AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 79 Tuesday,
No. 126 July 1, 2014

Pages 37155–37616

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.ofr.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.fdsys.gov*, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Printing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Printing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 77 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**

General online information **202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

Printed on recycled paper.

Contents

Federal Register

Vol. 79, No. 126

Tuesday, July 1, 2014

Agricultural Research Service
NOTICES
Exclusive Licenses, 37273–37274

Agriculture Department
See Agricultural Research Service
See Animal and Plant Health Inspection Service
See Federal Crop Insurance Corporation
See Rural Housing Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 37271–37273

Animal and Plant Health Inspection Service
PROPOSED RULES
User Fees for Agricultural Quarantine and Inspection Services, 37231

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Broadcasting Board of Governors
NOTICES
Meetings; Sunshine Act, 37280

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Family Violence Prevention and Services, Grants to States, et al., 37322
Funding Availability:
Family Violence Prevention and Services: Grants for Domestic Violence Shelters, to Native American Tribes Including Alaska Native Villages and Tribal Organizations, 37322–37330

Coast Guard
RULES
Drawbridge Operations:
Pequonnock River, Bridgeport, CT, 37197
Sacramento River, Isleton, CA, 37196–37197
Safety Zones:
Annual Firework Displays within the Captain of the Port, Puget Sound Zone, 37198–37200
Atlantic Ocean, Ocean City, NJ, 37207–37209
Delaware River, Chester, PA, 37204–37207
Delaware River, Philadelphia, PA, 37209–37211
Fireworks Displays in Captain of the Port Puget Sound zone, 37202–37204
San Francisco Giants Fireworks, San Francisco Bay, San Francisco, CA, 37197–37198
San Francisco Independence Day Fireworks Display, San Francisco Bay, San Francisco, CA, 37200–37202
NOTICES
Meetings:
International Maritime Organization's Development of a Mandatory Code for Ships Operating in Polar Waters; Public Workshop, 37339–37340

Commerce Department
See Economic Development Administration
See Foreign-Trade Zones Board
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Comptroller of the Currency
PROPOSED RULES
Annual Stress Test:
Schedule Shift and Adjustments to Regulatory Capital Projections, 37231–37235

Consumer Product Safety Commission
NOTICES
Meetings:
Commission Agenda and Priorities; Hearings, 37294

Corporation for National and Community Service
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
AmeriCorps Community Engagement Survey, 37294–37295

Defense Department
See Navy Department

Department of Transportation
See Pipeline and Hazardous Materials Safety Administration

Economic Development Administration
NOTICES
Trade Adjustment Assistance; Petitions, 37280–37281

Education Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Annual Protection and Advocacy of Individual Rights Program Assurances, 37295–37296
Applications for New Awards:
National Institute on Disability and Rehabilitation Research, Disability and Rehabilitation Research Projects and Centers Program, Minority-Serving Institution Field-Initiated Projects Program, 37296–37301
Interest Rates of Federal Student Loans:
William D. Ford Federal Direct Loan Program, 37301–37302

Employment and Training Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Contribution Operations, 37353–37354

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Meetings:
Quadrennial Energy Review, 37302–37303
Microgrid Competition, 37303–37306

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
California, Ventura County Air Pollution Control District; Revisions, 37222–37224
San Joaquin Valley Unified Air Pollution Control District; Revisions, 37224–37226
State Hazardous Waste Management Program:
Oklahoma, 37226–37230
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Florida; Removal of Sulfur Storage and Handling Rules, 37255–37258
San Joaquin Valley Unified Air Pollution Control District; Revisions, 37258–37259
Performance Standards for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces, and New Residential Masonry Heaters, 37259–37261
State Hazardous Waste Management Program:
Oklahoma, 37261–37262
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for Reference and Equivalent Method Determination, 37309–37310
Recordkeeping Requirements for Producers, Registrants, and Applicants of Pesticides and Pesticide Devices, 37310–37311
Reporting and Recordkeeping Requirements for Importation of Nonroad Engines and Recreational Vehicles, 37311
Meetings:
National Environmental Education Advisory Council, 37312
Pesticide Chemicals:
Registration Review; Draft Human Health and Ecological Risk Assessment, 37312–37314

Executive Office of the President
See Presidential Documents

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 37314–37315

Federal Aviation Administration
RULES
Airworthiness Directives:
British Aerospace Regional Aircraft Airplanes, 37169–37171
Pratt and Whitney Canada Corp. Turboprop Engines, 37171–37173
Rolls-Royce, PLC Turbofan Engines, 37167–37169
Establishment of Class E Airspace:
Memphis, MO, 37174–37175
Steele, MO, 37173–37174
PROPOSED RULES
Airworthiness Directives:
Bombardier, Inc. Airplanes, 37246–37248
Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Airplanes, 37248–37252
The Boeing Company Airplanes, 37239–37246

Federal Communications Commission
PROPOSED RULES
Protecting and Promoting the Open Internet, 37448–37483
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 37315–37319

Federal Crop Insurance Corporation
RULES
Catastrophic Risk Protection Endorsement; Area Risk Protection Insurance; Common Crop Insurance Basic Provisions, 37155–37166

Federal Deposit Insurance Corporation
PROPOSED RULES
Annual Stress Test, 37235–37239
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 37320

Federal Energy Regulatory Commission
NOTICES
Environmental Assessments; Availability, etc.:
Village of Morrisville, VT, 37306–37307
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorization:
Capital Energy LLC, 37308
Repsol Energy North America Corp., 37307–37308
TriEagle Energy, LP, 37307
Yasmin Partners LLC, 37308
License Applications:
Western Minnesota Municipal Power Agency, 37308–37309

Federal Housing Finance Agency
RULES
Regulated Entities of Stress Testing Results; Supplemental Orders, 37167

Federal Maritime Commission
NOTICES
Ocean Transportation Intermediary License Reissuances, 37320
Ocean Transportation Intermediary License Revocations and Terminations, 37320–37321

Federal Reserve System
RULES
Interagency Guidelines Establishing Information Security Standards, 37166–37167
PROPOSED RULES
Capital Plan and Stress Test Rules; Amendments, 37420–37445
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 37321
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 37321–37322

Federal Transit Administration
NOTICES
Environmental Impact Statements; Availability, etc.:
Urban Rail; City of Austin, Travis County, TX; Rescission, 37388

Fiscal Service
NOTICES
Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies, 37398–37417

Prompt Payment Interest Rate; Contract Disputes Act, 37391

Fish and Wildlife Service
RULES
Endangered Species Act; Definitions:
Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'', 37578–37612
NOTICES
Endangered and Threatened Wildlife and Plants:
Permits; Colorado Pikeminnow, Razorback Sucker, Roundtail Chub, Flannelmouth Sucker, and Bluehead Sucker in the Middle Duchesne River Watershed, UT, 37340–37342
Texas Ayenia Draft Recovery Plan; Correction, 37340
Enhancement of Survival Permits, etc:
New England Cottontail, Maine Department of Inland Fisheries and Wildlife, 37342–37343

Food and Drug Administration
RULES
New Animal Drug Applications:
Confidentiality of Data and Information in a New Animal Drug Application File, 37175
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Food Additive, Color Additive (Including Labeling), and Generally Regarded As Safe Affirmation, etc., 37330–37332
Public Hearings:
Over-the-Counter Drug Monograph System—Past, Present, and Future, 37332
Strategic Priorities, Fiscal Years 2014–2018, 37332–37333

Foreign Assets Control Office
RULES
South Sudan Sanctions Regulations, 37190–37196

Foreign-Trade Zones Board
NOTICES
Application for Subzone Expansion:
UniCarriers Americas Corp., Foreign-Trade Zone 176; Rockford, IL, 37281
Proposed Production Activities:
Foreign-Trade Zone 158; Vicksburg/Jackson, MS; Southern Motion, Inc. (Upholstered Furniture), Pontotoc and Baldwyn, MS, 37281–37282

