on a beach or shore of the United States and is unable to return to the water; (ii) on a beach or shore of the United States and, although able to return to the water is in need of apparent medical attention; or (iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance.''

Marine mammals are known to strand for a variety of reasons, such as infectious agents, biotoxicosis, starvation, fishery interaction, ship strike, unusual oceanographic or weather events, sound exposure, or combinations of these stressors sustained concurrently or in series. However, the cause or causes of most strandings are unknown (Geraci *et al.,* 1976; Eaton, 1979; Odell *et al.,* 1980; Best, 1982). Numerous studies suggest that the physiology, behavior, habitat relationships, age, or condition of cetaceans may cause them to strand or might pre-dispose them to strand when exposed to another phenomenon. These suggestions are consistent with the conclusions of numerous other studies that have demonstrated that combinations of dissimilar stressors commonly combine to kill an animal or dramatically reduce its fitness, even though one exposure without the other does not produce the same result (Chroussos, 2000; Creel, 2005; DeVries *et al.,* 2003; Fair and Becker, 2000; Foley *et al.,* 2001; Moberg, 2000; Relyea, 2005a, 2005b; Romero, 2004; Sih *et al.,* 2004).

Strandings Associated with Military Active Sonar—Several sources have published lists of mass stranding events of cetaceans in an attempt to identify relationships between those stranding events and military active sonar (Hildebrand, 2004; IWC, 2005; Taylor et al., 2004). For example, based on a review of stranding records between 1960 and 1995, the International Whaling Commission (2005) identified ten mass stranding events and concluded that, out of eight stranding events reported from the mid-1980s to the summer of 2003, seven had been coincident with the use of mid-frequency active sonar and most involved beaked whales.

Over the past 12 years, there have been five stranding events coincident with military mid-frequency active sonar use in which exposure to sonar is believed to have been a contributing factor to strandings: Greece (1996); the Bahamas (2000); Madeira (2000); Canary Islands (2002); and Spain (2006). Refer to Cox *et al.* (2006) for a summary of common features shared by the strandings events in Greece (1996), Bahamas (2000), Madeira (2000), and Canary Islands (2002); and Fernandez *et al.,* (2005) for an additional summary of the Canary Islands 2002 stranding event. USGS would not be using military sonars; therefore, NMFS does not expect these potential effects to marine mammals.

Potential for Stranding from Seismic Surveys—Marine mammals close to underwater detonations of high explosives can be killed or severely injured, and the auditory organs are especially susceptible to injury (Ketten *et al.,* 1993; Ketten, 1995). However, explosives are no longer used in marine waters for commercial seismic surveys or (with rare exceptions) for seismic research. These methods have been replaced entirely by airguns or related non-explosive pulse generators. Airgun pulses are less energetic and have slower rise times, and there is no specific evidence that they can cause serious injury, death, or stranding even in the case of large airgun arrays. However, the association of strandings of beaked whales with naval exercises involving mid-frequency active sonar (non-pulse sound) and, in one case, the co-occurrence of an L–DEO seismic survey (Malakoff, 2002; Cox *et al.,* 2006), has raised the possibility that beaked whales exposed to strong ''pulsed'' sounds could also be susceptible to injury and/or behavioral reactions that can lead to stranding (e.g., Hildebrand, 2005; Southall *et al.,* 2007).

Specific sound-related processes that lead to strandings and mortality are not well documented, but may include:

(1) Swimming in avoidance of a sound into shallow water;

(2) A change in behavior (such as a change in diving behavior) that might contribute to tissue damage, gas bubble formation, hypoxia, cardiac arrhythmia, hypertensive hemorrhage or other forms of trauma;

(3) A physiological change such as a vestibular response leading to a behavioral change or stress-induced hemorrhagic diathesis, leading in turn to tissue damage; and

(4) Tissue damage directly from sound exposure, such as through acoustically-mediated bubble formation and growth or acoustic resonance of tissues.

Some of these mechanisms are unlikely to apply in the case of impulse sounds. However, there are indications that gas-

bubble disease (analogous to ''the bends''), induced in supersaturated tissue by a behavioral response to acoustic exposure, could be a pathologic mechanism for the strandings and mortality of some deep-diving cetaceans exposed to sonar. The evidence for this remains circumstantial and associated with exposure to naval mid-frequency sonar, not seismic surveys (Cox *et al.,* 2006; Southall *et al.,* 2007).

Seismic pulses and mid-frequency sonar signals are quite different, and some mechanisms by which sonar sounds have been hypothesized to affect beaked whales are unlikely to apply to airgun pulses. Sounds produced by airgun arrays are broadband impulses with most of the energy below one kHz. Typical military mid-frequency sonar emits non-impulse sounds at frequencies of 2 to 10 kHz, generally with a relatively narrow bandwidth at any one time. A further difference between seismic surveys and naval exercises is that naval exercises can involve sound sources on more than one vessel. Thus, it is not appropriate to expect that the same effects to marine mammals would result from military sonar and seismic surveys. However, evidence that sonar signals can, in special circumstances, lead (at least indirectly) to physical damage and mortality (e.g., Balcomb and Claridge, 2001; NOAA and USN, 2001; Jepson *et al.,* 2003; Fernández *et al.,* 2004, 2005; Hildebrand 2005; Cox *et al.,* 2006) suggests that caution is warranted when dealing with exposure of marine mammals to any high-intensity sound.

There is no conclusive evidence of cetacean strandings or deaths at sea as a result of exposure to seismic surveys, but a few cases of strandings in the general area where a seismic survey was ongoing have led to speculation concerning a possible link between seismic surveys and strandings. Suggestions that there was a link between seismic surveys and strandings of humpback whales in Brazil (Engel *et al.,* 2004) were not well founded (IAGC, 2004; IWC, 2007). In September 2002, there was a stranding of two Cuvier's beaked whales in the Gulf of California, Mexico, when the L–DEO vessel R/V *Maurice Ewing* was operating a 20 airgun (8,490 in^3) array in the general area. The link between the stranding and the seismic surveys was inconclusive and not based on any physical evidence (Hogarth, 2002; Yoder, 2002). Nonetheless, the Gulf of California incident plus the beaked whale strandings near naval exercises involving use of mid-frequency sonar suggests a need for caution in conducting seismic surveys in areas occupied by beaked whales until more is known about effects of seismic surveys on those species (Hildebrand, 2005). No injuries of beaked whales are anticipated during the proposed study because of:

(1) The high likelihood that any beaked whales nearby would avoid the approaching vessel before being exposed to high sound levels, and

(2) Differences between the sound sources operated by L–DEO and those involved in the naval exercises associated with strandings.

Potential Effects of Other Acoustic Devices

Multi-Beam Echosounder

USGS would operate the Kongsberg EM 122 multi-beam echosounder from the source vessel during the planned study. Sounds from the multi-beam echosounder are very short pulses, occurring for 2 to 15 ms once every 5 to 20 s, depending on water depth. Most of the energy in the sound pulses emitted by this multi-beam echosounder is at frequencies near 12 kHz, and the maximum source level is 242 dB re 1 μPa (rms). The beam is narrow (1 to 2°) in fore-aft extent and wide (150°) in the cross-track extent. Each ping consists of eight (in water greater than 1,000 m deep) or four (in water less than 1,000 m deep) successive fan-shaped transmissions (segments) at different cross-track angles. Any given mammal at depth near the trackline would be in the main beam for only one or two of the nine segments. Also, marine mammals that encounter the Kongsberg EM 122 are unlikely to be subjected to repeated pulses because of the narrow fore–aft width of the beam and would receive only limited amounts of pulse energy because of the short pulses. Animals close to the ship (where the beam is narrowest) are especially unlikely to be ensonified for more than one 2 to 15 ms pulse (or two pulses if in the overlap area). Similarly, Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when a multi-beam echosounder emits a pulse is small. The animal would have to pass the transducer at close range and be swimming at speeds similar to the vessel in order to receive the multiple pulses that might result in sufficient exposure to cause TTS.

Navy sonars that have been linked to avoidance reactions and stranding of cetaceans: (1) Generally have longer pulse duration than the Kongsberg EM 122; and (2) are often directed close to horizontally versus more downward for the multi-beam echosounder. The area of possible influence of the multi-beam echosounder is much smaller—a narrow band below the source vessel. Also, the duration of exposure for a given marine mammal can be much longer for naval sonar. During USGS's operations, the individual pulses would be very short, and a given mammal would not receive many of the downward-directed pulses as the vessel passes by. Possible effects of a multi-beam echosounder on marine mammals are described below.

Stranding—In 2013, an International Scientific Review Panel investigated a 2008 mass stranding of approximately 100 melon-headed whales in a Madagascar lagoon system (Southall *et al.,* 2013) associated with the use of a high-frequency mapping system. The report indicated that the use of a 12 kHz multi-beam echosounder was the most plausible and likely initial behavioral trigger of the mass stranding event. This was the first time that a relatively high-frequency mapping sonar system has been associated with a stranding event. However, the report also notes that there were several site- and situation-specific secondary factors that may have contributed to the avoidance responses that lead to the eventual entrapment and mortality of the whales within the Loza Lagoon system (e.g., the survey vessel transiting in a north-south direction on the shelf break parallel to the shore may have trapped the animals between the sound source and the shore driving them towards the Loza Lagoon). They concluded that for odontocete cetaceans that hear well in the 10 to 50 kHz range, where ambient noise is typically quite low, high-power active sonars operating in this range may be more easily audible and have potential effects over larger areas than low-frequency systems that have more typically been considered in terms of anthropogenic noise impacts (Southall *et al.,* 2013). However, the risk may be very low given the extensive use of these systems worldwide on a daily basis and the lack of direct evidence of such responses previously (Southall *et al.,* 2013).

Masking—Marine mammal communications would not be masked appreciably by the multi-beam echosounder signals given the low duty cycle of the multi-beam echosounder and the brief period when an individual mammal is likely to be within its beam. Furthermore, in the case of baleen whales, the multi-beam echosounder signals (12 kHz) do not overlap with the predominant frequencies in the calls, which would avoid any significant masking.

Behavioral Responses—Behavioral reactions of free-ranging marine mammals to sonars, echosounders, and

other sound sources appear to vary by species and circumstance. Observed reactions have included silencing and dispersal by sperm whales (Watkins *et al.,* 1985), increased vocalizations and no dispersal by pilot whales (Rendell and Gordon, 1999), and the previously-mentioned beachings by beaked whales. During exposure to a 21 to 25 kHz ''whale-finding'' sonar with a source level of 215 dB re 1 μPa, gray whales reacted by orienting slightly away from the source and being deflected from their course by approximately 200 m (656.2 ft) (Frankel, 2005). When a 38 kHz echosounder and a 150 kHz acoustic Doppler current profiler were transmitting during studies in the eastern tropical Pacific, baleen whales showed no significant responses, while spotted and spinner dolphins were detected slightly more often and beaked whales less often during visual surveys (Gerrodette and Pettis, 2005).

Captive bottlenose dolphins and a beluga whale exhibited changes in behavior when exposed to 1 s tonal signals at frequencies similar to those that would be emitted by the multi-beam echosounder used by USGS, and to shorter broadband pulsed signals. Behavioral changes typically involved what appeared to be deliberate attempts to avoid the sound exposure (Schlundt *et al.,* 2000; Finneran *et al.,* 2002; Finneran and Schlundt, 2004). The relevance of those data to free-ranging odontocetes is uncertain, and in any case, the test sounds were quite different in duration as compared with those from a multi-beam echosounder.

Hearing Impairment and Other Physical Effects—Given recent stranding events that have been associated with the operation of naval sonar, there is concern that mid-frequency sonar sounds can cause serious impacts to marine mammals (see above). However, the multi-beam echosounder proposed for use by USGS is quite different than sonar used for Navy operations. Pulse duration of the multi-beam echosounder is very short relative to the naval sonar. Also, at any given location, an individual marine mammal would be in the beam of the multi-beam echosounder for much less time given the generally downward orientation of the beam and its narrow fore-aft beamwidth; Navy sonar often uses near-horizontally-directed sound. Those factors would all reduce the sound energy received from the multi-beam echosounder rather drastically relative to that from naval sonar. NMFS believes that the brief exposure of marine mammals to one pulse, or small numbers of signals, from the multi-beam echosounder is not likely to result in the harassment of marine mammals.

Sub-Bottom Profiler

USGS would also operate a sub-bottom profiler from the source vessel during the proposed survey. Sounds from the sub-bottom profiler are very short pulses, occurring for 1 to 4 ms once every few (3 to 6) seconds. Most of the energy in the sound pulses emitted by the sub-bottom profiler is at 3.5 kHz, and the beam is directed downward. The sub-bottom profiler on the *Langseth* has a maximum source level of 204 dB re 1 μPa. Kremser *et al.* (2005) noted that the probability of a cetacean swimming through the area of exposure when a bottom profiler emits a pulse is small—even for a sub-bottom profiler more powerful than that on the *Langseth.* If the animal was in the area, it would have to pass the transducer at close range in order to be subjected to sound levels that could cause TTS.

Masking—Marine mammal communications would not be masked appreciably by the sub-bottom profiler signals given the directionality of the signal and the brief period when an individual mammal is likely to be within its beam. Furthermore, in the case of most baleen whales, the sub-bottom profiler signals do not overlap with the predominant frequencies in the calls, which would avoid significant masking.

Behavioral Responses—Marine mammal behavioral reactions to other pulsed sound sources are discussed above, and responses to the sub-bottom profiler are likely to be similar to those for other pulsed sources if received at the same levels. However, the pulsed signals from the sub-bottom profiler are considerably weaker than those from the multi-beam echosounder. Therefore, behavioral responses are not expected unless marine mammals are very close to the source.

Hearing Impairment and Other Physical Effects—It is unlikely that the sub-bottom profiler produces pulse levels strong enough to cause hearing impairment or other physical injuries even in an animal that is (briefly) in a position near the source. The sub-bottom profiler is usually operated simultaneously with other higher-power acoustic sources, including airguns. Many marine mammals would move away in response to the approaching higher-power sources or the vessel itself before the mammals would be close enough for there to be any possibility of effects from the less intense sounds from the sub-bottom profiler.

Potential Effects of Vessel Movement and Collisions

Vessel movement in the vicinity of marine mammals has the potential to result in either a behavioral response or a direct physical interaction. Both scenarios are discussed below in this section.

Behavioral Responses to Vessel Movement—There are limited data concerning marine mammal behavioral responses to vessel traffic and vessel noise, and a lack of consensus among scientists with respect to what these responses mean or whether they result in short-term or long-term adverse effects. In those cases where there is a busy shipping lane or where there is a large amount of vessel traffic, marine mammals (especially low frequency specialists) may experience acoustic masking (Hildebrand, 2005) if they are present in the area (e.g., killer whales in Puget Sound; Foote *et al.,* 2004; Holt *et al.,* 2008). In cases where vessels actively approach marine mammals (e.g., whale watching or dolphin watching boats), scientists have documented that animals exhibit altered behavior such as increased swimming speed, erratic movement, and active avoidance behavior (Bursk, 1983; Acevedo, 1991; Baker and MacGibbon, 1991; Trites and Bain, 2000; Williams *et al.,* 2002; Constantine *et al.,* 2003), reduced blow interval (Ritcher *et al.,* 2003), disruption of normal social behaviors (Lusseau, 2003, 2006), and the shift of behavioral activities which may increase energetic costs (Constantine *et al.*, 2003, 2004). A detailed review of marine mammal reactions to ships and boats is available in Richardson *et al.,* (1995). For each of the marine mammal taxonomy groups, Richardson *et al.,* (1995) provides the following assessment regarding reactions to vessel traffic:

Toothed whales—''In summary, toothed whales sometimes show no avoidance reaction to vessels, or even approach them. However, avoidance can occur, especially in response to vessels of types used to chase or hunt the animals. This may cause temporary displacement, but we know of no clear evidence that toothed whales have abandoned significant parts of their range because of vessel traffic.''

Baleen whales—''When baleen whales receive low-level sounds from distant or stationary vessels, the sounds often seem to be ignored. Some whales approach the sources of these sounds. When vessels approach whales slowly and non-aggressively, whales often exhibit slow and inconspicuous avoidance maneuvers. In response to

strong or rapidly changing vessel noise, baleen whales often interrupt their normal behavior and swim rapidly away. Avoidance is especially strong when a boat heads directly toward the whale.''

Behavioral responses to stimuli are complex and influenced to varying degrees by a number of factors, such as species, behavioral contexts, geographical regions, source characteristics (moving or stationary, speed, direction, etc.), prior experience of the animal and physical status of the animal. For example, studies have shown that beluga whales' reaction varied when exposed to vessel noise and traffic. In some cases, beluga whales exhibited rapid swimming from ice-breaking vessels up to 80 km (43.2 nmi) away, and showed changes in surfacing, breathing, diving, and group composition in the Canadian high Arctic where vessel traffic is rare (Finley *et al.,* 1990). In other cases, beluga whales were more tolerant of vessels, but responded differentially to certain vessels and operating characteristics by reducing their calling rates (especially older animals) in the St. Lawrence River where vessel traffic is common (Blane and Jaakson, 1994). In Bristol Bay, Alaska, beluga whales continued to feed when surrounded by fishing vessels and resisted dispersal even when purposefully harassed (Fish and Vania, 1971).

In reviewing more than 25 years of whale observation data, Watkins (1986) concluded that whale reactions to vessel traffic were ''modified by their previous experience and current activity: Habituation often occurred rapidly, attention to other stimuli or preoccupation with other activities sometimes overcame their interest or wariness of stimuli.'' Watkins noticed that over the years of exposure to ships in the Cape Cod area, minke whales changed from frequent positive interest (e.g., approaching vessels) to generally uninterested reactions; fin whales changed from mostly negative (e.g., avoidance) to uninterested reactions; fin whales changed from mostly negative (e.g., avoidance) to uninterested reactions; right whales apparently continued the same variety of responses (negative, uninterested, and positive responses) with little change; and humpbacks dramatically changed from mixed responses that were often negative to reactions that were often strongly positive. Watkins (1986) summarized that ''whales near shore, even in regions with low vessel traffic, generally have become less wary of boats and their noises, and they have appeared to be less easily disturbed than previously. In particular locations with intense shipping and repeated approaches by boats (such as the whale-watching areas of Stellwagen Bank), more and more whales had positive reactions to familiar vessels, and they also occasionally approached other boats and yachts in the same ways.''

Although the radiated sound from the *Langseth* would be audible to marine mammals over a large distance, it is unlikely that marine mammals would respond behaviorally (in a manner that NMFS would consider harassment under the MMPA) to low-level distant shipping noise as the animals in the area are likely to be habituated to such noises (Nowacek *et al.,* 2004). In light of these facts, NMFS does not expect the *Langseth's* movements to result in Level B harassment.

Vessel Strike—Ship strikes of cetaceans can cause major wounds, which may lead to the death of the animal. An animal at the surface could be struck directly by a vessel, a surfacing animal could hit the bottom of a vessel, or an animal just below the surface could be cut by a vessel's propeller. The severity of injuries typically depends on the size and speed of the vessel (Knowlton and Kraus, 2001; Laist *et al.,* 2001; Vanderlaan and Taggart, 2007).

The most vulnerable marine mammals are those that spend extended periods of time at the surface in order to restore oxygen levels within their tissues after deep dives (e.g., the sperm whale). In addition, some baleen whales, such as the North Atlantic right whale, seem generally unresponsive to vessel sound, making them more susceptible to vessel collisions (Nowacek *et al.,* 2004). These species are primarily large, slow moving whales. Smaller marine mammals (e.g., bottlenose dolphin) move quickly through the water column and are often seen riding the bow wave of large ships. Marine mammal responses to vessels may include avoidance and changes in dive pattern (NRC, 2003).

An examination of all known ship strikes from all shipping sources (civilian and military) indicates vessel speed is a principal factor in whether a vessel strike results in death (Knowlton and Kraus, 2001; Laist *et al.,* 2001; Jensen and Silber, 2003; Vanderlaan and Taggart, 2007). In assessing records in which vessel speed was known, Laist *et al.* (2001) found a direct relationship between the occurrence of a whale strike and the speed of the vessel involved in the collision. The authors concluded that most deaths occurred when a vessel was traveling in excess of 13 kts (24.1 km/hr, 14.9 mph).

USGS's proposed operation of one source vessel for the proposed survey is relatively small in scale compared to the number of commercial ships transiting at higher speeds in the same area on an annual basis. The probability of vessel and marine mammal interactions occurring during the proposed survey is unlikely due to the *Langseth's* slow operational speed, which is typically 4.5 kts (8.5 km/hr, 5.3 mph). Outside of seismic operations, the *Langseth's* cruising speed would be approximately 10 kts (18.5 km/hr, 11.5 mph), which is generally below the speed at which studies have noted reported increases of marine mammal injury or death (Laist *et al.,* 2001).

As a final point, the *Langseth* has a number of other advantages for avoiding ship strikes as compared to most commercial merchant vessels, including the following: The *Langseth's* bridge offers good visibility to visually monitor for marine mammal presence; Protected Species Visual Observers (PSVO) posted during operations would scan the ocean for marine mammals and would be required to report visual sightings of marine mammal presence to crew; and the PSVOs receive extensive training that covers the fundamentals of visual observing for marine mammals and information about marine mammals and their identification at sea. In addition, during airgun operations, a passive acoustic monitoring (PAM) system would be deployed from the *Langseth* that may alert the vessel of the presence of marine mammals in the vicinity of the vessel.

Entanglement

Entanglement can occur if wildlife becomes immobilized in survey lines, cables, nets, or other equipment that is moving through the water column. The proposed seismic survey would require towing of seismic equipment and cables. The large airgun array and hydrophone streamer carries the risk of entanglement for marine mammals. Wildlife, especially slow moving individuals, such as large whales, have a low probability of becoming entangled due to the slow speed of the survey vessel and onboard monitoring efforts. There are no recorded cases of entanglement of marine mammals during the conduct of over 8 years of seismic surveys on the *Langseth.* In May 2011, there was one recorded entanglement of an olive ridley sea turtle (*Lepidochelys olivacea*) in the *Langseth's* barovanes after the conclusion of a seismic survey off Costa Rica. However, the barovanes would not be deployed from the *Langseth* during USGS's proposed seismic survey. There have been cases of baleen whales,

mostly gray whales (Heyning, 1990), becoming entangled in fishing lines. The probability for entanglement of marine mammals is considered not significant because of the vessel speed and the monitoring efforts onboard the survey vessel.

The potential effects to marine mammals described in this section of the document do not take into consideration the proposed monitoring and mitigation measures described later in this document (see the ''Proposed Mitigation'' and ''Proposed Monitoring and Reporting'' sections) which, as noted, are designed to effect the least practicable impact on affected marine mammal species and stocks.

Anticipated Effects on Marine Mammal Habitat

The proposed seismic survey is not anticipated to have any permanent impact on habitats used by the marine mammals in the proposed survey area, including the food sources they use (i.e., fish and invertebrates). Additionally, no physical damage to any habitat is anticipated as a result of conducting the proposed seismic survey. While it is anticipated that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and was considered in further detail earlier in this document, as behavioral modification. The main impact associated with the proposed activity would be temporarily elevated noise levels and the associated direct effects on marine mammals in any particular area of the proposed project area, previously discussed in this notice. The proposed 2014 and 2015 seismic survey is not operating in a small, defined location. During the proposed 3,165 km (1,709 nmi) and 3,115 km (1,682 nmi) of tracklines in 2014 and 2015, respectively, the vessel would continuously move along the tracklines during the survey. The next section discusses the potential impacts of anthropogenic sound sources on common marine mammal prey in the proposed survey area (i.e., fish and invertebrates).

Anticipated Effects on Fish

One reason for the adoption of airguns as the standard energy source for marine seismic surveys is that, unlike explosives, they have not been associated with large-scale fish kills. However, existing information on the impacts of seismic surveys on marine fish and invertebrate populations is limited. There are three types of potential effects of exposure to seismic surveys: (1) Pathological, (2) physiological, and (3) behavioral. Pathological effects involve lethal and temporary or permanent sub-lethal injury. Physiological effects involve temporary and permanent primary and secondary stress responses, such as changes in levels of enzymes and proteins. Behavioral effects refer to temporary and (if they occur) permanent changes in exhibited behavior (e.g., startle and avoidance behavior). The three categories are interrelated in complex ways. For example, it is possible that certain physiological and behavioral changes could potentially lead to an ultimate pathological effect on individuals (i.e., mortality).

The specific received sound levels at which permanent adverse effects to fish potentially could occur are little studied and largely unknown. Furthermore, the available information on the impacts of seismic surveys on marine fish is from studies of individuals or portions of a population; there have been no studies at the population scale. The studies of individual fish have often been on caged fish that were exposed to airgun pulses in situations not representative of an actual seismic survey. Thus, available information provides limited insight on possible real-world effects at the ocean or population scale. This makes drawing conclusions about impacts on fish problematic because, ultimately, the most important issues concern effects on marine fish populations, their viability, and their availability to fisheries.

Hastings and Popper (2005), Popper (2009), and Popper and Hastings (2009a,b) provided recent critical reviews of the known effects of sound on fish. The following sections provide a general synopsis of the available information on the effects of exposure to seismic and other anthropogenic sound as relevant to fish. The information comprises results from scientific studies of varying degrees of rigor plus some anecdotal information. Some of the data sources may have serious shortcomings in methods, analysis, interpretation, and reproducibility that must be considered when interpreting their results (see Hastings and Popper, 2005). Potential adverse effects of the program's sound sources on marine fish are noted.

Pathological Effects—The potential for pathological damage to hearing structures in fish depends on the energy level of the received sound and the physiology and hearing capability of the species in question. For a given sound to result in hearing loss, the sound must exceed, by some substantial amount, the hearing threshold of the fish for that sound (Popper, 2005). The consequences of temporary or permanent hearing loss in individual fish on a fish population are unknown; however, they likely depend on the number of individuals affected and whether critical behaviors involving sound (e.g., predator avoidance, prey capture, orientation and navigation, reproduction, etc.) are adversely affected.

Little is known about the mechanisms and characteristics of damage to fish that may be inflicted by exposure to seismic survey sounds. Few data have been presented in the peer-reviewed scientific literature. As far as USGS and NMFS know, there are only two papers with proper experimental methods, controls, and careful pathological investigation implicating sounds produced by actual seismic survey airguns in causing adverse anatomical effects. One such study indicated anatomical damage, and the second indicated TTS in fish hearing. The anatomical case is McCauley *et al.* (2003), who found that exposure to airgun sound caused observable anatomical damage to the auditory maculae of pink snapper (*Pagrus auratus*). This damage in the ears had not been repaired in fish sacrificed and examined almost two months after exposure. On the other hand, Popper *et al.* (2005) documented only TTS (as determined by auditory brainstem response) in two of three fish species from the Mackenzie River Delta. This study found that broad whitefish (*Coregonus nasus*) exposed to five airgun shots were not significantly different from those of controls. During both studies, the repetitive exposure to sound was greater than would have occurred during a typical seismic survey. However, the substantial low-frequency energy produced by the airguns (less than 400 Hz in the study by McCauley *et al.* [2003] and less than approximately 200 Hz in Popper *et al.* [2005]) likely did not propagate to the fish because the water in the study areas was very shallow (approximately nine m in the former case and less than two m in the latter). Water depth sets a lower limit on the lowest sound frequency that would propagate (the ''cutoff frequency'') at about one-quarter wavelength (Urick, 1983; Rogers and Cox, 1988).

Wardle *et al.* (2001) suggested that in water, acute injury and death of organisms exposed to seismic energy depends primarily on two features of the sound source: (1) The received peak pressure, and (2) the time required for the pressure to rise and decay. Generally, as received pressure increases, the period for the pressure to rise and decay decreases, and the

chance of acute pathological effects increases. According to Buchanan *et al.* (2004), for the types of seismic airguns and arrays involved with the proposed program, the pathological (mortality) zone for fish would be expected to be within a few meters of the seismic source. Numerous other studies provide examples of no fish mortality upon exposure to seismic sources (Falk and Lawrence, 1973; Holliday *et al.,* 1987; La Bella *et al.,* 1996; Santulli *et al.,* 1999; McCauley *et al.,* 2000a,b, 2003; Bjarti, 2002; Thomsen, 2002; Hassel *et al.,* 2003; Popper *et al.,* 2005; Boeger *et al.,* 2006).

An experiment of the effects of a single 700 in^3 airgun was conducted in Lake Meade, Nevada (USGS, 1999). The data were used in an Environmental Assessment of the effects of a marine reflection survey of the Lake Meade fault system by the National Park Service (Paulson *et al.,* 1993, in USGS, 1999). The airgun was suspended 3.5 m (11.5 ft) above a school of threadfin shad in Lake Meade and was fired three successive times at a 30 second interval. Neither surface inspection nor diver observations of the water column and bottom found any dead fish.