Health and Human Services Department
See Children and Families Administration
See Food and Drug Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration
PROPOSED RULES
Patient Protection and Affordable Care Act
Annual Eligibility Redeterminations for Exchange Participation and Insurance Affordability Programs, 37262–37269

Homeland Security Department
See Coast Guard
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Regional Equipment and Capabilities Exchange, 37337–37338

Indian Affairs Bureau
PROPOSED RULES
Land Acquisitions:
Alaska, 37254–37255
NOTICES
Reservation Proclamations:
Shakopee Mdewakanton Sioux Community of Minnesota, 37343–37345

Industry and Security Bureau
RULES
Export Administration Regulations:
Control of Military Electronic Equipment, etc, that No Longer Warrant Control Under the United States Munitions List, 37551–37575
PROPOSED RULES
Civil Uses of Certain Microwave Monolithic Integrated Circuit Power Amplifiers, Discrete Microwave Transistors and Bi-static and Multi-static Radar, 37548–37550
NOTICES
Orders Denying Export Privileges:
Fidel Ignacio Cisneros, 37282–37283
Kue Sang Chun, 37282
Luis Alejandro Yanez Almeida, 37283–37284

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See National Park Service
See Ocean Energy Management Bureau

Internal Revenue Service
RULES
Information Reporting by Foreign Financial Institutions and Withholding on Certain Payments to Foreign Financial Institutions; Corrections, 37175–37181
Withholding of Tax on Certain U.S. Source Income Paid to Foreign Persons; Information Reporting and Backup Withholding on Payments Made to Certain U.S. Persons, etc.; Corrections, 37181–37189
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 37391–37395

International Trade Administration
NOTICES
Antidumping Duty Administrative Reviews; Results, Extensions, Amendments, etc.:
Circular Welded Non-Alloy Steel Pipe from the Republic of Korea, 37284–37286
Citric Acid and Certain Citrate Salts from Canada, 37286–37287
Antidumping Duty Investigations; Results, Extensions, Amendments, etc.:
1,1,1,2–Tetrafluoroethane from the People's Republic of China, 37287–37289
Antidumping or Countervailing Duty Administrative Reviews; Results, Extensions, Amendments, etc., 37289–37291
Antidumping or Countervailing Duty Orders; Results, Extensions, Amendments, etc.:
Sunset Reviews, 37291
Five-Year Sunset Reviews, 37292–37293

International Trade Commission
NOTICES
Institution of Five-Year Reviews:
Certain Tow-Behind Lawn Groomers and Parts Thereof from China, 37349–37351
Investigations; Determinations, Modifications and Rulings, etc.:
Vision-Based Driver Assistance System Cameras and Components Thereof, 37351–37352

Justice Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
International Terrorism Victim Expense Reimbursement Program Application, 37353
Relief of Disabilities and Application for Restoration of Explosives Privileges, 37352–37353

Labor Department
See Employment and Training Administration
See Occupational Safety and Health Administration

Land Management Bureau
NOTICES
Competitive Coal Lease Sales:
Spruce Stomp Tract, Delta County, Colorado, 37345
Environmental Impact Statements and Environmental Impact Reports; Availability, etc.:
West of Devers Upgrade Project, Riverside and San Bernardino Counties, CA, 37345–37346

National Aeronautics and Space Administration
PROPOSED RULES
NASA Protective Services Enforcement, 37252–37254

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Arts Advisory Panel, 37354–37355

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 37333–37334
Eunice Kennedy Shriver National Institute of Child Health and Human Development, 37334–37335
National Institute of Mental Health, 37335
National Library of Medicine, 37333
The Development of New Antibacterial Products; Charting a Course for the Future, 37334–37335

National Oceanic and Atmospheric Administration
RULES
Endangered Species Act; Definitions:
Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'', 37578–37612
PROPOSED RULES
Fisheries of the Caribbean, Gulf of Mexico and South Atlantic:
Amendment 8 to the Fishery Management Plan for Coral, Coral Reefs, and Live/Hardbottom Habitats of the South Atlantic Region; Correction, 37269–37270
Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic:
Coral, Coral Reefs, and Live/Hard Bottom Habitats of the South Atlantic Region; Amendment 8; Correction, 37270
Fisheries of the Exclusive Economic Zone Off Alaska:
Steller Sea Lion Protection Measures for the Bering Sea and Aleutian Islands Groundfish Fisheries, 37486–37533
NOTICES
Meetings:
Mid-Atlantic Fishery Management Council, 37293

National Park Service
NOTICES
Environmental Impact Statements; Availability, etc.:
Wilderness Stewardship Plan, Sequoia and Kings Canyon National Parks, CA, 37346–37347

National Science Foundation
NOTICES
Committee Management; Renewals, 37355

National Transportation Safety Board
NOTICES
Meetings; Sunshine Act, 37355

Navy Department
NOTICES
Environmental Impact Statements; Availability, etc.:
Employment of Surveillance Towed Array Sensor System Low Frequency Active Sonar, 37295

Nuclear Regulatory Commission
NOTICES
Meetings; Sunshine Act, 37355–37356

Occupational Safety and Health Administration
RULES
Vehicle-Mounted Elevating and Rotating Work Platforms and Logging Operations; Correction, 37189–37190

Ocean Energy Management Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Atlantic Offshore Wind Energy Development: Public Attitudes, Values, and Implications for Tourism and Recreation, 37348–37349

Personnel Management Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Information and Instructions on Your Reconsideration Rights, 37356
We Need the Social Security Number of the Person Named Below, 37356–37357

Pipeline and Hazardous Materials Safety Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Operator Identification Assignment Request and Operator Registry Notification, 37388–37389
Meetings:
Government/Industry Pipeline Research and Development Forum, 37389–37390
Managing Pipeline Cracking Challenges; Public Workshop, 37390

Presidential Documents
PROCLAMATIONS
Trade:
African Growth and Opportunity Act; Beneficiary Country Designations and Modifications (Proc. 9145), 37613–37616

Public Debt Bureau
See Fiscal Service

Railroad Retirement Board
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 37357–37358

Rural Housing Service
NOTICES
Funding Availability:
Applications for Farm Labor Housing Loans and Farm Labor Housing Grants for Off-Farm Housing for Fiscal Year 2014, 37274–37280

Securities and Exchange Commission
NOTICES
Applications:
Rothschild Larch Lane Management Company LLC and The Advisors' Inner Circle Fund III, 37366–37369
USCF Equity Trust, et al., 37358–37366
Self-Regulatory Organizations; Proposed Rule Changes:
Chicago Board Options Exchange, Inc., 37369–37371
Chicago Mercantile Exchange Inc., 37371–37372
International Securities Exchange, LLC, 37377–37378
ISE Gemini, LLC, 37378–37380
NASDAQ OMX PHLX LLC, 37384
NYSE Arca, Inc., 37373–37376
NYSE MKT, LLC, 37380–37384

Small Business Administration
NOTICES
Disaster Declarations:
Indiana; Amendment 2, 37384

State Department
RULES
International Traffic in Arms Regulations:
United States Munitions List Category XI (Military Electronics), etc., 37536–37545
NOTICES
Bureau of Political-Military Affairs; Administrative Debarments:
Carlos Dominguez, Elint, S.A., Spain Night Vision, S.A., and SNV, S.A.; Correction, 37384–37385

Substance Abuse and Mental Health Services Administration
NOTICES
Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, 37335–37337

Surface Transportation Board
NOTICES
Environmental Assessments; Availability, etc.:
Construction of Connecting Track Exemption, Elbert County, Ga.; Hartwell Railroad Co., 37390–37391

Susquehanna River Basin Commission
NOTICES
Projects Approved for Consumptive Uses of Water, 37385–37387
Projects Rescinded for Consumptive Uses of Water, 37388

Transportation Department
See Federal Aviation Administration
See Federal Transit Administration
See Pipeline and Hazardous Materials Safety Administration
See Surface Transportation Board