Some studies have reported, some equivocally, that mortality of fish, fish eggs, or larvae can occur close to seismic sources (Kostyuchenko, 1973; Dalen and Knutsen, 1986; Booman *et al.,* 1996; Dalen *et al.,* 1996). Some of the reports claimed seismic effects from treatments quite different from actual seismic survey sounds or even reasonable surrogates. However, Payne *et al.* (2009) reported no statistical differences in mortality/morbidity between control and exposed groups of capelin eggs or monkfish larvae. Saetre and Ona (1996) applied a 'worst-case scenario' mathematical model to investigate the effects of seismic energy on fish eggs and larvae. They concluded that mortality rates caused by exposure to seismic surveys are so low, as compared to natural mortality rates, that the impact of seismic surveying on recruitment to a fish stock must be regarded as insignificant.

Physiological Effects—Physiological effects refer to cellular and/or biochemical responses of fish to acoustic stress. Such stress potentially could affect fish populations by increasing mortality or reducing reproductive success. Primary and secondary stress responses of fish after exposure to seismic survey sound appear to be temporary in all studies done to date (Sverdrup *et al.,* 1994; Santulli *et al.,* 1999; McCauley *et al.,* 2000a,b). The periods necessary for the biochemical changes to return to normal are variable and depend on numerous aspects of the biology of the species and of the sound stimulus.

Behavioral Effects—Behavioral effects include changes in the distribution, migration, mating, and catchability of fish populations. Studies investigating the possible effects of sound (including seismic survey sound) on fish behavior have been conducted on both uncaged and caged individuals (e.g., Chapman and Hawkins, 1969; Pearson *et al.,* 1992; Santulli *et al.,* 1999; Wardle *et al.,* 2001; Hassel *et al.,* 2003). Typically, in these studies fish exhibited a sharp startle response at the onset of a sound followed by habituation and a return to normal behavior after the sound ceased.

The Minerals Management Service (MMS, 2005) assessed the effects of a proposed seismic survey in Cook Inlet. The seismic survey proposed using three vessels, each towing two, four-airgun arrays ranging from 1,500 to 2,500 in^3. MMS noted that the impact to fish populations in the survey area and adjacent waters would likely be very low and temporary. MMS also concluded that seismic surveys may displace the pelagic fishes from the area temporarily when airguns are in use. However, fishes displaced and avoiding the airgun noise are likely to backfill the survey area in minutes to hours after cessation of seismic survey. Fishes not dispersing from the airgun noise (e.g., demersal species) may startle and move short distances to avoid airgun emissions.

In general, any adverse effects on fish behavior or fisheries attributable to seismic surveys may depend on the species in question and the nature of the fishery (season, duration, fishing method). They may also depend on the age of the fish, its motivational state, its size, and numerous other factors that are difficult, if not impossible, to quantify at this point, given such limited data on effects of airguns on fish, particularly under realistic at-sea conditions.

Anticipated Effects on Invertebrates

The existing body of information on the impacts of seismic survey sound on marine invertebrates is very limited. However, there is some unpublished and very limited evidence of the potential for adverse effects on invertebrates, thereby justifying further discussion and analysis of this issue. The three types of potential effects of exposure to seismic surveys on marine invertebrates are pathological, physiological, and behavioral. Based on the physical structure of their sensory organs, marine invertebrates appear to be specialized to respond to particle displacement components of an impinging sound field and not to the pressure component (Popper *et al.,* 2001).

The only information available on the impacts of seismic surveys on marine invertebrates involves studies of individuals; there have been no studies at the population scale. Thus, available information provides limited insight on possible real-world effects at the regional or ocean scale. The most important aspect of potential impacts concerns how exposure to seismic survey sound ultimately affects invertebrate populations and their viability, including availability to fisheries.

Literature reviews of the effects of seismic and other underwater sound on invertebrates were provided by Moriyasu *et al.* (2004) and Payne *et al.* (2008). The following sections provide a synopsis of available information on the effects of exposure to seismic survey sound on species of decapod crustaceans and cephalopods, the two taxonomic groups of invertebrates on which most such studies have been conducted. The available information is from studies with variable degrees of scientific soundness and from anecdotal information. A more detailed review of the literature on the effects of seismic survey sound on invertebrates is provided in Appendix D of the NSF/USGS PEIS.

Pathological Effects—In water, lethal and sub-lethal injury to organisms exposed to seismic survey sound appears to depend on at least two features of the sound source: (1) The received peak pressure; and (2) the time required for the pressure to rise and decay. Generally, as received pressure increases, the period for the pressure to rise and decay decreases, and the chance of acute pathological effects increases. For the type of airgun array planned for the proposed program, the pathological (mortality) zone for crustaceans and cephalopods is expected to be within a few meters of the seismic source, at most; however, very few specific data are available on levels of seismic signals that might damage these animals. This premise is based on the peak pressure and rise/decay time characteristics of seismic airgun arrays currently in use around the world.

Some studies have suggested that seismic survey sound has a limited pathological impact on early developmental stages of crustaceans (Pearson *et al.,* 1994; Christian *et al.,* 2003; DFO, 2004). However, the impacts appear to be either temporary or insignificant compared to what occurs under natural conditions. Controlled

field experiments on adult crustaceans (Christian *et al.,* 2003, 2004; DFO, 2004) and adult cephalopods (McCauley *et al.,* 2000a,b) exposed to seismic survey sound have not resulted in any significant pathological impacts on the animals. It has been suggested that exposure to commercial seismic survey activities has injured giant squid (Guerra *et al.,* 2004), but the article provides little evidence to support this claim. Tenera Environmental (2011b) reported that Norris and Mohl (1983, summarized in Mariyasu *et al.,* 2004) observed lethal effects in squid (*Loligo vulgaris*) at levels of 246 to 252 dB after 3 to 11 minutes.

Andre *et al.* (2011) exposed four species of cephalopods (*Loligo vulgaris, Sepia officinalis, Octopus vulgaris,* and *Ilex coindetii*), primarily cuttlefish, to two hours of continuous 50 to 400 Hz sinusoidal wave sweeps at 157+/−5 dB re 1 μPa while captive in relatively small tanks. They reported morphological and ultrastructural evidence of massive acoustic trauma (i.e., permanent and substantial alterations [lesions] of statocyst sensory hair cells) to the exposed animals that increased in severity with time, suggesting that cephalopods are particularly sensitive to low frequency sound. The received SPL was reported as 157+/−5 dB re 1 μPa, with peak levels at 175 dB re 1 μPa. As in the McCauley *et al.* (2003) paper on sensory hair cell damage in pink snapper as a result of exposure to seismic sound, the cephalopods were subjected to higher sound levels than they would be under natural conditions, and they were unable to swim away from the sound source.

Physiological Effects—Physiological effects refer mainly to biochemical responses by marine invertebrates to acoustic stress. Such stress potentially could affect invertebrate populations by increasing mortality or reducing reproductive success. Primary and secondary stress responses (i.e., changes in haemolymph levels of enzymes, proteins, etc.) of crustaceans have been noted several days or months after exposure to seismic survey sounds (Payne *et al.,* 2007). It was noted however, that no behavioral impacts were exhibited by crustaceans (Christian *et al.,* 2003, 2004; DFO, 2004). The periods necessary for these biochemical changes to return to normal are variable and depend on numerous aspects of the biology of the species and of the sound stimulus.

Behavioral Effects—There is increasing interest in assessing the possible direct and indirect effects of seismic and other sounds on invertebrate behavior, particularly in relation to the consequences for fisheries. Changes in behavior could potentially affect such aspects as reproductive success, distribution, susceptibility to predation, and catchability by fisheries. Studies investigating the possible behavioral effects of exposure to seismic survey sound on crustaceans and cephalopods have been conducted on both uncaged and caged animals. In some cases, invertebrates exhibited startle responses (e.g., squid in McCauley *et al.,* 2000a,b). In other cases, no behavioral impacts were noted (e.g., crustaceans in Christian *et al.,* 2003, 2004; DFO 2004). There have been anecdotal reports of reduced catch rates of shrimp shortly after exposure to seismic surveys; however, other studies have not observed any significant changes in shrimp catch rate (Andriguetto-Filho *et al.,* 2005). Similarly, Parry and Gason (2006) did not find any evidence that lobster catch rates were affected by seismic surveys. Any adverse effects on crustacean and cephalopod behavior or fisheries attributable to seismic survey sound depend on the species in question and the nature of the fishery (season, duration, fishing method).

Proposed Mitigation

In order to issue an Incidental Take Authorization (ITA) under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses (where relevant).

USGS has reviewed the following source documents and has incorporated a suite of appropriate mitigation measures into their project description.

(1) Protocols used during previous NSF and USGS-funded seismic research cruises as approved by NMFS and detailed in the NSF/USGS PEIS;

(2) Previous IHA applications and IHAs approved and authorized by NMFS; and

(3) Recommended best practices in Richardson *et al.* (1995), Pierson *et al.* (1998), and Weir and Dolman (2007).

To reduce the potential for disturbance from acoustic stimuli associated with the proposed activities, USGS and/or its designees have proposed to implement the following mitigation measures for marine mammals:

(1) Planning Phase;

(2) Proposed exclusion zones around the airgun(s);

(3) Power-down procedures;

(4) Shut-down procedures;

(5) Ramp-up procedures; and

(6) Special procedures for situations or species of concern.

Planning Phase—Mitigation of potential impacts from the proposed activities began during the planning phases of the proposed activities. USGS considered whether the research objectives could be met with a smaller source than the full, 36-airgun array (6,600 in^3) used on the *Langseth,* and determined that the standard 36-airgun array with a total volume of approximately 6,600 in^3 was appropriate. USGS also worked with L–DEO and NSF to identify potential time periods to carry out the survey taking into consideration key factors such as environmental conditions (i.e., the seasonal presence of marine mammals and other protected species), weather conditions, equipment, and optimal timing for other proposed seismic surveys using the *Langseth.* Most marine mammal species are expected to occur in the study area year-round, so altering the timing of the proposed project from spring and summer months likely would result in no net benefits for those species.

Proposed Exclusion Zones—USGS use radii to designate exclusion and buffer zones and to estimate take for marine mammals. Table 1 (presented earlier in this document) shows the distances at which one would expect marine mammal exposures to received sound levels (160 and 180/190 dB) from the 36 airgun array and a single airgun. (The 180 dB and 190 dB level shut-down criteria are applicable to cetaceans and pinnipeds, respectively, as specified by NMFS [2000].) USGS used these levels to establish the exclusion and buffer zones.

If the PSVO detects marine mammal(s) within or about to enter the appropriate exclusion zone, the *Langseth* crew would immediately power-down the airgun array, or perform a shut-down if necessary (see ''Shut-down Procedures''). Table 1 summarizes the calculated distances at which sound levels (160, 180 and 190 dB [rms]) are expected to be received from the 36 airgun array and the single airgun operating in deep water depths. Received sound levels have been calculated by USGS, in relation to distance and direction from the airguns, for the 36 airgun array and for the single 1900LL 40 in^3 airgun, which would be used during power-downs.

Power-down Procedures—A power-down involves decreasing the number of

airguns in use to one airgun, such that the radius of the 180 dB or 190 dB zone is decreased to the extent that the observed marine mammal(s) are no longer in or about to enter the exclusion zone for the full airgun array. During a power-down for mitigation, L–DEO would operate one small airgun. The continued operation of one airgun is intended to (a) alert marine mammals to the presence of the seismic vessel in the area; and (b) retain the option of initiating a ramp-up to full operations under poor visibility conditions. In contrast, a shut-down occurs when all airgun activity is suspended.

If the PSVO detects a marine mammal outside the exclusion zone that is likely to enter the exclusion zone, USGS would power-down the airguns to reduce the size of the 180 dB or 190 dB exclusion zone before the animal is within the exclusion zone. Likewise, if a mammal is already within the exclusion zone, when first detected USGS would power-down the airguns immediately. During a power-down of the airgun array, USGS would operate the single 40 in^3 airgun, which has a smaller exclusion zone. If the PSVO detects a marine mammal within or near the smaller exclusion zone around that single airgun (see Table 1), USGS would shut-down the airgun (see next section).

Resuming Airgun Operations After a Power-down—Following a power-down, the *Langseth* will not resume full airgun activity until the marine mammal has cleared the 180 or 190 dB exclusion zone (see Table 1). The PSVO would consider the animal to have cleared the exclusion zone if:

- The PSVO has visually observed the animal leave the exclusion zone, or
- A PSVO has not sighted the animal within the exclusion zone for 15 minutes for species with shorter dive durations (i.e., small odontocetes or pinnipeds), or 30 minutes for species with longer dive durations (i.e., mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales); or
- The vessel has transited outside the original 180 dB or 190 dB exclusion zone after a 10 minute wait period.

The *Langseth* crew would resume operating the airguns at full power after 15 minutes of sighting any species with short dive durations (i.e., small odontocetes or pinnipeds). Likewise, the crew would resume airgun operations at full power after 30 minutes of sighting any species with longer dive durations (i.e., mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales).

Because the vessel would have transited away from the vicinity of the original sighting during the 10 minute period, implementing ramp-up procedures for the full array after an extended power-down (i.e., transiting for an additional 35 minutes from the location of initial sighting) would not meaningfully increase the effectiveness of observing marine mammals approaching or entering the exclusion zone for the full source level and would not further minimize the potential for take. The *Langseth's* PSVOs would continually monitoring the exclusion zone for the full source level while the mitigation airgun is firing. On average, PSVOs can observe to the horizon (10 km or 5.4 nmi) from the height of the *Langseth's* observation deck and should be able to state with a reasonable degree of confidence whether a marine mammal would be encountered within this distance before resuming airgun operations at full-power.

Shut-down Procedures—USGS would shut-down the operating airgun(s) if a marine mammal is seen within or approaching the exclusion zone for the single airgun. USGS would implement a shut-down:

(1) If an animal enters the exclusion zone of the single airgun after USGS has initiated a power-down; or

(2) If an animal is initially seen within the exclusion zone of the single airgun when more than one airgun (typically the full airgun array) is operating (and it is not practical or adequate to reduce exposure to less than 180 dB [rms] or 190 dB [rms]).

Considering the conservation status for the North Atlantic right whale, the airguns would be shut-down immediately in the unlikely event that this species is observed, regardless of the distance from the *Langseth*. Ramp-up would only begin if the North Atlantic right whale has not been seen for 30 minutes.

Resuming Airgun Operations After a Shut-down—Following a shut-down in excess of 10 minutes, the *Langseth* crew would initiate a ramp-up with the smallest airgun in the array (40 in^3). The crew would turn on additional airguns in a sequence such that the source level of the array would increase in steps not exceeding 6 dB per five-minute period over a total duration of approximately 30 minutes. During ramp-up, the PSVOs would monitor the exclusion zone, and if they sight a marine mammal, the *Langseth* crew would implement a power-down or shut-down as though the full airgun array were operational.

During periods of active seismic operations, there are occasions when the *Langseth* crew would need to temporarily shut-down the airguns due to equipment failure or for maintenance. In this case, if the airguns are inactive longer than eight minutes, the crew would follow ramp-up procedures for a shut-down described earlier and the PSVOs would monitor the full exclusion zone and would implement a power-down or shut-down if necessary.

If the full exclusion zone is not visible to the PSVO for at least 30 minutes prior to the start of operations in either daylight or nighttime, the *Langseth* crew would not commence ramp-up unless at least one airgun (40 in^3 or similar) has been operating during the interruption of seismic survey operations. Given these provisions, it is likely that the vessel's crew would not ramp-up the airgun array from a complete shut-down at night or during poor visibility conditions (i.e., in thick fog), because the outer part of the zone for that array would not be visible during those conditions.

If one airgun has operated during a power-down period, ramp-up to full power would be permissible at night or in poor visibility, on the assumption that marine mammals would be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away. The vessel's crew would not initiate ramp-up of the airguns if a marine mammal is sighted within or near the applicable exclusion zones.

Ramp-up Procedures—Ramp-up of an airgun array provides a gradual increase in sound levels, and involves a step-wise increase in the number and total volume of airguns firing until the full volume of the airgun array is achieved. The purpose of a ramp-up is to ''warn'' marine mammals in the vicinity of the airguns, and to provide the time for them to leave the area and thus avoid any potential injury or impairment of their hearing abilities. USGS would follow a ramp-up procedure when the airgun array begins operating after a 10 minute period without airgun operations or when a power-down or shut-down has exceeded that period. USGS and L–DEO have used similar periods (approximately 8 to 10 minutes) during previous USGS and L–DEO seismic surveys.

Ramp-up would begin with the smallest airgun in the array (40 in^3). Airguns would be added in a sequence such that the source level of the array would increase in steps not exceeding six dB per five minute period over a total duration of approximately 30 to 35 minutes (i.e., the time it takes to achieve full operation of the airgun array). During ramp-up, the PSVOs would monitor the exclusion zone, and if marine mammals are sighted, USGS would implement a power-down or

shut-down as though the full airgun array were operational.

If the complete exclusion zone has not been visible for at least 30 minutes prior to the start of operations in either daylight or nighttime, USGS would not commence the ramp-up unless at least one airgun (40 in^3 or similar) has been operating during the interruption of seismic survey operations. Given these provisions, it is likely that the airgun array would not be ramped-up from a complete shut-down at night or during poor visibility conditions (i.e., in thick fog), because the outer part of the exclusion zone for that array would not be visible during those conditions. If one airgun has operated during a power-down period, ramp-up to full power would be permissible at night or in poor visibility, on the assumption that marine mammals would be alerted to the approaching seismic vessel by the sounds from the single airgun and could move away. USGS would not initiate a ramp-up of the airguns if a marine mammal is sighted within or near the applicable exclusion zones.

Use of a Small-Volume Airgun During Turns and Maintenance

For short-duration equipment maintenance activities, USGS would employ the use of a small-volume airgun (i.e., 40 in^3 ''mitigation airgun'') to deter marine mammals from being within the immediate area of the seismic operations. The mitigation airgun would be operated at approximately one shot per minute and would not be operated for longer than three hours in duration. The seismic survey's tracklines are continuous around turns and no mitigation airgun would be necessary. For longer-duration equipment maintenance or repair activities (greater than three hours), USGS would shut-down the seismic equipment and not involve using the mitigation airgun.

During brief transits (e.g., less than three hours), one mitigation airgun would continue operating. The ramp-up procedure would still be followed when increasing the source levels from one airgun to the full airgun array. However, keeping one airgun firing would avoid the prohibition of a ''cold start'' during darkness or other periods of poor visibility. Through use of this approach, seismic operations may resume without the 30 minute observation period of the full exclusion zone required for a ''cold start,'' and without ramp-up if operating with the mitigation airgun for under 10 minutes, or with ramp-up if operating with the mitigation airgun over 10 minutes. PSOs would be on duty whenever the airguns are firing during daylight, during the 30 minute periods prior to ramp-ups.

Special Procedures for Situations or Species of Concern—It is unlikely that a North Atlantic right whale would be encountered during the proposed seismic survey, but if so, the airguns would be shut-down immediately if one is visually sighted at any distance from the vessel because of its rarity and conservation status. The airgun array shall not resume firing (with ramp-up) until 30 minutes after the last documented North Atlantic right whale visual sighting. Concentrations of humpback, sei, fin, blue, and/or sperm whales would be avoided if possible (i.e., exposing concentrations of animals to 160 dB), and the array would be powered-down if necessary. For purposes of this proposed survey, a concentration or group of whales would consist of six or more individuals visually sighted that do not appear to be traveling (e.g., feeding, socializing, etc.).

Mitigation Conclusions

NMFS has carefully evaluated the applicant's proposed mitigation measures and has considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. NMFS's evaluation of potential measures included consideration of the following factors in relation to one another:

(1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;

(2) The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

(3) The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

(1) Avoidance or minimization of injury or death of marine mammal wherever possible (goals 2, 3, and 4 may contribute to this goal).

(2) A reduction in the numbers of marine mammals (total number of number at biologically important time or location) exposed to received levels of airgun operations, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(3) A reduction in the number of times (total number or number at biologically important time or location) individuals would be exposed to received levels of airgun operations, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).

(4) A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of airgun operations, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

(5) Avoidance of minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

(6) For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on NMFS's evaluation of the applicant's proposed measures, as well as other measures considered by NMFS or recommended by the public, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an ITA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that would result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. USGS submitted a marine mammal monitoring plan as part of the IHA application. It can be found in Section 13 of the IHA application. The plan may be modified or supplemented based on comments or new information received from the public during the

public comment period or from the peer review panel.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

(1) An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

(2) An increase in our understanding of how many marine mammals are likely to be exposed to levels of seismic airguns that we associate with specific adverse effects, such as behavioral harassment, TTS or PTS;

(3) An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict receive level, distance from the source, and other pertinent information);
- Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

(4) An increased knowledge of the affected species; and

(5) An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

Proposed Monitoring

USGS proposes to sponsor marine mammal monitoring during the proposed project, in order to implement the proposed mitigation measures that require real-time monitoring, and to satisfy the anticipated monitoring requirements of the IHA. USGS's proposed ''Monitoring Plan'' is described below this section. The monitoring work described here has been planned as a self-contained project independent of any other related monitoring projects that may be occurring simultaneously in the same region. USGS is prepared to discuss coordination of its monitoring program with any related work that might be done by other groups insofar as this is practical and desirable.

Vessel-Based Visual Monitoring

PSVOs would be based aboard the seismic source vessel and would watch for marine mammals near the vessel during daytime airgun operations and during any ramp-ups of the airguns at night. PSVOs would also watch for marine mammals near the seismic vessel for at least 30 minutes prior to the start of airgun operations after an extended shut-down (i.e., greater than approximately 10 minutes for this proposed cruise). When feasible, PSVOs would conduct observations during daytime periods when the seismic system is not operating (such as during transits) for comparison of sighting rates and behavior with and without airgun operations and between acquisition periods. Based on PSVO observations, the airguns would be powered-down or shut-down when marine mammals are observed within or about to enter a designated exclusion zone.

During seismic operations in the northwest Atlantic Ocean off the Eastern Seaboard, at least five PSOs (four PSVOs and one Protected Species Acoustic Observer [PSAO]) would be based aboard the *Langseth.* USGS would appoint the PSOs with NMFS's concurrence. Observations would take place during ongoing daytime operations and nighttime ramp-ups of the airguns. During the majority of seismic operations, two PSVOs would be on duty from the observation tower (i.e., the best available vantage point on the source vessel) to monitor marine mammals near the seismic vessel. Use of two simultaneous PSVOs would increase the effectiveness of detecting animals near the source vessel. However, during meal times and bathroom breaks, it is sometimes difficult to have two PSVOs on effort, but at least one PSVO would be on duty. PSVO(s) would be on duty in shifts no longer than 4 hours in duration.

Two PSVOs would also be on visual watch during all daytime ramp-ups of the seismic airguns. A third PSAO would monitor the PAM equipment 24 hours a day to detect vocalizing marine mammals present in the action area. In summary, a typical daytime cruise would have scheduled two PSVOs on duty from the observation tower, and a third PSAO on PAM. Other ship's crew would also be instructed to assist in detecting marine mammals and implementing mitigation requirements (if practical). Before the start of the seismic survey, the crew would be given additional instruction on how to do so.

The *Langseth* is a suitable platform for marine mammal observations. When stationed on the observation platform, the eye level would be approximately 21.5 m (70.5 ft) above sea level, and the PSVO would have a good view around the entire vessel. During daytime, the PSVO(s) would scan the area around the vessel systematically with reticle binoculars (e.g., 7 x 50 Fujinon), Big-eye binoculars (25 x 150), and with the naked eye. During darkness or low-light conditions, night vision devices (monoculars) and a forward looking infrared (FLIR) camera would be available, when required. Laser range-finding binoculars (Leica LRF 1200 laser rangefinder or equivalent) would be available to assist with distance estimation. Those are useful in training observers to estimate distances visually, but are generally not useful in measuring distances to animals directly; that is done primarily with the reticles in the binoculars.

When marine mammals are detected within or about to enter the designated exclusion zone, the airguns would immediately be powered-down or shut-down if necessary. The PSVO(s) would continue to maintain watch to determine when the animal(s) are outside the exclusion zone by visual confirmation. Airgun operations would not resume until the animal is confirmed to have left the exclusion zone, or if not observed after 15 minutes for species with shorter dive durations (small odontocetes and pinnipeds) or 30 minutes for species with longer dive durations (mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, killer, and beaked whales).

Vessel-Based Passive Acoustic Monitoring

Vessel-based, towed PAM would complement the visual monitoring program, when practicable. Visual monitoring typically is not effective during periods of poor visibility or at night, and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. PAM can be used in addition to visual observations to improve detection, identification, and localization of cetaceans. The PAM system would serve to alert visual observers (if on duty) when vocalizing cetaceans are detected. It is only useful when marine mammals call, but it does not depend on good visibility. It would be monitored in real-time so that the PSVOs can be advised when cetaceans are acoustically detected.

The PAM system consists of both hardware (i.e., hydrophones) and

software (i.e., Pamguard). The ''wet end'' of the system consists of a towed hydrophone array that is connected to the vessel by a tow cable. The tow cable is 250 m (820.2 ft) long, and the hydrophones are fitted in the last 10 m (32.8 ft) of cable. A depth gauge is attached to the free end of the cable, and the cable is typically towed at depths 20 m (65.6 ft) or less. The array would be deployed from a winch located on the back deck. A deck cable would connect from the winch to the main computer laboratory where the acoustic station, signal conditioning, and processing system would be located. The acoustic signals received by the hydrophones are amplified, digitized, and then processed by the Pamguard software. The PAM system, which has a configuration of 4 hydrophones, can detect a frequency bandwidth of 10 Hz to 200 kHz.

One PSAO, an expert bioacoustician (in addition to the four PSVOs) with primary responsibility for PAM, would be onboard the *Langseth.* The expert bioacoustician would design and set up the PAM system and be present to operate, oversee, and troubleshoot any technical problems with the PAM system during the proposed survey. The towed hydrophones would ideally be monitored by the PSAO 24 hours per day while within the proposed seismic survey area during airgun operations, and during most periods when the *Langseth* is underway while the airguns are not operating. However, PAM may not be possible if damage occurs to the array or back-up systems during operations. The primary PAM streamer on the *Langseth* is a digital hydrophone streamer. Should the digital streamer fail, back-up systems should include an analog spare streamer and a hull-mounted hydrophone. One PSAO would monitor the acoustic detection system by listening to the signals from two channels via headphones and/or speakers and watching the real-time spectrographic display for frequency ranges produced by cetaceans. The PSAO monitoring the acoustical data would be on shift for no greater than six hours at a time. All PSOs are expected to rotate through the PAM position, although the expert PSAO (most experienced) would be on PAM duty more frequently.

When a vocalization is detected while visual observations (during daylight) are in progress, the PSAO would contact the PSVO immediately, to alert him/her to the presence of cetaceans (if they have not already been seen), and to allow a power-down or shut-down to be initiated, if required. When bearings (primary and mirror-image) to calling cetacean(s) are determined, the bearings would be relayed to the PSVO(s) to help him/her sight the calling animal. During non-daylight hours, when a cetacean is detected by acoustic monitoring and may be close to the source vessel, the *Langseth* crew would be notified immediately so that the proper mitigation measure may be implemented.

The information regarding the call would be entered into a database. Data entry would include an acoustic encounter identification number, whether it was linked with a visual sighting, date, time when first and last heard and whenever any additional information was recorded, position and water depth when first detected, bearing if determinable, species or species group (e.g., unidentified dolphin, sperm whale), types and nature of sounds heard (e.g., clicks, continuous, sporadic, whistles, creaks, burst pulses, strength of signal, etc.), and any other notable information. The acoustic detection can also be recorded for further analysis.

PSO Data and Documentation

PSVOs would record data to estimate the numbers of marine mammals exposed to various received sound levels and to document apparent disturbance reactions or lack thereof. Data would be used to estimate numbers of animals potentially 'taken' by harassment. They would also provide information needed to order a power-down or shut-down of the airguns when a marine mammal is within or near the appropriate exclusion zone. Observations would also be made during daytime periods when the *Langseth* is underway without seismic operations. There would also be opportunities to collect baseline biological data during the transits to, from, and through the study area.

When a sighting is made, the following information about the sighting would be recorded:

1. Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (e.g., none, avoidance, approach, paralleling, etc.), and behavioral pace.

2. Time, location, heading, speed, activity of the vessel, Beaufort sea state and wind force, visibility, and sun glare.

The data listed under (2) would also be recorded at the start and end of each observation watch, and during a watch whenever there is a change in one or more of the variables.

All observations and ramp-ups, power-downs, or shut-downs would be recorded in a standardized format. The PSVOs would record this information onto datasheets. During periods between watches and periods when operations are suspended, those data would be entered into a laptop computer running a custom electronic database. The accuracy of the data entry would be verified by computerized data validity checks as the data are entered and by subsequent manual checking of the database. These procedures would allow initial summaries of data to be prepared during and shortly after the field program, and would facilitate transfer of the data to statistical, graphical, and other programs for further processing and archiving.

Results from the vessel-based observations would provide:

1. The basis for real-time mitigation (airgun power-down or shut-down).

2. Information needed to estimate the number of marine mammals potentially taken by harassment, which must be reported to NMFS.

3. Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted.

4. Information to compare the distance and distribution of marine mammals relative to the source vessel at times with and without seismic activity.