Treasury Department
See Comptroller of the Currency
See Fiscal Service
See Foreign Assets Control Office
See Internal Revenue Service
See United States Mint

United States Mint
NOTICES
Meetings:
Citizens Coinage Advisory Committee; Teleconference, 37395

Veterans Affairs Department
RULES
Grants for Adaptive Sports Programs for Disabled Veterans and Disabled Members of the Armed Forces, 37211–37222
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, etc., 37395–37396

Separate Parts In This Issue

Part II
Treasury Department, Fiscal Service, 37398–37417

Part III
Federal Reserve System, 37420–37445

Part IV
Federal Communications Commission, 37448–37483

Part V
Commerce Department, National Oceanic and Atmospheric Administration, 37486–37533

Part VI
State Department, 37536–37545

Part VII
Commerce Department, Industry and Security Bureau, 37548–37575

Part VIII
Commerce Department, National Oceanic and Atmospheric Administration, 37578–37612
Interior Department, Fish and Wildlife Service, 37578–37612

Part IX
Presidential Documents, 37613–37616

Reader Aids

Consult the Reader Aids section at the end of this page for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
9145 37615

7 CFR
400 37155
402 37155
407 37155
457 37155
Proposed Rules:
354 37231

12 CFR
208 37166
225 37166
1238 37167
Proposed Rules:
46 37231
225 37420
252 37420
325 37235

14 CFR
39 (3 documents) 37167, 37169, 37171
71 (2 documents) 37173, 37174
Proposed Rules:
39 (4 documents) 37239, 37243, 37246, 37248
1204 37252

15 CFR
774 37551
Proposed Rules:
774 37548

21 CFR
514 37175

22 CFR
121 37536

25 CFR
Proposed Rules:
151 37254

26 CFR
1 (2 documents) 37175, 37181
31 37181

29 CFR
1910 37189

31 CFR
558 37190

33 CFR
117 (2 documents) 37196, 37197
165 (7 documents) 37197, 37198, 37200, 37202, 37204, 37207, 37209

38 CFR
77 37211

40 CFR
52 (3 documents) 37222, 37224
272 37226
Proposed Rules:
52 (2 documents) 37255, 37258
60 37259
272 37261

45 CFR
Proposed Rules:
155 37262
156 37262

47 CFR
Proposed Rules:
8 37448

50 CFR
Ch. I 37578
Ch. II 37578
Proposed Rules:
622 (2 documents) 37269, 37270
679 37486

Rules and Regulations

Federal Register
Vol. 79, No. 126
Tuesday, July 1, 2014

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

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 400, 402, 407 and 457

[Docket No. FCIC–14–0005]

RIN 0563–AC43

General Administrative Regulations; Catastrophic Risk Protection Endorsement; Area Risk Protection Insurance Regulations; and the Common Crop Insurance Regulations, Basic Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim Rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the General Administrative Regulations—Ineligibility for Programs under the Federal Crop Insurance Act, the Catastrophic Risk Protection Endorsement, the Area Risk Protection Insurance Regulations, and the Common Crop Insurance Regulations, Basic Provisions to revise those provisions affected by changes mandated by the Agricultural Act of 2014 (commonly referred to as the 2014 Farm Bill), enacted on February 7, 2014.

DATES: This rule is effective June 30, 2014. Written comments and opinions on this rule will be accepted until close of business September 2, 2014 and will be considered when the rule is made final.

ADDRESSES: FCIC prefers that comments be submitted electronically through the Federal eRulemaking Portal. You may submit comments, identified by Docket ID No. FCIC–14–0005, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Director, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, P.O. Box 419205, Kansas City, MO 64133–6205.

All comments received, including those received by mail, will be posted without change to *http://www.regulations.gov,* including any personal information provided, and can be accessed by the public. All comments must include the agency name and docket number or Regulatory Information Number (RIN) for this rule. For detailed instructions on submitting comments and additional information, see *http://www.regulations.gov.* If you are submitting comments electronically through the Federal eRulemaking Portal and want to attach a document, we ask that it be in a text-based format. If you want to attach a document that is a scanned Adobe PDF file, it must be scanned as text and not as an image, thus allowing FCIC to search and copy certain portions of your submissions. For questions regarding attaching a document that is a scanned Adobe PDF file, please contact the RMA Web Content Team at (816) 823–4694 or by email at *rmaweb.content@rma.usda.gov.*

Privacy Act: Anyone is able to search the electronic form of all comments received for any dockets by the name of the person submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the complete User Notice and Privacy Notice for Regulations.gov at *http://www.regulations.gov/#!privacyNotice.*

FOR FURTHER INFORMATION CONTACT: Tim Hoffmann, Director, Product Management, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, P.O. Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be economically significant for the purposes of Executive Order 12866 and, therefore, it has been reviewed by the Office of Management and Budget (OMB).

Benefit-Cost Analysis

A Benefit-Cost Analysis (BCA) has been completed and a summary is shown below; the full analysis may be viewed on *http://www.regulations.gov.* In summary, the analysis finds that changes in the rule will have an expected cost of $115.9 million annually over a 10-year period to the FCIC in administration of the Federal crop insurance program. Non-quantifiable benefits of this rule include increased program integrity, additional risk management tools, and incentives for beginning farmers and ranchers to participate in the Federal crop insurance program.

On February 7, 2014, the 2014 Farm Bill was enacted. As a result, FCIC must revise those provisions of the General Administrative Regulations—Ineligibility for Programs under the Federal Crop Insurance Act (Subpart U), Catastrophic Risk Protection Endorsement (CAT Endorsement), Area Risk Protection Insurance (ARPI) Basic Provisions, and the Common Crop Insurance Provisions (CCIP) Basic Provisions to implement program changes identified in Titles II and XI of the 2014 Farm Bill.

On January 2014, the Congressional Budget Office (CBO) issued its estimates on the effects on direct spending and revenues of the 2014 Farm Bill. These estimates were used as a basis for the quantifiable costs and benefits stated in this BCA.

The purpose of this rule is to amend Subpart U, the CAT Endorsement, the ARPI Basic Provisions, and the CCIP Basic Provisions to implement the following changes:

Section 2611 requires those enrolled in crop insurance, for certain agriculture commodities, to comply with conservation compliance requirements or forego premium subsidy. For acts or situations of non-compliance, ineligibility for premium subsidy will be applied beginning with the 2016 reinsurance year. Annually, FCIC anticipates a savings of $4.6 million as a result of this change.

Section 11007 makes available insurance coverage by separate enterprise units based on irrigated and non-irrigated acreage of crops within counties. Annually, FCIC anticipates a cost of $53.3 million as a result of this change.

Section 11009 allows insureds to exclude any recorded or appraised yield for any crop year in which the per planted acre yield in the county is at least 50 percent below the simple

average for the crop in the county for the previous 10 consecutive crop years, and allows insureds in any county contiguous to a county in which an insured is eligible to exclude a recorded or appraised yield to also elect a similar adjustment. Annually, FCIC anticipates a cost of $35.7 million as a result of this change.

Section 11014 applies a reduction of premium subsidy, a reduced insurance guarantee, and eliminates substitute yields in the insurance guarantee during the first four crop years that land is converted from native sod to the production of an annual crop in the States of Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota. Annually, FCIC anticipates a savings of $11.4 million as a result of this change.

Section 11015 allows producers to elect a different level of coverage for an agricultural commodity by irrigated and non-irrigated acreage. Annually, FCIC anticipates a cost of $16.8 million as a result of this change.

Section 11016 establishes crop insurance benefits for beginning farmers and ranchers by increasing the premium subsidy available by ten percentage points, allowing the use of yield history from any previous farm or ranch operation in which they had decision making or physical involvement, and replacing a low yield in their actual production history with a yield equal to 80 percent of the applicable transitional yield. Annually, FCIC anticipates a cost of $26.1 million as a result of this change.

Section 11019 allows for the correction of errors in information obtained from the producer within a reasonable amount of time and consistent with information provided to other agencies of the Department of Agriculture subject to certain limitations for maintaining program integrity. This section also provides for the payment of debt after the termination date in accordance with procedures and limitations established by the FCIC, if a producer inadvertently fails to pay a debt and has been determined to be ineligible to participate in the Federal crop insurance program. FCIC does not believe there are any additional cost outlays resulting from this change. Therefore, FCIC believes insureds will benefit from this change and the benefits are non-quantifiable.

Paperwork Reduction Act of 1995

Pursuant to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the collections of information in this rule have been approved by OMB under control numbers 0563–0085, 0563–0083, and 0563–0053.

E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, 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.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. For instance, all producers are required to submit an application and acreage report to establish their insurance guarantees and compute premium amounts, and all producers are required to submit a notice of loss and production information to determine the amount of an indemnity payment in the event of an insured cause of crop loss. Whether a producer has 10 acres or 1000 acres, there is no difference in the kind of information collected. To ensure crop insurance is available to small entities, the Federal Crop Insurance Act (Act) authorizes FCIC to waive collection of administrative fees from beginning farmers or ranchers and limited resource farmers. FCIC believes this waiver helps to ensure that small entities are given the same opportunities as large entities to manage their risks through the use of crop insurance. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an impact on small entities, and, therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. With respect to any direct action taken by FCIC or to require the insurance provider to take specific action under the terms of the crop insurance policy, the administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action against FCIC for judicial review may be brought.

Environmental Evaluation

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

On February 7, 2014, the 2014 Farm Bill was enacted. FCIC must revise those provisions of the General Administrative Regulations—Ineligibility for Programs under the Federal Crop Insurance Act (Subpart U), Catastrophic Risk Protection Endorsement (CAT Endorsement), Area Risk Protection Insurance Basic Provisions (ARPI Basic Provisions), and the Common Crop Insurance Policy Basic Provisions (CCIP Basic Provisions) to implement program changes mandated by the 2014 Farm Bill. On March 14, 2014, the Farm Service Agency (FSA) and Risk Management

Agency (RMA) published a notice in the **Federal Register** (79 FR 14472–14475) announcing a listening session for initial public input about the new programs and changes to existing programs for which FSA and RMA were delegated authority to implement. The agencies also announced an opportunity for the public to also make written statements through April 2, 2014. The listening session was held on March 27, 2014, in the Department of Agriculture's Jefferson Auditorium in Washington, DC.

FSA and RMA received 32 written comments from individuals, trade groups, other organizations, and State entities. All written comments are available to the public for review via this link: *http://www.regulations.gov/#!documentDetail;D=FSA-2014-0002-0001.*

Total attendance at the listening session was 127 people. All of the Commodity, Credit, and Crop Insurance Titles, and parts of the Conservation, Energy, and Miscellaneous Titles were covered during the listening session. A number of oral statements from attendees were program-specific. However, recurring overarching ideas expressed during the listening session included placing a priority on information sharing between the United States Department of Agriculture (USDA) and its employees, farmers and ranchers in general, and beginning and socially disadvantaged farmers and ranchers.

Another overarching recommendation was the need to develop education, outreach, and tools to help farmers and ranchers in making their decisions. Other recommendation urged USDA to develop programs and policies that do not hinder business and family farming decisions and strengthen local assistance to farmers and ranchers on completing forms and planning.

Statements that addressed issues outside the scope of the 2014 Farm Bill are not addressed in this rule. Statements, such as those about RMA developing new products to help small, diversified farmers are not related to this rule but will be considered by RMA when establishing its priorities for research and development.

In general, RMA received listening session statements regarding the timing of when the 2014 Farm Bill requirements would go into effect. Statements were also received urging RMA to issue rules and information as quickly as possible.

Provisions in the 2014 Farm Bill that require revisions in the regulations are as follows:

a. Section 2611 of the 2014 Farm Bill links the eligibility for premium subsidy paid by FCIC to an insured's compliance with the Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) provisions of the Food Security Act of 1985. The regulations covering these provisions are set forth in the **Federal Register** at 7 CFR Part 12. To be eligible for premium subsidy paid by FCIC, an insured must (1) have a completed certification of compliance, form AD–1026, with the HELC and WC provisions on file with the Farm Service Agency (FSA); (2) be in compliance with a conservation plan approved by NRCS for all highly erodible land; (3) not plant an agricultural commodity on a wetland converted after February 7, 2014; and (4) not have converted a wetland for the purpose, or to have the effect, of making the production of an annually planted agricultural commodity possible on such converted wetland after February 7, 2014.

For the purposes of the HELC and WC provisions, ''agricultural commodity'' is defined as any agricultural commodity planted and produced in a state by annual tilling of the soil, including tilling by one-trip planters, or sugarcane. Insureds determined ineligible for premium subsidy paid by FCIC for a reinsurance year will be ineligible for premium subsidy paid by FCIC on all their policies, including CAT policies, unless specific exemptions apply. There is a phase-in period for insureds who have never been subject to the HELC and WC provisions previously and these insureds will be given additional time to become compliant before any premium subsidy is denied.

USDA will determine an insured's eligibility for premium subsidy paid by FCIC at a time that is as close to the beginning of the next reinsurance year (July 1) as practical. The determination will be based on FSA and Natural Resources Conservation Service determinations regarding compliance with the HELC and WC provisions, as recorded in FSA's automated system. Insureds who do not have a certification of compliance, form AD–1026, on file with FSA prior to the beginning of the reinsurance year (July 1) will be ineligible for premium subsidy, unless insureds can demonstrate they are a beginning farmer or rancher who has not previously had an insurable interest in a crop or livestock and they began farming for the first time after the beginning of the reinsurance year but prior to the sales closing date. In addition, an insured who is in violation of the HELC or WC provisions will be ineligible for premium subsidy, unless specific exemptions apply. This means that an insured who is determined to be non-compliant on June 1, 2015, (2015 reinsurance year) will, unless otherwise exempted, be denied premium subsidy effective July 1, 2015, the start of the 2016 reinsurance year, and will not be eligible for any premium subsidy for any policies during the 2016 reinsurance year. Even if the insured becomes compliant during the 2016 reinsurance year, the insured will not be eligible for premium subsidy until the 2017 reinsurance year starting on July 1, 2016. FCIC is amending the CAT Endorsement, ARPI Basic Provisions, and CCIP Basic Provisions to implement these provisions effective for any policies with a sales closing date on or after July 1, 2015.

b. Section 11003 of the 2014 Farm Bill created a new insurance product that provides coverage for a portion of the underlying crop insurance policy deductible called the Supplemental Coverage Option (SCO). SCO must be purchased as an endorsement to the CCIP Basic Provisions and applicable Crop Provisions. SCO will be available, starting with the 2015 crop year, in select counties for corn, soybeans, wheat, sorghum, cotton, and rice, and made available to other crops and areas in future years if there is sufficient data and coverage is provided on the actuarial documents.