5. Data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

Proposed Reporting

USGS would submit a comprehensive report to NMFS and NSF within 90 days after the end of phase 1 in 2014 and another comprehensive report to NMFS and NSF within 90 days after the end of phase 2 in 2015 for the proposed cruise. The report would describe the proposed operations that were conducted and sightings of marine mammals within the vicinity of the operations. The report would provide full documentation of methods, results, and interpretation pertaining to all monitoring. The 90-day report would summarize the dates and locations of seismic operations, and all marine mammal sightings (i.e., dates, times, locations, activities, associated seismic survey activities, and associated PAM detections). The report would minimally include:

- Summaries of monitoring effort—total hours, total distances, and distribution of marine mammals through the study period accounting for Beaufort sea state and wind force, and other factors affecting visibility and detectability of marine mammals;
- Analyses of the effects of various factors influencing detectability of

marine mammals including Beaufort sea state and wind force, number of PSOs, and fog/glare;

• Species composition, occurrence, and distribution of marine mammals sightings including date, water depth, numbers, age/size/gender, and group sizes; and analyses of the effects of seismic operations;

• Sighting rates of marine mammals during periods with and without airgun activities (and other variables that could affect detectability);

• Initial sighting distances versus airgun activity state;

• Closest point of approach versus airgun activity state;

• Observed behaviors and types of movements versus airgun activity state;

• Numbers of sightings/individuals seen versus airgun activity state; and

• Distribution around the source vessel versus airgun activity state.

The report would also include estimates of the number and nature of exposures that could result in ''takes'' of marine mammals by harassment or in other ways. After the report is considered final, it would be publicly available on the NMFS, USGS and NSF Web sites at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#iha, http://woodshole.er.usgs.gov/project-pages/environmental_compliance/index.html,* and *http://www.nsf.gov/geo/oce/encomp/index.jsp.*

Notification of Injured or Dead Marine Mammals—In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner not permitted by the authorization (if issued), such as an injury, serious injury, or mortality (e.g., ship-strike, gear interaction, and/or entanglement), the USGS shall immediately cease the specified activities and immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov*, the NMFS Greater Atlantic Region Marine Mammal Stranding Network at 866–755–6622 (*Mendy.Garron@noaa.gov*), and the NMFS Southeast Region Marine Mammal Stranding Network at 877–433–8299 (*Blair.Mase@noaa.gov* and *Erin.Fougeres@noaa.gov*). The report must include the following information:

• Time, date, and location (latitude/longitude) of the incident;

• Name and type of vessel involved;

• Vessel's speed during and leading up to the incident;

• Description of the incident;

• Status of all sound source used in the 24 hours preceding the incident;

• Water depth;

• Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);

• Description of all marine mammal observations in the 24 hours preceding the incident;

• Species identification or description of animal(s) involved;

• Fate of the animal(s); and

• Photographs or video footage of the animal(s) (if equipment is available).

USGS shall not resume its activities until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with USGS to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The USGS may not resume their activities until notified by NMFS via letter, email, or telephone.

In the event that USGS discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as NMFS describes in the next paragraph), the USGS would immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov,* the NMFS Greater Atlantic Region Marine Mammal Stranding Network (866–755–6622) and/or by email to the Greater Atlantic Regional Stranding Coordinator (*Mendy.Garron@noaa.gov*), and the NMFS Southeast Region Marine Mammal Stranding Network (877–433–8299) and/or by email to the Southeast Regional Stranding Coordinator (*Blair.Mase@noaa.gov*) and Southeast Regional Stranding Program Administrator (*Erin.Fougeres@noaa.gov*). The report must include the same information identified in the paragraph above this section. Activities may continue while NMFS reviews the circumstances of the incident. NMFS would work with the USGS to determine whether modifications in the activities are appropriate.

In the event that USGS discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the authorized activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the USGS would report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office or Protected Resources, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov,* the NMFS Greater Atlantic Region Marine Mammal Stranding Network (866–755–6622), and/or by email to the Greater Atlantic Regional Stranding Coordinator (*Mendy.Garron@ noaa.gov*), and the NMFS Southeast Region Marine Mammal Stranding Network (877–433–8299), and/or by email to the Southeast Regional Stranding Coordinator (*Blair.Mase@noaa.gov*) and Southeast Regional Stranding Program Administrator (*Erin.Fougeres@noaa.gov*), within 24 hours of the discovery. The USGS would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

TABLE 3—NMFS'S CURRENT UNDERWATER ACOUSTIC EXPOSURE CRITERIA

Impulsive (non-explosive) sound		
Criterion	Criterion definition	Threshold
Level A harassment (injury)	Permanent threshold shift (PTS) (Any level above that which is known to cause TTS).	180 dB re 1 μPa-m (root means square [rms]) (cetaceans). 190 dB re 1 μPa-m (rms) (pinnipeds).
Level B harassment	Behavioral disruption (for impulsive noise)	160 dB re 1 μPa-m (rms).
Level B harassment	Behavioral disruption (for continuous noise)	120 dB re 1 μPa-m (rms).

Level B harassment is anticipated and proposed to be authorized as a result of the proposed marine seismic survey in the northwest Atlantic Ocean off the Eastern Seaboard. Acoustic stimuli (i.e., increased underwater sound) generated during the operation of the seismic airgun array are expected to result in the behavioral disturbance of some marine mammals. There is no evidence that the planned activities for which USGS seeks the IHA could result in injury, serious injury, or mortality. The required mitigation and monitoring measures would minimize any potential risk for injury, serious injury, or mortality.

The following sections describe USGS's methods to estimate take by incidental harassment and present the applicant's and NMFS's estimates of the numbers of marine mammals that could be affected during the proposed seismic program in the northwest Atlantic Ocean. The estimates are based on a consideration of the number of marine mammals that could be harassed by seismic operations with the 36 airgun array to be used. The length of the proposed 2D seismic survey area in 2014 is approximately 3,165 km (1,704 nmi) and in 2015 is approximately 3,115 km (1,682 nmi) in the U.S. ECS region of the Eastern Seaboard in the Atlantic Ocean, as depicted in Figure 1 of the IHA application. For estimating take and other calculations, the 2015 tracklines are assumed to be identical in length to the 2014 tracklines (even though they are slightly shorter).

USGS assumes that, during simultaneous operations of the airgun array and the other sources, any marine mammals close enough to be affected by the multi-beam echosounder and sub-bottom profiler would already be affected by the airguns. However, whether or not the airguns are operating simultaneously with the other sources, marine mammals are expected to exhibit no more than short-term and inconsequential responses to the multi-beam echosounder and sub-bottom profiler given their characteristics (e.g., narrow, downward-directed beam) and other considerations described previously. Such reactions are not considered to constitute ''taking'' (NMFS, 2001). Therefore, USGS provided no additional allowance for animals that could be affected by sound sources other than airguns.

Density estimates for marine mammals within the vicinity of the proposed study area are limited. Density data for species found along the East Coast of the U.S. generally extend slightly outside of the U.S. EEZ. The proposed study area, however, is well beyond the U.S. EEZ, and is well off the continental shelf break. The proposed survey lines for the proposed 2014 survey are located in the far eastern portion of the proposed study area, primarily within the area where little to no density data are currently available. It was determined that the best available information for density data (for those species where density data existed) of species located off the U.S. East Coast was housed at the Strategic Environmental and Development Program (SERDP)/National Aeronautics and Space Administration (NASA)/NOAA Marine Animal Model Mapper and OBIS–SEAMAP database. Within this database, the model outputs for all four seasons from the U.S. Department of the Navy Operating Area (OPAREA) Density Estimates (NODE) for the Northeast OPAREA and Southeast OPAREA (Department of the Navy 2007a, 2007b) were used to determine the mean density (animals per square kilometer) for 19 of the 38 marine mammals with the potential to occur in the proposed study area. Those species include fin, minke, Atlantic spotted, bottlenose, long-finned and short-finned pilot, pantropical spotted, Risso's, short-beaked common, striped, sperm, rough-toothed, dwarf and pygmy sperm, Sowerby's, Blainville's, Gervais', True's, and Cuvier's beaked whales. Within the NODE document, the density calculations and models both took into account detection probability ($f[0]$) and availability ($g[0]$) biases. Model outputs for each season are available in the database. The data from the NODE summer density models, which include the months of June, July, and August, were used as the 2014 survey is proposed to take place between late August and early September. Of the seasonal NODE density models available, it is expected that the summer models are the most accurate and robust as the survey data used to create all of the models were obtained during summer months. The models for the winter, spring, and fall are derived from the data collected during the summer surveys, and therefore are expected to be less representative of actual species density during those seasons.

For those species of marine mammals that did not have density model outputs within the SERDP/NASA/NOAA and OBIS–SEAMAP database, or for those species with density outputs that did not extend into the proposed study area at all (i.e., all four pinniped species and sei whale), but for which OBIS sightings data within or adjacent to the proposed study area exist, the requested take authorization for the mean group size of the species of marine mammal is included. The mean group sizes were determined based on data reported from the Cetacean and Turtle Assessment Program (CeTAP) surveys (CeTAP, 1982).

The estimated numbers of individuals potentially exposed to sound during the proposed 2014 to 2015 survey are presented below and are based on the 160 dB (rms) criterion currently used for all cetaceans and pinnipeds. It is assumed that marine mammals exposed to airgun sounds that strong could change their behavior sufficiently to be considered ''taken by harassment.'' Table 4 shows the density estimates calculated as described above and the estimates of the number of different individual marine mammals that potentially could be exposed to greater than or equal to 160 dB (rms) during the seismic survey if no animals moved away from the survey vessel. The requested take authorization is given in the middle (fourth from the left) column of Table 4. For species for which densities were unavailable as described above, but for which there were Ocean Biogeographic Information System (OBIS) sightings within or adjacent to the proposed study area, USGS has

included a requested take authorization for the mean group size for the species.

It should be noted that unlike previous USGS, NSF, and L–DEO seismic surveys aboard the *Langseth,* the proposed survey would be conducted as almost one continuous line. Therefore, the ensonified area for the proposed seismic survey does not include a contingency factor (typically increased 25% to accommodate turns, lines that may need to be repeated, equipment testing, etc.) in line-kilometers. As typical during offshore ship surveys, inclement weather and equipment malfunctions are likely to cause delays and may limit the number of useful line-kilometers of seismic operations that can be undertaken. Also, any marine mammal sightings within or near the designated exclusion zones would result in a power-down and/or shut-down of seismic operations as a mitigation measure. Thus, the following estimates of the numbers of marine mammals potentially exposed to 160 dB (rms) sounds are precautionary and probably overestimate the actual numbers of marine mammals that could be involved. These estimates assume that there would be no weather, equipment, or mitigation delays, which is highly unlikely.

The number of different individuals that could be exposed to airgun sounds with received levels greater than or equal to 160 dB (rms) on one or more occasions can be estimated by considering the total marine area that would be within the 160 dB (rms) radius around the operating seismic source on at least one occasion, along with the expected density of animals in the area. The number of possible exposures (including repeated exposures of the same individuals) can be estimated by considering the total marine area that would be within the 160 dB radius around the operating airguns. In many seismic surveys, this total marine area includes overlap, as seismic surveys are often conducted in parallel survey lines where the ensonified areas of each survey line would overlap. The proposed tracklines in 2014 and 2015 would not have overlap as the individual line segments do not run parallel to each other. The entire survey could be considered one continual survey line with slight turns (no more than 120 degrees) between each line segment. During the proposed seismic survey, the vessel would continue on the extensive survey line path, not staying within a smaller defined area as most seismic surveys often do. The numbers of different individuals potentially exposed to greater than or equal to 160 dB (rms) were calculated by multiplying the expected species density (for those marine mammal species that had density data available) times the total anticipated area to be ensonified to that level during airgun operations (3,165 km of survey lines). The total area expected to be ensonified was determined by multiplying the total trackline distance (3,165 km times the width of the swath of the 160 dB buffer zone (2 times 5.78 km). Using this approach, a total of 36,600 km² (10,671 nmi²) would fall within the 160 dB isopleth throughout the proposed survey in 2014. The proposed survey in 2015 is expected to ensonify an almost identical area (to within 2%); therefore, the same ensonified area of 36,600 km² (10,671 nmi²) was used for calculation purposes since the number of estimated takes would be very similar for each of the two years. The number of estimated takes for the proposed survey in 2015 may need to be seasonally adjusted if the activity takes place in the late spring or early summer. Because it is uncertain at this time whether the 2015 survey would be scheduled in the spring (March, April, and May) or summer (June, July, and August) months, estimated takes were calculated for both seasons. For purposes of conservatively estimating the number of takes, the higher density (for spring or summer) was used for each species since it is not known at this time which season the 2015 proposed survey would take place in the April to August 2015 timeframe. If the 2015 survey occurred in the spring rather than summer, the density data suggests that takes would likely be higher for only the humpback whale, beaked whales, and bottlenose dolphin, and takes would likely be fewer for nine species (i.e., sperm whale, short-finned and long-finned pilot whales, Atlantic spotted, pantropical spotted, striped, Clymene, short-beaked common, and Risso's dolphin), and unchanged for the remaining species.

TABLE 4—ESTIMATED DENSITIES OF MARINE MAMMAL SPECIES AND ESTIMATES OF POSSIBLE NUMBERS OF MARINE MAMMALS EXPOSED TO SOUND LEVELS ≥160 dB DURING USGS'S PROPOSED SEISMIC SURVEY IN THE NORTHWEST ATLANTIC OCEAN OFF THE EASTERN SEABOARD, AUGUST TO SEPTEMBER 2014 AND APRIL TO AUGUST 2015

Species	Density spring/summer (#/km²) [1]	Calculated take authorization 2014/2015 [i.e., estimated number of individuals exposed to sound levels ≥160 dB re 1 μPa] [2]	Requested take authorization (includes increase to average group size) [3]	Abundance (regional population/stock) [4]	Approximate percentage of estimated of regional population/stock (for requested take) [5]	Population trend [6]
Mysticetes:						
North Atlantic right whale.	NA	0/0	3 + 3 = 6	455/455	1.32/1.32	Increasing.
Humpback whale	0.0010170/0	0/38	38 + 3 = 41	11,600/823	0.35/4.98	Increasing.
Minke whale	0.0000350/0.0000360	2/2	2 + 2 = 4	138,000/20,741	0.0014/0.0096	NA.
Bryde's whale	NA	0/0	3 + 3 = 6	NA/NA	NA/NA	NA.
Sei whale	NA	0/0	3 + 3 = 6	10,300/357	0.06/1.68	NA.
Fin whale	0.000060/0.000610	3/3	3 + 3 = 6	26,500/3,522	0.02/0.17	NA.
Blue whale	NA	0/0	2 + 2 = 4	855/440	0.47/0.91	NA.
Odontocetes:						
Sperm whale	0.0019050/0.0022510	83/83	83 + 83 = 166	13,190/2,288	1.26/7.26	NA.
Pygmy sperm whale.	0.0008850/0.008970	33/33	33 + 33 = 66	NA/3,785	NA/1.74	NA.