Prior to the 2014 Farm Bill, the CAT Endorsement did not allow options or endorsements to extend to CAT policies. However, section 11003 specifically makes SCO available to all policies offered under Subtitle A of the Act, which includes both additional coverage and CAT coverage. Therefore, this rule amends the CAT Endorsement to allow SCO to be available for CAT policies.

c. Section 11007 of the 2014 Farm Bill makes available insurance coverage by separate enterprise units for irrigated and non-irrigated acreage of a crop within the county. The new language allows two separate enterprise units, one for all irrigated acreage of the crop, and one for all non-irrigated acreage of the crop. Enterprise units by irrigated and non-irrigated practice will be available for any crop in which enterprise units are allowed through the actuarial documents, Crop Provisions, or Special Provisions. Availability of enterprise units will be subject to the current requirements in the Basic Provisions. This means that both the irrigated and non-irrigated acreage must each separately qualify for enterprise units. If insureds do not qualify for separate irrigated and non-irrigated

enterprise units, there are two options based on the timing of the determination: (1) If the determination is made on or before the acreage reporting date, insureds may have one enterprise unit comprise of all irrigated and non-irrigated acreage in the county of the crop, if they qualify, or basic or optional units depending on which unit structure the insureds reported on the acreage report; or (2) if the determination is made after acreage reporting date, the policy allows insureds to have one enterprise unit comprise of all irrigated and non-irrigated acreage in the county of the crop if they meet the qualifications or a basic unit will be assigned. The provisions regarding this section of the 2014 Farm Bill may not be implemented upon publication; therefore to allow flexibility, FCIC has revised section 34 of the CCIP Basic Provisions to allow the actuarial documents to specify when separate enterprise units by irrigated and non-irrigated practice will be available.

d. Section 11009 of the 2014 Farm Bill allows insureds to elect to exclude any recorded or appraised yield for any crop year in which the per planted acre yield in the county was at least 50 percent below the simple average of the per planted acre yield during the previous 10 consecutive crop years. A crop year determined eligible for exclusion in a county will also be eligible for exclusion in any contiguous county. Elections to exclude yields, by eligible crop year, by irrigated and non-irrigated acreage will be specified in the actuarial documents. Eligible crop year(s) depends upon the history for the crop year in comparison to the previous 10 consecutive crop years for a crop/county and irrigation practice. Production data availability and intensive data analysis may limit FCIC's ability to authorize exclusions of yields for all APH crops in all counties. The provisions regarding this section of the 2014 Farm Bill may not be implemented upon publication; therefore, to allow flexibility, FCIC has revised the CCIP Basic Provisions to allow the actuarial documents to specify when insureds may elect to exclude any recorded or appraised yield.

e. Section 11014 of the 2014 Farm Bill stipulates there will be a reduction of benefits on native sod acreage during the first four crop years after the acreage is tilled and is planted to an annual crop after the date of enactment of the 2014 Farm Bill. Insureds' benefits are reduced for native sod acreage during the first four crop years of planting an annual crop by reducing the amount of premium subsidy by 50 percentage points than otherwise would be available on additional coverage policies, reducing the insurance guarantee to 65 percent of the applicable transitional yield, and eliminating yield substitution for a year of poor or low yields, as applicable. The reduction in insureds' benefits only applies to insureds who have tilled an area of native sod greater than five acres in the county in the States of Iowa, Minnesota, Montana, Nebraska, North Dakota, or South Dakota. FCIC has revised the premium subsidy and insurance guarantee provisions in the CCIP Basic Provisions and the ARPI Basic Provisions, as applicable, to incorporate these changes.

f. Section 11015 of the 2014 Farm Bill allows insureds with additional coverage policies to elect two separate coverage levels, one for all irrigated acreage of the crop in the county and one for all non-irrigated acreage of the crop in the county. This will be available where both an irrigated practice and non-irrigated practice is available in the actuarial documents. For example, an insured may choose a 65 percent coverage level for all irrigated acreage (corn irrigated practice) and an 80 percent coverage level for all non-irrigated acreage (corn non-irrigated practice). Further, if the Crop Provisions allow the option to separately insure individual crop types or varieties, separate coverage levels by irrigated and non-irrigated practice will also be available for each type or variety. For example, an insured may choose 65 percent coverage level for processing type apples with an irrigated practice and a 70 percent coverage level for processing type apples with a non-irrigated practice. The insured may also choose a 70 percent coverage level for fresh type apples with an irrigated practice and a 75 percent coverage level for fresh type apples with a non-irrigated practice. This election is already allowed in the ARPI Basic Provisions. The provisions regarding this section of the 2014 Farm Bill may not be implemented upon publication; therefore, to allow flexibility for implementing this provision, FCIC has revised the CCIP Basic Provisions to allow the actuarial documents to specify when separate coverage levels by irrigated and non-irrigated practices will be available.

g. Section 11016 of the 2014 Farm Bill establishes crop insurance incentives for beginning farmers and ranchers by waiving the administrative fee for CAT coverage and additional coverage policies, increasing the premium subsidy that otherwise would have been available by ten percentage points, allowing the use of yield history from any previous involvement in a farm or ranch operation, including decision making or physical involvement in the production of the crop or livestock, and replacing an excluded yield within actual production history with a yield equal to 80 percent of the applicable transitional yield. To qualify as a beginning farmer or rancher, a producer must not have actively operated and managed a farm or ranch in any county, in any state, with an insurable interest in any crop or livestock as an owner-operator, landlord, tenant, or sharecropper for more than five crop years. This will exclude any crop year when the beginning farmer or rancher was under the age of 18, enrolled in post-secondary studies or on active duty in the U.S. military. Entities may qualify for beginning farmer or rancher benefits only if all of the substantial beneficial interest holders qualify as a beginning farmer or rancher. For example, a son moves home to take over the family farm and incorporates with his spouse and neither have previous farming experience. Their corporation would qualify for beginning farmer or rancher benefits. FCIC has added a definition of ''beginning farmer and rancher'' and revised the administrative fee, premium subsidy, insurance guarantee, and yield substitution provision in the CCIP Basic Provisions and the ARPI Basic Provisions, as applicable, to incorporate these changes.

h. Section 11017 of the 2014 Farm Bill allows producers of upland cotton to purchase an additional policy known as the ''Stacked Income Protection Plan'' (STAX). STAX can be purchased as a stand-alone policy or in conjunction with any individual or area plan of insurance at any coverage level offered by FCIC. Further, STAX is found in section 508B of the Act and is not limited to the additional coverage found in section 508(c) of the Act. This means that STAX is statutorily authorized to be offered with CAT policies. Therefore, this rule amends the CAT Endorsement to clarify that STAX will be available for CAT policies. STAX will be available, starting with the 2015 crop year, in select counties were insurance for upland cotton is available as specified on the actuarial documents.

i. Section 11019 of the 2014 Farm Bill allows for the correction of errors in information obtained from the insured in addition to the correction of information currently authorized in the policies for the purposes of obtaining coverage. Within a reasonable amount of time following the sales closing date, corrections can be made in the information provided for the purposes of obtaining coverage to ensure

consistency with information provided to other agencies of the Department of Agriculture. Section 11019 allows certain information to be corrected after the acreage reporting date to reconcile information determined from any other USDA program or verified by another USDA agency. This ability to correct reported information does not apply to any other information that has not been determined or verified for the purposes of another USDA program. The ability to make these corrections are not without limitation and program integrity will be protected. Lastly, electronic transmission errors, such as transpositions, committed by the insurance provider, agent or any agency within USDA can be corrected by the insurance provider at any time the error is discovered. This section of the 2014 Farm Bill also provides for the payment of debt after the sales closing date in accordance with procedures and limitations established by FCIC, if an insured inadvertently fails to pay a debt and has been determined ineligible to participate in the Federal crop insurance program. FCIC is revising Subpart U, the CCIP Basic Provisions, and the ARPI Basic Provisions to incorporate these changes.

The changes mandated by the 2014 Farm Bill impact almost all county crop programs within the Federal crop insurance program. This entails a monumental amount of work. FCIC is implementing the changes made by the 2014 Farm Bill to all applicable programs as quickly as possible but there may be situations in which certain programs or program changes cannot be made for the earliest crop or reinsurance year after publication of these regulations. FCIC will continue to work on implementing the provisions everywhere they are applicable as expeditiously as possible. Insureds should check with their agents and on the RMA Web site at *www.rma.usda.gov* for updates on the implementation efforts.

Previously, changes made to the Federal crop insurance policies codified in the Code of Federal Regulations were required to be implemented through the rulemaking process. Such action was not required by the Administrative Procedures Act because contracts were exempt from notice and comment rulemaking and the crop insurance policy is a contract. However, a prior Secretary of Agriculture published a notice in the **Federal Register** stating that the Department of Agriculture would, to the maximum extent practicable, use the notice and comment rulemaking process when making program changes, including those involving contracts. FCIC has complied with this notice over the subsequent years. Recently, the current Secretary of Agriculture has published a notice in the **Federal Register** rescinding the prior notice, thereby making contracts again exempt from the notice and comment rulemaking process. However, FCIC values the input it receives through comments and has elected to solicit comments to this interim rule, which will be considered when this rule is made final. For these reasons, these policy changes are effective upon filing with the Office of the Federal Register.