TABLE 4—ESTIMATED DENSITIES OF MARINE MAMMAL SPECIES AND ESTIMATES OF POSSIBLE NUMBERS OF MARINE MAMMALS EXPOSED TO SOUND LEVELS ≥160 dB DURING USGS'S PROPOSED SEISMIC SURVEY IN THE NORTHWEST ATLANTIC OCEAN OFF THE EASTERN SEABOARD, AUGUST TO SEPTEMBER 2014 AND APRIL TO AUGUST 2015—Continued

Species	Density spring/summer (#/km²) [1]	Calculated take authorization 2014/2015 [i.e., estimated number of individuals exposed to sound levels ≥160 dB re 1 μPa] [2]	Requested take authorization (includes increase to average group size) [3]	Abundance (regional population/stock) [4]	Approximate percentage of estimated of regional population/stock (for requested take) [5]	Population trend [6]
Dwarf sperm whale	0.0008850/0.0008970	33/33	33 + 33 = 66	NA/3,785	NA/1.74	NA.
Northern bottlenose whale.	NA	0/0	2 + 2 = 4	40,000/NA	0.01/NA	NA.
Cuvier's beaked whale.	0.0021370/0.0022870	84/84	84 + 84 = 168	NA/6,532	NA/1.29	NA.
Mesoplodon spp. (i.e., True's, Gervais', Sowerby's, and Blainville's beaked whale.				NA/7,092	NA/2.37	NA.
Bottlenose dolphin	0.0069560/0.0066470	244/255	244 + 255 = 499	NA/77,532	NA/0.64	NA.
Atlantic white-sided dolphin.	NA	0/0	54 + 54 = 108	10,000 to 100,000s/48,819.	1.08/0.22	NA.
Fraser's dolphin	NA	0/0	100 + 100 = 200	NA/NA	NA/NA	NA.
Atlantic spotted dolphin.	0.0285700/0.0288400	1,056/1,056	1,056 + 1,056 = 2,112.	NA/44,715	NA/4.72	NA.
Pantropical spotted dolphin.	0.0194900/0.0197600	724/724	724 + 724 = 1,448	NA/3,333	NA/43.44	NA.
Striped dolphin	0.1330000/0.1343000	4,916/4,916	4,916 + 4,916 = 9,832.	NA/54,807	NA/17.94	NA.
Spinner dolphin	NA	0/0	65 + 65 = 130	NA/NA	NA/NA	NA.
Clymene dolphin	0.0093110/0	0/341	70 + 341 = 411	NA/NA	NA/NA	NA.
Short-beaked common dolphin.	0.0053940/0.0055320	203/203	203 + 203 = 406	NA/173,486	NA/0.23	NA.
Rough-toothed dolphin.	0.004200/0.0004260	16/16	16 + 16 = 32	NA/271	NA/11.81	NA.
Risso's dolphin	0.0092150/0.0093180	342/342	342 + 342 = 684	NA/18,250	NA/3.75	NA.
Melon-headed whale.	NA	0/0	100 + 100 = 200	NA/NA	NA/NA	NA.
Pygmy killer whale	NA	0/0	25 + 25 = 50	NA/NA	NA/NA	NA.
False killer whale	NA	0/0	15 + 15 = 30	NA/NA	NA/NA	NA.
Killer whale	NA	0/0	7 + 7 = 14	NA/NA	NA/NA	NA.
Short-finned pilot whale.	0.0108000/0.0190400	697/697	697 + 697 = 1,394	780,000/21,515	0.18/6.48	NA.
Long-finned pilot whale.	0.0108000/0.0190400	697/697	697 + 697 = 1,394	780,000/26,535	0.18/5.25	NA.
Harbor porpoise	NA	0/0	5 + 5 = 10	500,000/79,883	0.002/0.01	NA.
Pinnipeds:						
Harbor seal	NA	0/0	0 + 0 = 0	NA/70,142	NA/NA	NA.
Gray seal	NA	0/0	0 + 0 = 0	NA/331,000	NA/NA	Increasing.
Harp seal	NA	0/0	0 + 0 = 0	8.6 to 9.6 million/7.1 million.	NA/NA	NA.
Hooded seal	NA	0/0	0 + 0 = 0	600,000/592,100	NA/NA	NA.

NA = Not available or not assessed.
[1] OBIS–SERDP–Navy NODE 2007a and 2007b (for those species where density data is available).
[2] Calculated take is estimated density multiplied by the 160 dB ensonified area.
[3] Requested take authorization was increased to group size for species for which densities were not available but that have been sighted near the proposed survey area (CeTAP, 1984).
[4] Stock sizes are best populations from NMFS Stock Assessment Reports where available (see Table 2 in above).
[5] Requested takes expressed as percentages of the larger regional population and NMFS Stock Assessment Reports, where available.
[6] Based on NMFS Stock Assessment Reports.

Applying the approach described above, approximately 36,600 km² would be within the 160 dB isopleth on one or more occasions during the proposed survey in 2014. The proposed survey in 2015 is expected to ensonify an almost identical area (to within 2%); therefore an ensonified area of 36,600 km² was used for the proposed surveys in 2014

and 2015. Because this approach does not allow for turnover in the marine mammal populations in the area during the course of the survey, the actual number of individuals exposed may be underestimated, although the conservative (i.e., probably overestimated) line-kilometer distances used to calculate the area may offset this. Also, the approach assumes that no cetaceans and pinnipeds would move away or toward the trackline as the *Langseth* approaches in response to increasing sound levels before the levels reach 160 dB (rms). Another way of interpreting the estimates that follow is that they represent the number of individuals that are expected (in the absence of a seismic program) to occur in the waters that would be exposed to greater than or equal to 160 dB (rms).

Encouraging and Coordinating Research

USGS would coordinate the planned marine mammal monitoring program associated with the seismic survey with other parties that may have interest in this area and specified activity. USGS would coordinate with applicable U.S. agencies (e.g., NMFS), and would comply with their requirements.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Section 101(a)(5)(D) of the MMPA also requires NMFS to determine that the authorization would not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Analyses and Preliminary Determinations

Negligible Impact

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (i.e., population-level effects). An estimate of the number of Level B harassment takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

In making a negligible impact determination, NMFS evaluated factors such as:

(1) The number of anticipated injuries, serious injuries, or mortalities;

(2) The number, nature, and intensity, and duration of Level B harassment (all relatively limited); and

(3) The context in which the takes occur (i.e., impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);

(4) The status of stock or species of marine mammals (i.e., depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);

(5) Impacts on habitat affecting rates of recruitment/survival; and

(6) The effectiveness of monitoring and mitigation measures.

As described above and based on the following factors, the specified activities associated with the marine seismic survey are not likely to cause PTS, or other non-auditory injury, serious injury, or death. The factors include:

(1) The likelihood that, given sufficient notice through relatively slow ship speed, marine mammals are expected to move away from a noise source that is annoying prior to its becoming potentially injurious;

(2) The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the operation of the airgun(s) to avoid acoustic harassment;

(3) The potential for temporary or permanent hearing impairment is relatively low and would likely be avoided through the implementation of the required monitoring and mitigation measures (including power-down and shut-down measures); and

(4) The likelihood that marine mammal detection ability by trained PSOs is high at close proximity to the vessel.

Table 4 of this document outlines the number of requested Level B harassment takes that are anticipated as a result of these activities. The type of Level B (behavioral) harassment that could result from the proposed action are described in the ''Potential Effects of the Specified Activity on Marine Mammals'' section above, and include tolerance, masking, behavioral disturbance, TTS, PTS, and non-auditory or physiological effects.

For the marine mammal species that may occur within the proposed action area, there are no known designated or important feeding and/or reproductive areas. Many animals perform vital functions, such as feeding, resting, traveling, and socializing, on a diel cycle (i.e., 24 hr cycle). Behavioral reactions to noise exposure (such as disruption of critical life functions, displacement, or avoidance of important habitat) are more likely to be significant if they last more than one diel cycle or recur on subsequent days (Southall *et al.,* 2007). While seismic operations are anticipated to occur on consecutive days, the estimated duration of the survey would last no more than a total of 36 days (a 17 to 18 day leg in August to September 2014 and a 17 to 18 day leg in April to August 2015). Additionally, the seismic survey would be increasing sound levels in the marine environment in a relatively small area surrounding the vessel (compared to the range of the animals). The seismic surveys would not take place in areas of significance for marine mammal feeding, resting, breeding, or calving and would not adversely impact marine mammal habitat. Furthermore, the vessel would be constantly travelling over distances, and some animals may only be exposed to and harassed by sound for less than a day.

NMFS's practice has been to apply the 160 dB re 1 μPa (rms) received level threshold for underwater impulse sound levels to determine whether take by Level B harassment occurs. Southall *et al.* (2007) provide a severity scale for ranking observed behavioral responses of both free-ranging marine mammals and laboratory subjects to various types of anthropogenic sound (see Table 4 in Southall *et al.* [2007]). NMFS has preliminarily determined, provided that the aforementioned mitigation and monitoring measures are implemented, the impact of conducting a marine seismic survey in the northwest Atlantic Ocean off of the Eastern Seaboard, August to September 2014 and April to August 2015, may result, at worst, in a modification in behavior and/or low-level physiological effects (Level B harassment) of certain species of marine mammals. No injuries, serious injuries, or mortalities are anticipated to occur as a result of USGS's planned marine seismic survey, and none are proposed to be authorized by NMFS.

While behavioral modifications, including temporarily vacating the area during the operation of the airgun(s), may be made by these species to avoid the resultant acoustic disturbance, the availability of alternate areas within these areas for species and the short and sporadic duration of the research activities, have led NMFS to preliminary determine that the taking by Level B harassment from the specified activity would have a negligible impact on the affected species in the specified geographic region. Due to the nature, degree, and context of Level B (behavioral) harassment anticipated and described (see ''Potential Effects on Marine Mammals'' section above) in this notice, the activity is not expected to impact rates of annual recruitment or survival for any affected species or stock, particularly given the NMFS and the applicant's proposal to implement mitigation and monitoring measures that would minimize impacts to marine mammals. Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from USGS's proposed marine seismic survey would have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

As mentioned previously, NMFS estimates that 34 species of marine mammals under its jurisdiction could be potentially affected by Level B harassment over the course of the IHA. The population estimates for the marine mammal species that may be taken by Level B harassment are provided in Table 4 of this document. No takes of pinnipeds are expected due to a lack of species observations within the proposed study area, the great distance offshore, and the deep water depths of the proposed study area. It should be noted that the stock populations for each marine mammal species in the NMFS Stock Assessment Reports are generally for species populations in U.S. waters, which may underestimate actual population sizes for species that have ranges that would include waters outside the U.S. EEZ.

NMFS has regional population and/or stock abundance estimates for the northwest Atlantic Ocean for 26 of the species under its jurisdiction that could potentially be affected by Level B harassment over the course of the IHA. The estimate of the number of individual cetaceans by species for which NMFS has such data that could be exposed to seismic sounds with received levels greater than or equal to 160 dB re 1 μPa (rms) during the proposed survey in 2014 and 2015 is as follows: 6 North Atlantic right, 41 humpback, 4 minke, 6 sei, 6 fin, 4 blue, and 166 sperm whales, which would represent 1.32/1.32, 0.353/4.96, 0.0014/0.0096, 0.058/1.68, 0.02/0.17, 0.468/0.909, and 1.259/7.255% of the affected regional populations/stocks, respectively. In addition, 4 northern bottlenose, 168 Cuvier's and *Mesoplodon* (i.e., True's, Gervais', Sowerby's, and Blainville's beaked whales), 66 dwarf sperm, and 66 pygmy sperm whales could be taken by Level B harassment during the proposed seismic survey, which would represent 0.01/unknown, unknown/1.286, unknown/2.369, unknown/1.744, and unknown/1.744% of the regional populations/stocks, respectively. Most of the cetaceans potentially taken by Level B harassment are delphinids; of the delphinids for which NMFS has regional population or stock abundance estimates for the northwest Atlantic Ocean, 499 bottlenose, 108 Atlantic white-sided, 2,112 Atlantic spotted, 1,448 pantropical spotted, 9,832 striped, 406 short-beaked common, 32 rough-toothed, and 684 Risso's dolphins could be taken by Level B harassment during the proposed seismic survey, which would represent unknown/0.644, 1.08/0.221, unknown/4.723, unknown/43.444, unknown/17.939, unknown/0.234, unknown/11.808, and unknown/3.748% of the regional populations/stocks, respectively. Of the remaining species for which NMFS has regional population or stock abundance estimates for the northwest Atlantic Ocean, 1,394 short-finned and 1,394 long-finned pilot whales, and 10 harbor porpoises could be taken by Level B harassment during the proposed seismic survey, which would represent 0.178/6.479, 0.178/5.253, and 0.002/0.013% of the regional population/stocks, respectively.

NMFS makes its small numbers determination on the numbers of marine mammals that would be taken relative to the populations of the affected species or stocks. NMFS calculates the number of animals as a percentage of the stock population for marine mammals in the U.S. EEZ. For USGS's proposed survey, approximately 80% in 2014 and 90% in 2015 of the tracklines occur within International Waters (i.e., the high seas) and are outside of the U.S. EEZ; therefore, the regional population is more applicable for NMFS's small numbers determinations as most of the ensonified area and estimated takes are further than 200 nmi from the U.S. coastline. The requested take estimates represented as a percentage of the stock in Table 4 (above) should be reduced to 20% and 10% of the calculated levels based on the amount of activity (i.e., 80% and 90%) planned to occur outside of the U.S. EEZ in 2014 and 2015. Using the approach of calculating the number of requested take estimates within the U.S. EEZ (20% in 2014 and 10% in 2015), the take estimates provided in the preceding paragraph should change as follows (rounding up): 2 North Atlantic right, 9 humpback, 2 minke, 2 sei, 2 fin, 2 blue, and 26 sperm whales, which would represent 0.44, 1.09, <0.01, 0.56, 0.06, 0.46, and 1.14% of the affected stocks, respectively; 26 Cuvier's and *Mesoplodon* (i.e., True's, Gervais', Sowerby's, and Blainville's beaked whales), 11 dwarf sperm, and 11 pygmy sperm whales, which would represent 0.4, 0.37, 0.29, and 0.29% of the affected stocks, respectively; 75 bottlenose, 17 Atlantic white-sided, 318 Atlantic spotted, 218 pantropical spotted, 1,476 striped, 62 short-beaked common, 6 rough-toothed, and 104 Risso's dolphins could be taken by Level B harassment during the proposed seismic survey, which would represent 0.1, 0.04, 0.71, 6.54, 2.69, 0.04, 2.21, and 0.57% of the affected stocks, respectively; and 210 short-finned and 210 long-finned pilot whales, and 2 harbor porpoises, which would represent 0.98, 0.79, and <0.01% of the affected stocks, respectively. No takes of pinnipeds are expected within the proposed study area. The requested take estimates represent a small number relative to the affected species' with a known regional population or stock size (i.e., all for which data are available are less than 6.54% of the regional populations).

No known current regional population or stock abundance estimates for the northwest Atlantic Ocean are available for the eight remaining species under NMFS's jurisdiction that could potentially be affected by Level B harassment over the course of the IHA. These species include the Bryde's whale, Fraser's, spinner, and Clymene dolphins, and the melon-headed, pygmy killer, false killer, and killer whales. Therefore, NMFS is using older abundance estimates or abundance estimates from other areas such as the northern Gulf of Mexico stock, regional ocean basins (e.g., eastern tropical Pacific Ocean), or global summation to aid its small numbers determination for these species. These

abundance estimates are considered the best available information.

Bryde's whales are distributed worldwide in tropical and sub-tropical waters and their occurrence in the proposed study area is rare. In the western North Atlantic Ocean, Bryde's whales are reported from off the southeastern U.S. and southern West Indies to Cabo Frio, Brazil (Leatherwood and Reeves, 1983). No stock of Bryde's whales has been identified in U.S. waters off the Atlantic coast. The northern Gulf of Mexico population is considered a separate stock and has a best abundance estimate of 33 animals. In addition, there are estimated to be 20,000 to 30,000 animals in the North Pacific Ocean. Based on all of these factors, NMFS finds that the requested take estimate of 6 Bryde's whales represents a small number relative to the affected species' population size.

Fraser's dolphins are distributed worldwide in tropical waters and their occurrence in the proposed study area is rare. There is no abundance estimates for either the western North Atlantic or the northern Gulf of Mexico stocks. The western North Atlantic population is provisionally being considered a separate stock for management purposes, although there is currently no information to differentiate this stock from the northern Gulf of Mexico stock. The numbers of Fraser's dolphins off the U.S. or Canadian Atlantic coast are unknown, and seasonal abundance estimates are not available for this stock, since it is rarely seen in any surveys. The population size for Fraser's dolphins is unknown; however, about 289,000 animals occur in the eastern tropical Pacific Ocean (Jefferson *et al.,* 2008). The estimated number of requested takes for 200 Fraser's dolphins represents 0.06% of the eastern tropical Pacific Ocean population. Fraser's dolphins are distributed worldwide in tropical waters and their occurrence in the proposed study area is rare. Based on all these factors, NMFS finds that the requested take estimate represents a small number relative to the affected species' population size.

Spinner dolphins are found in all tropical and sub-tropical oceans and their occurrence in the proposed study area is rare. The western North Atlantic population of spinner dolphins is provisionally being considered a separate stock for management purposes, although there is currently no information to differentiate this stock from the northern Gulf of Mexico stock. The numbers of spinner dolphins off the U.S. or Canadian Atlantic coast are unknown, and seasonal abundance estimates are not available for this stock since it was rarely seen in any of the surveys. The best abundance estimate available for northern Gulf of Mexico spinner dolphins is 11,441 animals. The estimated number of requested takes of 130 spinner dolphins represents 1.13% of the northern Gulf of Mexico stock. Based on all of these factors, NMFS finds that the requested take estimates represents a small number relative to the affected species' population size.

The Clymene dolphin is endemic to tropical and sub-tropical waters of the Atlantic, including the Caribbean Sea and Gulf of Mexico (Jefferson and Curry, 2003; Jefferson *et al.,* 2008). This species prefer warm waters and records extend from southern Brazil and Angola and north to Mauritania and New Jersey off the U.S. east coast (Jefferson *et al.,* 2008). Their occurrence in the proposed study area is rare. The abundance estimate for the Clymene dolphin in the western North Atlantic was 6,086 in 203; this estimate is older than eight years and is considered unreliable (Wade and Angliss, 1997; Mullin and Fulling, 2003). However, this abundance estimate is the first and only estimate to date for this species in the U.S. Atlantic EEZ and represents the best abundance estimate. The estimated numbers of requested takes of 411 Clymene dolphins represent 6.75% of the western North Atlantic 2003 stock or 318.6% of the northern Gulf of Mexico stock. Based on all of these factors, NMFS finds that the requested take estimate represents a small number relative to the affected species' population or stock size.

Melon-headed whales are distributed worldwide in tropical to sub-tropical waters and their occurrence in the proposed study area is rare. The western North Atlantic population is provisionally being considered a separate stock from the northern Gulf of Mexico stock, although there is currently no information to differentiate this stock from the northern Gulf of Mexico stock. The numbers of melon-headed whales off the U.S. or Canadian Atlantic coast are unknown, and seasonal abundance estimates are not available for this stock, since it was rarely seen in any surveys. The best abundance estimate available for northern Gulf of Mexico melon-headed whales is 2,235 animals. The estimated number of requested takes of 200 melon-headed whales represents 8.94% of the northern Gulf of Mexico stock. Based on all of these factors, NMFS finds that the requested take estimate represents a small number relative to the affected species' population or stock size.

The pygmy killer whale is distributed worldwide in tropical to sub-tropical waters and their occurrence in the proposed study area is rare. The western North Atlantic population of pygmy killer whales is provisionally being considered one stock for management purposes. The numbers of pygmy killer whales off the U.S. or Canadian Atlantic coast are unknown, and seasonal abundance estimates are not available for this stock, since it was rarely seen in any surveys. The best abundance estimate available for the northern Gulf of Mexico pygmy killer whale is 152 animals. In addition, there are estimated to be 39,000 pygmy killer whales in the eastern tropical Pacific Ocean. The estimated number of requested takes of 50 pygmy killer whales represents 32.89% of the northern Gulf of Mexico stock, and 0.13% of the eastern tropical Pacific Ocean. Based on all of these factors, NMFS finds that the requested take estimate represents a small number relative to the affected species' population or stock size.

The false killer whale is distributed worldwide throughout warm temperate and tropical oceans and their occurrence in the proposed study area is rare. No stock has been identified for false killer whales in U.S. waters off the Atlantic coast. The Gulf of Mexico population is provisionally being considered one stock for management purposes, although there is currently no information to differentiate this stock from the Atlantic Ocean stock. The current population size for the false killer whale in the northern Gulf of Mexico is unknown because they survey data is more than 8 years old; however, the most recent abundance estimate pooled from 2004 to 2004 was 777 animals (Wade and Angliss, 1997; Mullin, 2007). The estimated number of requested takes of 30 false killer whales represents 3.86% of the northern Gulf of Mexico stock. Based on all of these factors, NMFS finds that the requested take estimate represents a small number relative to the affected species' population or stock size.

Killer whales are characterized as uncommon or rare in waters of the U.S. Atlantic EEZ (Katona *et al.,* 1988). Their distribution extends from the Arctic ice-edge to the West Indies, often in offshore and mid-ocean areas. There are estimated to be at least approximately 92,500 killer whales worldwide. The size of the western North Atlantic stock population off the eastern U.S. coast is unknown. The northern Gulf of Mexico population is provisionally being considered a separate stock for management purposes, although there is currently no information to differentiate

this stock from the Atlantic Ocean stock. The best abundance estimate available for northern Gulf of Mexico killer whales is 28 animals. The estimated number of requested takes of 14 killer whales represents 0.02% of the worldwide population, and 50% of the northern Gulf of Mexico stock. Based on all of these factors, NMFS finds that the requested take estimate represents a small number relative to the affected species' population or stock size.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration of the implementation of the mitigation and monitoring measures, NMFS preliminarily finds that small numbers of marine mammals would be taken relative to the populations of the affected species or stocks. See Table 4 for the requested authorized take number of marine mammals.

Endangered Species Act

Of the species of marine mammals that may occur in the proposed survey area, several are listed as endangered under the ESA, including the North Atlantic right, humpback, sei, fin, blue, and sperm whales. Under section 7 of the ESA, USGS has initiated formal consultation with the NMFS, Office of Protected Resources, Endangered Species Act Interagency Cooperation Division, on this proposed seismic survey. NMFS's Office of Protected Resources, Permits and Conservation Division, has initiated formal consultation under section 7 of the ESA with NMFS's Office of Protected Resources, Endangered Species Act Interagency Cooperation Division, to obtain a Biological Opinion evaluating the effects of issuing the IHA on threatened and endangered marine mammals and, if appropriate, authorizing incidental take. NMFS would conclude formal section 7 consultation prior to making a determination on whether or not to issue the IHA. If the IHA is issued, USGS, in addition to the mitigation and monitoring requirements included in the IHA, would be required to comply with the Terms and Conditions of the Incidental Take Statement corresponding to NMFS's Biological Opinion issued to both USGS and NMFS's Office of Protected Resources.

National Environmental Policy Act

With USGS's complete application, USGS provided NMFS a ''Draft Environmental Assessment for Seismic Reflection Scientific Research Surveys During 2014 and 2015 in Support of Mapping the U.S. Atlantic Seaboard Extended Continental Margin and Investigating Tsunami Hazards,'' prepared by RPS Evan-Hamilton, Inc., in association with YOLO Environmental, Inc., GeoSpatial Strategy Group, and Ecology and Environment, Inc., on behalf of USGS. The EA analyzes the direct, indirect, and cumulative environmental impacts of the proposed specified activities on marine mammals including those listed as threatened or endangered under the ESA. Prior to making a final decision on the IHA application, NMFS would either prepare an independent EA, or, after review and evaluation of the USGS EA for consistency with the regulations published by the Council of Environmental Quality (CEQ) and NOAA Administrative Order 216–6, Environmental Review Procedures for Implementing the National Environmental Policy Act, adopt the EA and make a decision of whether or not to issue a Finding of No Significant Impact (FONSI).

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to USGS for conducting the high-energy marine seismic survey in the northeast Atlantic Ocean off the Eastern Seaboard, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. The proposed IHA language is provided below:

The NMFS hereby authorizes the U.S. Geological Survey, Pacific Coastal and Marine Geology Science Center, Mail Stop 999, 345 Middlefield Road, Menlo Park, California 94025, Lamont-Doherty Earth Observatory of Columbia University, P.O. Box 1000, 61 Route 9W, Palisades, New York 10964–8000, and National Science Foundation, Division of Ocean Sciences, 4201 Wilson Boulevard, Suite 725, Arlington, Virginia 22230 (herein referred to USGS) under section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1371(a)(5)(D)), to harass small numbers of marine mammals incidental to a high-energy marine geophysical (seismic) survey conducted by the R/V *Marcus G. Langseth* (*Langseth*) in the northeast Atlantic Ocean off the Eastern Seaboard, August to September 2014 and April to August 2015:

1. This Authorization is valid from August 15, 2014 through August 14, 2015.

2. This Authorization is valid only for the *Langseth's* specified activities associated with seismic survey operations as described in USGS's IHA application and ''Draft Environmental Assessment for Seismic Reflection Scientific Surveys During 2014 and 2015 in Support of Mapping the U.S. Atlantic Seaboard Extended Continental Margin and Investigating Tsunami Hazards'' that shall occur in the following specified geographic area (bounded by the following geographical coordinates):

40.5694° North, –66.5324° West;
38.5808° North, –61.7105° West;
29.2456° North, –72.6766° West;
33.1752° North, –75.8697° West;
39.1583° North, –72.8697° West;

The proposed activities for 2014 will generally occur within the outer portions of the study area. The proposed activities for 2015 will in-fill more of the study area. Water depths range from approximately 1,450 to 5,400 m (see Figure 1 and 2 of the IHA application); no survey lines will extend to water depths less than 1,000 m. The tracklines proposed for both 2014 and 2015 would be in International Waters (approximately 80% in 2014 and 90% in 2015) and in the U.S. EEZ, as specified in USGS's Incidental Harassment Authorization application and the associated USGS Environmental Assessment.

3. *Species Authorized and Level of Takes*

(a) The incidental taking of marine mammals, by Level B harassment only, is limited to the following species in the waters of the northeast Atlantic off the Eastern Seaboard:

(i) *Mysticetes*—see Table 4 for authorized species and take numbers.

(ii) *Odontocetes*—see Table 4 for authorized species and take numbers.

(iii) If any marine mammal species are encountered during seismic activities that are not listed in Table 4 for authorized taking and are likely to be exposed to sound pressure levels (SPLs) greater than or equal to 160 dB re 1 μPa (rms), then the USGS must alter speed or course or shut-down the airguns to avoid take.

(b) The taking by injury (Level A harassment), serious injury, or death of any of the species listed in Condition 3(a) above or the taking of any kind of any other species of marine mammal is prohibited and may result in the modification, suspension or revocation of this Authorization.

4. The methods authorized for taking by Level B harassment are limited to the following acoustic sources without an amendment to this Authorization:

(a) A 36 airgun array with a total volume of 6,600 cubic inches (in^3) (or smaller);

(b) A multi-beam echosounder; and

(c) A sub-bottom profiler.

5. The taking of any marine mammal in a manner prohibited under this Authorization must be reported immediately to the Office of Protected Resources, National Marine Fisheries Service (NMFS), at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov.*

6. *Mitigation and Monitoring Requirements*

The USGS is required to implement the following mitigation and monitoring requirements when conducting the specified activities to achieve the least practicable impact on affected marine mammal species or stocks:

(a) Utilize two, NMFS-qualified, vessel-based PSVO (except during meal times and restroom breaks, when at least one PSVO shall be on watch) to visually watch for and monitor marine mammals near the seismic source vessel during daytime airgun operations (from nautical twilight-dawn to nautical twilight-dusk) and before and during ramp-ups of airguns day or night.

(i) The *Langseth's* vessel crew shall also assist in detecting marine mammals, when practicable.

(ii) PSVOs shall have access to reticle binoculars (7 x 50 Fujinon), big-eye binoculars (25 x 150), optical range finders, and night vision devices.

(iii) PSVO shifts shall last no longer than 4 hours at a time.

(iv) When feasible, PSVOs shall also make observations during daytime periods when the seismic system is not operating for comparison of animal abundance and behavioral reactions during, between, and after airgun operations.

(v) PSVOs shall conduct monitoring while the airgun array and streamer(s) are being deployed or recovered from the water.

(b) PSVOs shall record the following information when a marine mammal is sighted:

(i) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the airguns or vessel (e.g., none, avoidance, approach, paralleling, etc., and including responses to ramp-up), and behavioral pace; and

(ii) Time, location, heading, speed, activity of the vessel (including number of airguns operating and whether in state of ramp-up or shut-down), Beaufort sea state and wind force, visibility, and sun glare; and

(iii) The data listed under Condition 6(c)(ii) shall also be recorded at the start and end of each observation watch and during a watch whenever there is a change in one or more of the variables.