The changes to the policy made in this rule are applicable for the 2015 and succeeding crop years for all crops with a contract change date on or after the effective date of this rule, and for the 2016 and succeeding crop years for all crops with a contract change date prior to the effective date of this rule, provided the actuarial documents reflect the implementation of the policy changes, as applicable.

1. The specific changes to Subpart U—Ineligibility for Programs Under the Federal Crop Insurance Act (7 CFR part 400) are as follows:

a. FCIC is adding a new section 400.679(g) to specify when a person who has requested to have their policy reinstated by the Administrator of the Risk Management Agency and the request is denied, the person remains ineligible consistent with section 11019 of the 2014 Farm Bill.

b. FCIC is adding a new section 400.682(g) to specify when FCIC will allow the payment of debt after the sales closing date if a producer inadvertently fails to pay a debt and has been determined ineligible to participate in the Federal crop insurance program consistent with section 11019 of the 2014 Farm Bill.

c. FCIC is revising section 400.485(b) to specify reinstatement is an option to regain ineligibility in this paragraph.

2. The specific changes to the CAT Endorsement (7 CFR part 402) are as follows:

a. Section 6—FCIC is revising section 6(a) to clarify that insureds will be responsible to pay the premium if it is determined the insured has committed a violation of the HELC or WC provisions of 7 CFR part 12 as amended by the 2014 Farm Bill or the insured has not filed a form AD–1026 consistent with section 2611 of the 2014 Farm Bill unless the insured is otherwise exempted. FCIC is also revising section 6(a) to clarify that the policy will be terminated for failure to pay any premium that may be due.

FCIC is revising section 6(b) to clarify that if premium is due, as specified in new section 6(f), it must be paid within 30 days after the insured has been billed.

FCIC is revising section 6(c) to specify the administrative fee for CAT coverage will also be waived for insureds who qualify as beginning farmers or ranchers consistent with section 11016 of the 2014 Farm Bill.

FCIC is revising section 6(e) to clarify that if premium is owed, as specified in new section 6(f), and is not paid when due, the insured may be ineligible for certain other USDA program benefits.

FCIC is adding a new section 6(f) to specify the insured will be responsible for the payment of the premium if it is determined the insured has committed a violation of the HELC or WC provisions of 7 CFR part 12 as amended by the 2014 Farm Bill or the insured has not filed a form AD–1026 consistent with section 2611 of the 2014 Farm Bill.

FCIC is adding a new section 6(g) to specify that if the Act expressly authorizes an option or endorsement to be applicable to CAT coverage, the insured will owe a separate annual premium and administrative fee for such option or endorsement. SCO and STAX, authorized by sections 11003 and 11017 of the 2014 Farm Bill, will require the payment of premium for such coverage even if the insured has elected CAT coverage. FCIC is also adding a new section 6(h) to specify the policy will be terminated if the insured fails to pay the premium due by the termination date.

b. Section 11—FCIC is revising section 11(a) to specify that if the Act authorizes options or endorsements to be applicable to CAT coverage, such options or endorsements may be purchased in addition to the CAT Endorsement. This revision should eliminate any conflict between the CAT Endorsement and SCO or STAX, allowing both to be available with CAT coverage consistent with sections 11003 and 11017of the 2014 Farm Bill.

3. The specific changes to the Area Risk Protection Insurance Basic Provisions (7 CFR part 407) are as follows:

a. Section 1—FCIC is adding the definition of ''beginning farmer or rancher'' consistent with section 11016 of the 2014 Farm Bill, which allows the exclusion of crop years in which an individual had an insurable interest if, at the time, the individual was under the age of 18, while serving full-time in the military service of the United States, or while in post-secondary education. FCIC is revising the definition of ''native sod'' to clarify the designation now refers to the date of enactment of the 2014 Farm Bill and removing the

definition of ''Prairie Pothole National Priority Area'' since only native sod in the states of Iowa, Minnesota, Montana, Nebraska, North Dakota, or South Dakota and are effected by the restrictions contained in section 11014 of the 2014 Farm Bill;

b. Section 2—FCIC is revising section 2(k)(2)(iii) to specify when FCIC will allow the payment of debt after the sales closing date if a producer inadvertently fails to pay a debt and has been determined ineligible to participate in the Federal crop insurance program consistent with section 11019 of the 2014 Farm Bill.

FCIC is adding section 2(k)(2)(iv) to specify that any determination made in accordance with section 2(k)(2)(iii)(B) exhausts all administrative remedies for the purposes of termination.

c. Section 5—FCIC is removing the provisions in section 5(d) regarding the ability of a Governor of a State designated within the Prairie Pothole National Priority Area to elect to make native sod acreage uninsurable for the first five crop years of planting because these provisions are no longer applicable under section 11014 of the 2014 Farm Bill. FCIC is adding provisions to section 5(d) regarding the consequences for the first four crop years of planting on native sod acreage, which requires guarantees to be based on a reduced yield of 65 percent of the transitional yield and a reduced premium subsidy for additional coverage policies that is 50 percentage points less than would otherwise be available. Since area based plans of insurance do not have a transitional yield, FCIC is amending the provisions to require a reduced yield equal to a 65 percent protection factor. This will have the similar effect as reducing the yield to 65 percent of the transitional yield consistent with section 11014 of the 2014 Farm Bill.

FCIC is adding a new section 5(e) that clarifies that the provisions of section 5(d) do not apply to native sod areas of five acres or less in a county.

d. Section 7—FCIC is revising section 7(a)(6) to specify the administrative fee will be waived for insureds who qualify as beginning farmers or ranchers consistent with section 11016 of the 2014 Farm Bill.

FCIC is adding a new section 7(h) to specify the insured's premium subsidy will be 10 percentage points greater if they qualify as a beginning farmer or rancher consistent with section 11016 of the 2014 Farm Bill.

FCIC is adding a new section 7(i) to specify the insured will be ineligible for premium subsidy if it is determined the insured has committed a violation of the HELC or WC provisions of 7 CFR part 12, as amended by the Agricultural Act of 2014, or the insured has not filed a form AD–1026 consistent with section 2611 of the 2014 Farm Bill unless the insured is otherwise exempted.

e. Section 22—FCIC is revising section 22(a) by removing the phrase ''any portion thereof,'' to remove ambiguity of the billing process and interest situations on amounts owed, and to ensure consistency in how insurance providers administer this section. Section 11019 of the 2014 Farm Bill allows producers to pay debts after the termination date and still remain eligible for insurance if certain conditions are met.

f. FCIC is adding a new section 31 to specify that in addition to the corrections to information provided by the insured previously allowed in the policy, the insurance provider may correct the information provided on an application or by the sales closing date, by the insured, including identification numbers for the insured and any person with an substantial beneficial interest in the insured, within a reasonable time after the sales closing date if the information is in error to ensure such information is correct and consistent with information reported by the insured for other USDA programs. FCIC is also adding a provision that allows the reconciliation of errors in information reported by the insured within a reasonable time after the acreage reporting date if an agency within USDA has determined the correct information. Corrections can also be made after the date an agency within USDA has corrected the data as a result of the verification of the information. There are limitations on such corrections if the insured would avoid an eligibility requirement or obtain a disproportionate benefit, increase the guarantee or indemnity if a cause of loss has occurred or avoid premium if no cause of loss has occurred, or to avoid an obligation under Federal or State law. FCIC has also added a provision that allows the insurance provider at any time to revise any incorrect information provided by the insured, if the incorrect information was caused by electronic transmission errors by the insurance provider or agent or errors made by any agency within USDA in transmitting the information provided by the insured for purposes of other USDA programs. This is consistent with section 11019 of the 2014 Farm Bill.