Passive Acoustic Monitoring

(c) Utilize the PAM system, to the maximum extent practicable, to detect and allow some localization of marine mammals around the *Langseth* during all airgun operations and during most periods when airguns are not operating. One NMFS-qualified PSO and/or expert bioacoustician (i.e., PSAO) shall monitor the PAM at all times in shifts no longer than 6 hours. An expert bioacoustician shall design and set up the PAM system and be present to operate to oversee PAM, and available when technical issues occur during the survey.

(d) Do and record the following when an animal is detected by the PAM:

(i) Notify the on-duty PSVO(s) immediately of the presence of a vocalizing marine mammal so a power-down or shut-down can be initiated, if required:

(ii) Enter the information regarding the vocalization into a database. The data to be entered include an acoustic encounter identification number, whether it was linked with a visual sighting, date, time when first and last heard and whenever any additional information was recorded, position, and water depth when first detected, bearing if determinable, species or species group (e.g., unidentified dolphin, sperm whale), types and nature of sounds heard (e.g., clicks, continuous, sporadic, whistles, creaks, burst pulses, strength of signal, etc.), and any other notable information. The acoustic detection can also be recorded for further analysis.

Buffer and Exclusion Zones

(e) Establish a 160 dB re 1 μPa (rms) buffer zone as well as 180 and 190 dB re 1 μPa (rms) exclusion zone for marine mammals before the 2-string airgun array (6,600 in^3) is in operation; and a 180 and 190 dB re 1 μPa (rms) exclusion zone before a single airgun (40 in^3) is in operation, respectively. See Table 1 (above) for distances and exclusion zones.

Visual Monitoring at the Start of Airgun Operations

(f) Visually observe the entire extent of the exclusion zone (180 dB re 1 μPa [rms] for cetaceans; see Table 1 [above] for distances) using NMFS-qualified PSVOs, for at least 30 minutes prior to starting the airgun array (day or night).

(i) If the PSVO observes a marine mammal within the exclusion zone, USGS must delay the seismic survey until the marine mammal(s) has left the area. If the PSVO sees a marine mammal that surfaces, then dives below the surface, the PSVO shall wait 30 minutes. If the PSVO sees no marine mammals during that time, he/she should assume that the animal has moved beyond the exclusion zone.

(ii) If for any reason the entire radius cannot be seen for the entire 30 minutes (i.e., rough seas, fog, darkness), or if marine mammals are near, approaching, or within the exclusion zone, the airguns may not resume airgun operations.

(iii) If one airgun is already running at a source level of at least 180 dB re 1 μPa (rms), USGS may start the second airgun, and subsequent airguns, without observing the entire exclusion zone for 30 minutes prior, provided no marine mammals are known to be near the exclusion zone (in accordance with Condition 6[h] below).

Ramp-Up Procedures

(g) Ramp-up procedures at the start of seismic operations or after a shut-down—Implement a ''ramp-up'' procedure when starting-up at the beginning of seismic operations or any time after the entire array has been shut-down for more than 10 minutes, which means starting with the smallest airgun first and adding airguns in a sequence such that the source level of the array shall increase in steps not exceeding approximately 6 dB per 5-minute period. During ramp-up, the PSVOs shall monitor the 180 and 190 dB exclusion zone for cetaceans and pinnipeds, respectively, and if marine mammals are sighted within or about to enter the relevant exclusion zone, a power-down, or shut-down shall be implemented as though the full array were operational. Therefore, initiation of ramp-up procedures from a shut-down or at the beginning of seismic operations requires that the PSVOs be able to view the full exclusion zone as described in Condition 6(m) (below).

Power-Down Procedures

(h) Power-down the airgun(s) if a marine mammal is detected within, approaches, or enters the relevant exclusion zone (as defined in Table 1, above). A power-down means reducing the number of operating airguns to a single operating 40 in^3 airgun, which reduces the exclusion zone to the degree that the animal(s) is no longer in or about to enter it for the full airgun array. When appropriate or possible, power-down of the airgun array shall also occur when the vessel is moving from the end of one trackline to the start of the next trackline.

(i) Following a power-down, if the marine mammal approaches the small

designated exclusion zone, the airguns must then be completely shut-down. Airgun activity shall not resume until the PSVO has visually observed the marine mammal(s) exiting the exclusion zone and is not likely to return, or has not been seen within the exclusion zone for 15 minutes for species with shorter dive durations (small odontocetes) or 30 minutes for species with longer dive durations (mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, killer, and beaked whales).

(j) Following a power-down and subsequent animal departure, the airgun operations may resume at full power. Initiation requires that PSVOs can effectively monitor the full exclusion zones described Condition 6(g). If the PSVO(s) sees a marine mammal within or about to enter the relevant zones, when a course/speed alteration, power-down, or shut-down will be implemented.

Shut-Down Procedures

(k) Shut-down the airgun(s) if a marine mammal is detected within, approaches, or enters the relevant exclusion zone (as defined in Table 1, above). A shut-down means all operating airguns are shut-down (i.e., turned off).

(l) Following a shut-down, if the PSVO has visually confirmed that the animal has departed the relevant exclusion zone (and is not likely to return) within a period less than or equal to 10 minutes after the shut-down, the airgun operations may resume at full power. If the PSVO has not observed the marine mammal(s) exiting the exclusion zone, the airgun operations shall not resume for 15 minutes for species with shorter dive durations (small odontocetes) or 30 minutes for species with longer dive durations (mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, killer, and beaked whales). Following a shut-down, the *Langseth* may resume following ramp-up procedures described in Condition 6(h).

Speed or Course Alteration

(m) Alter speed or course during seismic operations if a marine mammal, based on its position and relative motion, appears likely to enter the relevant exclusion zone. If speed or course alteration is not safe or practicable, or if after alteration the marine mammal still appears likely to enter the exclusion zone, further mitigation measures, such as a power-down or shut-down, shall be taken.

Survey Operations at Night

(n) Marine seismic surveys may continue into night and low-light hours if such segment(s) of the survey is initiated when the entire relevant exclusion zones are visible and can be effectively monitored.

(o) No initiation of airgun array operations is permitted from a shut-down position at night or during low-light hours (such as in dense fog or heavy rain) when the entire relevant exclusion zone cannot be effectively monitored by the PSO(s) on duty.

Mitigation Airgun

(p) Use of small-volume airgun (i.e., mitigation airgun) during turns and maintenance shall be operated at approximately one shot per minute and would not be operated for longer than three hours in duration. During turns or brief transits between seismic tracklines, one airgun will continue operating.

Special Procedures for Situations or Species of Concern

(q) If a North Atlantic right whale (*Eubalaena glacialis*) is visually sighted, the airgun array shall be shut-down regardless of the distance of the animal(s) to the sound source. The array shall not resume firing until 30 minutes after the last documented whale visual sighting.

(r) Concentrations of humpback (*Megaptera novaeangliae*), sei (*Balaenoptera borealis*), fin (*Balaenoptera physalus*), blue (*Balaenoptera musculus*), and/or sperm whales (*Physeter macrocephalus*) will be avoided if possible (i.e., exposing concentrations of animals to 160 dB), and the array will be powered-down if necessary. For purposes of the survey, a concentration or group of whales will consist of six or more individuals visually sighted that do not appear to be traveling (e.g., feeding, socializing, etc.).

7. Reporting Requirements

The USGS is required to:

(a) Submit a draft comprehensive report on all activities and monitoring results to the Office of Protected Resources, NMFS, within 90 days of the completion of the *Langseth's* cruise in the northwest Atlantic Ocean off the Eastern Seaboard after the end of phase 1 in 2014 and another draft comprehensive report after the end of phase 2 in 2015. This report must contain and summarize the following information:

(i) Dates, times, locations, heading, speed, weather, sea conditions (including Beaufort sea state and wind force), and associated activities during all seismic operations and marine mammal sightings.

(ii) Species, number, location, distance from the vessel, and behavior of any marine mammals, as well as associated seismic activity (number of power-downs and shut-downs), observed throughout all monitoring activities.

(iii) An estimate of the number (by species) of marine mammals that: (A) Are known to have been exposed to the seismic activity (based on visual observation) at received levels greater than or equal to 160 dB re 1 μPa (rms) and/or 180 dB re 1 μPa (rms) for cetaceans and 190 dB re 1 μPa (rms) for pinnipeds with a discussion of any specific behaviors those individuals exhibited; and (B) may have been exposed (based on modeled values for the 36 airgun array) to the seismic activity at received levels greater than or equal to 160 dB re 1 μPa (rms) and/or 180 dB re 1 μPa (rms) for cetaceans and 190 dB re 1 μPa (rms) for pinnipeds with a discussion of the nature of the probable consequences of that exposure on the individuals that have been exposed.

(iv) A description of the implementation and effectiveness of the: (A) Terms and Conditions of the Biological Opinion's Incidental Take Statement (ITS); and (B) mitigation measures of the Incidental Harassment Authorization. For the Biological Opinion, the report shall confirm the implementation of each Term and Condition, as well as any conservation recommendations, and describe their effectiveness, for minimizing the adverse effects of the action on Endangered Species Act-listed marine mammals.

(b) Submit a final report to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, within 30 days after receiving comments from NMFS on the draft report. If NMFS decides that the draft report needs no comments, the draft report shall be considered to be the final report.

Reporting Prohibited Take

8. In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by this Authorization (if issued), such as an injury (Level A harassment), serious injury, or mortality (e.g., ship-strike, gear interaction, and/or entanglement), USGS shall immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and

Howard.Goldstein@noaa.gov and the NMFS Greater Atlantic Region Marine Mammal Stranding Network at 866–755–6622 (*Mendy.Garron@noaa.gov*), and NMFS Southeast Region Marine Mammal Stranding Network at 877–433–8299 (*Blair.Mase@noaa.gov* and *Erin.Fougeres@noaa.gov*). The report must include the following information:

(a) Time, date, and location (latitude/longitude) of the incident; the name and type of vessel involved; the vessel's speed during and leading up to the incident; description of the incident; status of all sound source use in the 24 hours preceding the incident; water depth; environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility); description of marine mammal observations in the 24 hours preceding the incident; species identification or description of the animal(s) involved; the fate of the animal(s); and photographs or video footage of the animal (if equipment is available).

USGS shall not resume its activities until NMFS is able to review the circumstances of the prohibited take. NMFS shall work with USGS to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. USGS may not resume their activities until notified by NMFS via letter, email, or telephone.

Reporting an Injured or Dead Marine Mammal With an Unknown Cause of Death

In the event that USGS discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as described in the next paragraph), USGS will immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov,* and the NMFS Greater Atlantic Region Marine Mammal Stranding Network (866–755–6622) and/or by email to the NMFS Greater Atlantic Regional Stranding Coordinator (*Mendy.Garron@noaa.gov*), and the NMFS Southeast Region Marine Mammal Stranding Network (877–433–8299) and/or by email to the Southeast Regional Stranding Coordinator (*Blair.Mase@noaa.gov*) and Southeast Regional Stranding Program Administrator (*Erin.Fougeres@noaa.gov*). The report must include the same information identified in Condition 8(a) above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with USGS to determine whether modifications in the activities are appropriate.

Reporting an Injured or Dead Marine Mammal Not Related to the Activities

In the event that USGS discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in Condition 2 of this Authorization (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), USGS shall report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401, and/or by email to *Jolie.Harrison@noaa.gov* and *Howard.Goldstein@noaa.gov,* and the NMFS Greater Atlantic Marine Mammal Stranding Network (866–755–622), and/or by email to the Greater Atlantic Regional Stranding Coordinator (*Mendy.Garron@noaa.gov*), and the NMFS Southeast Regional Stranding Network (877–433–8299), and/or by email to the Southeast Stranding Coordinator (*Blair.Mase@noaa.gov*) and Southeast Regional Stranding Program Administrator (*Erin.Fourgeres@noaa.gov*), within 24 hours of the discovery. USGS shall provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. Activities may continue while NMFS reviews the circumstances of the incident.

Endangered Species Act (ESA) Biological Opinion and Incidental Take Statement (ITS)

9. USGS is required to comply with the Terms and Conditions of the ITS corresponding to NMFS's ESA Biological Opinion issued to both USGS and NMFS's Office of Protected Resources, Permits and Conservation Division.

10. A copy of this Authorization and the ITS must be in the possession of all contractors and PSOs operating under the authority of this Incidental Harassment Authorization.

Request for Public Comments

NMFS requests comments on our analysis, the draft authorization, and any other aspect of the notice of proposed IHA for USGS's proposed marine seismic survey in the Atlantic Ocean off the Eastern Seaboard. Please include with your comments any supporting data or literature citations to help inform our final decision on USGS's request for an MMPA authorization. Concurrent with the publication of this notice in the **Federal Register,** NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 16, 2014.

Perry F. Gayaldo,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–14426 Filed 6–20–14; 8:45 am]

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FEDERAL REGISTER

Vol. 79 Monday,

No. 120 June 23, 2014

Part III

The President

Notice of June 19, 2014—Continuation of the National Emergency With Respect to the Disposition of Russian Highly Enriched Uranium

Federal Register
Vol. 79, No. 120
Monday, June 23, 2014

Presidential Documents

Title 3—

The President

Notice of June 19, 2014

Continuation of the National Emergency With Respect to the Disposition of Russian Highly Enriched Uranium

On June 25, 2012, by Executive Order 13617, I declared a national emergency pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security and foreign policy of the United States constituted by the risk of nuclear proliferation created by the accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation.

Full implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993, and related contracts and agreements (collectively, the ''HEU Agreements'') is essential to the attainment of U.S. national security and foreign policy goals. Assets of the Government of the Russian Federation directly related to the implementation of the HEU Agreements may be subject to attachment, judgment, decree, lien, execution, garnishment, or other judicial process, thereby jeopardizing the full implementation of the HEU Agreements to the detriment of U.S. national security and foreign policy. In order to ensure the preservation and proper and complete transfer to the Government of the Russian Federation of all payments due to it under the HEU Agreements, in Executive Order 13617 I ordered the blocking of all property and interests in property of the Government of the Russian Federation directly related to the implementation of the HEU Agreements and declared any attachment, judgment, decree, lien, execution, garnishment, or other judicial process with respect to such blocked property to be null and void, unless licensed or authorized pursuant to Executive Order 13617 or Executive Order 13159 of June 21, 2000.

The risk of nuclear proliferation created by the accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation continues to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. For this reason, the national emergency declared in Executive Order 13617 of June 25, 2012, and the measures adopted on that date to deal with that emergency, must continue in effect beyond June 25, 2014. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency declared with respect to the disposition of Russian highly enriched uranium declared in Executive Order 13617.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
June 19, 2014.

[FR Doc. 2014–14790
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