4. The specific changes to the Common Crop Insurance Regulations, Basic Provisions (7 CFR part 457) are as follows:

a. Section 1—FCIC is adding the definition of ''beginning farmer or rancher'' consistent with section 11016 of the 2014 Farm Bill, which allows the exclusion of crop years in which an individual had an insurable interest if, at the time, the individual was under the age of 18, while serving full-time in the military service of the United States, or while in post-secondary education. FCIC is revising the definition of ''native sod'' to clarify the designation now refers to the date of enactment of the 2014 Farm Bill and removing the definition of ''Prairie Pothole National Priority Area'' since only native sod in the states of Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota and are effected by the restrictions contained in section 11014 of the 2014 Farm Bill.

b. Section 2—FCIC is revising section 2(f)(2)(iii) to specify when FCIC will allow the payment of debt after the sales closing date if a producer inadvertently fails to pay a debt and has been determined ineligible to participate in the Federal crop insurance program consistent with section 11019 of the 2014 Farm Bill.

FCIC is adding section 2(f)(2)(iv) to specify that any determination made in accordance with section 2(f)(2)(iii)(B) exhausts all administrative remedies for the purposes of termination.

c. Section 3—FCIC is adding a new section 3(b)(2)(iii) to allow separate coverage levels for irrigated and non-irrigated practices consistent with section 11015 of the 2014 Farm Bill.

FCIC is also adding a new section 3(l) to specify that notwithstanding any other provision in section 3, if the insured is a beginning farmer or rancher who was previously involved in a farming or ranching operation, including involvement in the decision-making or physical involvement in the production of the crop or livestock on the farm, for any acreage obtained by the beginning farmer or rancher, the beginning farmer or rancher shall receive a yield that is the higher of: (1) The actual production history of the previous producer of the crop or livestock on the acreage in which the beginning farmer or rancher was involved; or (2) the actual production history of the beginning farmer or rancher.

d. Section 5—FCIC is replacing the previously reserved section 5 with a new section titled ''Exclusion of Yields'' to specify when an insured may elect to exclude their actual yields if the actual yield for the acreage is at least 50 percent below the simple average of the per planted acre yield for the crop in the county for the previous 10 years

consistent with section 11009 of the 2014 Farm Bill.

e. Section 7—FCIC is revising section 7(e)(4) to specify the administrative fee will be waived for insureds who qualify as beginning farmers or ranchers consistent with section 11016 of the 2014 Farm Bill.

FCIC is adding a new section 7(g) to specify the insured's premium subsidy will be 10 percentage points greater if they qualify as a beginning farmer or rancher consistent with section 11016 of the 2014 Farm Bill.

FCIC is adding a new section 7(h) to specify the insured will be ineligible for premium subsidy if it is determined the insured has committed a violation of the HELC or WC provisions of 7 CFR part 12, as amended by the 2014 Farm Bill, or the insured has not filed a form AD–1026 consistent with section 2611 of the 2014 Farm Bill unless the insured is otherwise exempted.

f. Section 9—FCIC is removing the provisions in section 9(e) regarding the ability of a Governor of a State designated within the Prairie Pothole National Priority Area to elect to make native sod acreage uninsurable for the first five crop years of planting because these provisions are no longer applicable under section 11014 of the 2014 Farm Bill. FCIC is adding provisions to section 9(e) regarding the consequences for the first four crop years of planting on native sod acreage, which requires guarantees to be based on a reduced yield of 65 percent of the transitional yield, meaning the established yield for the insured will be based on 65 percent of the transitional yield, and a reduced premium subsidy for additional coverage policies that is 50 percentage points less than would otherwise be available consistent with section 11014 of the 2014 Farm Bill.

FCIC is adding a new section 9(f) that clarifies that the provisions of section 9(e) do not apply to native sod areas of five acres or less in a county.

g. Section 24—FCIC is revising section 24(a) by removing the phrase ''any portion thereof,'' to remove ambiguity of the billing process and interest situations on amounts owed, and to ensure consistency in how insurance providers administer this section. Section 11019 of the 2014 Farm Bill allows producers to pay debts after the termination date and still remain eligible for insurance if certain conditions are met.

h. FCIC is replacing the previously reserved section 25 with a new section titled ''Correction of Errors'' to specify that in addition to the corrections to information provided by the insured previously allowed in the policy, the insurance provider may correct the information provided on an application or by the sales closing date, by the insured, including identification numbers for the insured and any person with a substantial beneficial interest in the insured, within a reasonable time after the sales closing date if the information is in error to ensure such information is correct and consistent with information reported by the insured for other USDA programs. FCIC is also adding a provision that allows the reconciliation of errors in information reported by the insured within a reasonable time after the acreage reporting date if an agency within USDA has determined the correct information. Corrections can also be made after the date an agency within USDA has corrected the data as a result of the verification of the information. There are limitations on such corrections if the insured would avoid an eligibility requirement or obtain a disproportionate benefit, increase the guarantee or indemnity if a cause of loss has occurred, or avoid premium if no cause of loss has occurred, or to avoid an obligation under Federal or State law. FCIC has also added a provision that allows the insurance provider at any time to revise any incorrect information provided by the insured, if the incorrect information was caused by electronic transmission errors by the insurance provider or agent, or errors made by any agency within USDA in transmitting the information provided by the insured for purposes of other USDA programs. This is consistent with section 11019 of the 2014 Farm Bill.

i. Section 34—FCIC is adding a new section 34(a)(4)(viii) to allow enterprise units for irrigated and non-irrigated practices if the acreage of each practice separately qualifies for an enterprise unit consistent with section 11007 of the 2014 Farm Bill.

j. Section 36—FCIC is revising section 36(c) to specify that if the insured qualifies as a beginning farmer or rancher, the insured can elect to replace the excluded actual yield with a yield equal to 80 percent of the applicable transitional yield for the crop year in which the yield is being replaced consistent with section 11016 of the 2014 Farm Bill.

List of Subjects in 7 CFR Parts 400, 402, 407 and 457

Administrative practice and procedure, Crop insurance, Reporting and recordkeeping requirements.

Interim Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR parts 400, 402, 407 and 457 as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

■ 1. The authority citation for 7 CFR part 400 continues to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(o).

■ 2. Amend § 400.679 as follows:

■ a. In paragraph (e) by removing the word ''or'' after the semicolon at the end of the paragraph;

■ b. In paragraph (f) by removing the period at the end of the paragraph and adding ''; or'' in its place; and

■ c. Add new paragraph (g).

The addition reads as follows:

§ 400.679 Criteria for ineligibility.

* * * * *

(g) Has requested the Administrator of the Risk Management Agency for consideration to reinstate their eligibility in accordance with the applicable policy provisions and such request has been denied.

■ 3. Amend § 400.682 by adding a new paragraph (g) to read as follows:

§ 400.682 Determination and notification.

* * * * *

(g) No later than 60 days after the termination date, the missed payment date of a previously executed written payment agreement, or the due date specified in the notice to the person of the amount due, as applicable, the ineligible person may request consideration for reinstatement from the Administrator of the Risk Management Agency in accordance with section 2 of the Common Crop insurance Policy Basic Provisions (7 CFR 457.8).

§ 400.685 [Amended]

■ 4. Amend paragraph (b) in § 400.685 by adding the word ''reinstatement,'' between the words ''through'' and ''mediation''.

PART 402—CATASTROPHIC RISK PROTECTION ENDORSEMENT

■ 5. The authority citation for 7 CFR part 402 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(o).

■ 6. Amend § 402.4 as follows:

■ a. In section 6(a) by removing the word ''Notwithstanding'' and adding in its place the phrase ''Except as provided in paragraphs (f) and (h) of this section and notwithstanding'';

■ b. In section 6(b) introductory text by adding the phrase ''and premium as

specified in paragraph (f) of this section'' between the phrases ''administrative fee'' and ''to us within;''

■ c. Revise section 6(c);

■ d. In section 6(e) by adding the phrase ''and premium as specified in paragraph (f) of this section'' between the phrases ''administrative fee'' and ''is not paid;''

■ e. Add new sections 6(f), (g), and (h); and

■ f. Revise section 11(a).

The revisions and additions read as follows:

§ 402.4 Catastrophic Risk Protection Endorsement Provisions.

* * * * *

6. Annual Premium and Administrative Fees.

* * * * *

(c) The administrative fee provisions of paragraph (b) of this section do not apply if you are a ''beginning farmer or rancher'' or a ''limited resource farmer'' as defined in the applicable crop policy. The administrative fee will be waived if you request it and you meet the requirements contained in the annual premium provisions of the applicable crop policy.

* * * * *

(f) Effective for any policies with a sales closing date on or after July 1, 2015, you will be responsible for payment of the premium established for the coverage provided under this endorsement if:

(1) USDA determines you have committed a violation of the highly erodible land conservation or wetland conservation provisions of 7 CFR part 12 as amended by the Agricultural Act of 2014; or

(2) You have not filed form AD–1026 or successor form with FSA by June 1 prior to the sales closing date to be properly identified as in compliance with the conservation provisions specified in paragraph (f)(1) of this section (For example, to be eligible for a premium subsidy for a crop with a sales closing date of March 15, 2016, you must have filed your form AD–1026 by June 1, 2015).

(i) Notwithstanding paragraph (f)(2) of this section, if you demonstrate you are a beginning farmer or rancher who has not previously had an insurable interest in a crop or livestock and began farming for the first time after June 30 prior to the sales closing date, you fail to file form AD–1026 or successor form with the FSA, by June 1 after you make application for insurance.

(ii) To be eligible for premium subsidy paid on your behalf by FCIC, it is your responsibility to assure you meet all the requirements for:

(A) Compliance with the conservation provisions specified in paragraph (f)(1) of this section; and

(B) Filing form AD–1026, or successor form, to be properly identified as in compliance with the conservation provisions specified in paragraph (f)(1) of this section.

(g) If the Act expressly authorizes an option or endorsement to be available in addition to the coverage available under this Endorsement (for example, the Supplemental Coverage Option) or any other additional coverage offered under the Federal Crop Insurance Act (for example, the Stacked Income Protection Plan), you will owe a separate annual premium and administrative fee for such option or endorsement if the option or endorsement has been made available in the actuarial documents and you elect to purchase such coverage.

(h) Failure to pay the premium specified in paragraph (f) of this section will result in the termination of the policy and all other policies in accordance with the termination provisions specified in the applicable Basic Provisions.

* * * * *

11. Exclusion of Coverage

(a) Options or endorsements that extend the coverage available under any crop policy offered by FCIC will not be available under this endorsement, except for the Supplemental Coverage Option and any other option or endorsement or other additional coverage expressly authorized in the Federal Crop Insurance Act and allowed in the actuarial documents (for example, the Stacked Income Protection Plan). Written agreements are not available for any crop insured under this endorsement.

* * * * *

PART 407—AREA RISK PROTECTION INSURANCE REGULATIONS

■ 7. The authority citation for 7 CFR part 407 continues to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(o).

■ 8. Amend § 407.9 as follows:

■ a. In section 1 by adding the definition of ''beginning farmer or rancher'' in alphabetical order, revising the definition of ''native sod,'' and removing the definition of ''Prairie Pothole National Priority Area'';

■ b. Revise section 2(k)(2)(iii);

■ c. Add new section 2(k)(2)(iv);

■ d. Revise section 5(d);

■ f. Add a new section 5(e);

■ g. Revise section 7(a)(6)(i);

■ h. Redesignate section 7(a)(6)(ii) as section 7(a)(6)(iii) and add a new section 7(a)(6)(ii);

■ i. Add new sections 7(h) and (i);

■ j. In section 22(a) by removing the phrase '', or any portion thereof,''; and

■ k. Add a new section 31.

The revisions and additions reads as follows:

§ 407.9 Area risk protection insurance policy.

* * * * *

1. Definitions.

* * * * *

Beginning farmer or rancher. An individual who has not actively operated and managed a farm or ranch in any state, with an insurable interest in a crop or livestock as an owner-operator, landlord, tenant, or sharecropper for more than five crop years, as determined in accordance with FCIC procedures. Any crop year's insurable interest may, at your election, be excluded if earned while under the age of 18, while in full-time military service of the United States, or while in post-secondary education, in accordance with FCIC procedures. A person other than an individual may be eligible for beginning farmer or rancher benefits if all of the substantial beneficial interest holders qualify as a beginning farmer or rancher.

* * * * *

Native sod. Acreage that has no record of being tilled (determined in accordance with information collected and maintained by an agency of the USDA or other verifiable records that you provide and are acceptable to us) for the production of an annual crop on or before February 7, 2014, and on which the plant cover is composed principally of native grasses, grass-like plants, forbs, or shrubs suitable for grazing and browsing.

* * * * *

2. Life of Policy, Cancellation, and Termination.

* * * * *

(k) * * *

(2) * * *

(iii) Once the policy is terminated, it cannot be reinstated for the current crop year unless:

(A) The termination was in error;

(B) The Administrator of the Risk Management Agency, at his or her sole discretion, determines that the following conditions are met:

(1) In accordance with 7 CFR part 400, subpart U and FCIC issued procedures, you provide documentation that your failure to pay your debt is due to an unforeseen or unavoidable event or an extraordinary weather event that created an impossible situation for you to make timely payment;

(2) You remit full payment of the delinquent debt owed to us or FCIC

with your request submitted in accordance with section 2(k)(2)(iii)(B)(*3*); and

(3) You submit a written request for reinstatement of your policy to us no later than 60 days after the termination date or the missed payment date of a previously executed written payment agreement, or the due date specified in the notice to you of the amount due, if applicable.

(i) If authorization for reinstatement is granted, your policies will be reinstated effective at the beginning of the crop year for which you were determined ineligible, and you will be entitled to all applicable benefits under such policies, provided you meet all eligibility requirements and comply with the terms of the policy; and

(ii) There is no evidence of fraud or misrepresentation; or

(C) We determine that, in accordance with 7 CFR part 400, subpart U and FCIC issued procedures, the following are met:

(1) You can demonstrate:

(i) You made timely payment for the amount of premium owed but you inadvertently omitted some small amount, such as the most recent month's interest or a small administrative fee;

(ii) The amount of the payment was clearly transposed from the amount that was otherwise due (For example, you owed $832 but you paid $823); or

(iii) You made the full payment of the amount owed but the payment was delayed and postmarked by no more than 7 calendar days after the termination date or the missed payment date of a previously executed written payment agreement, or the due date specified in the notice to you of the amount due, as applicable;

(2) You remit full payment of the delinquent debt owed to us; and

(3) You submit a written request for reinstatement of your policy to us in accordance with 7 CFR part 400, subpart U and applicable procedures no later than 30 days after the termination date or the missed payment date of a previously executed written payment agreement, or the due date specified in the notice to you of the amount due, if applicable; and

(4) There is no evidence of fraud or misrepresentation.

(iv) A determination made in section 2(k)(2)(iii)(B) exhausts all administrative remedies for purposes of termination.

* * * * *

5. Insurable Acreage.

* * * * *

(d) Except as provided in section 5(e), in the states of Iowa, Minnesota, Montana, Nebraska, North Dakota, and South Dakota, during the first four crop years of planting on native sod acreage that has been tilled and is planted to an annual crop, after February 7, 2014, such acreage may be insured if the requirements of section 5(a) have been met but will, for additional coverage policies;

(1) Notwithstanding the provisions in section 6, receive a liability that is based on a 65 percent of the protection factor; and

(2) Receive a premium subsidy that is 50 percentage points less than would otherwise be provided on acreage not qualifying as native sod. If the premium subsidy applicable to these acres is less than 50 percent before the reduction, you will receive no premium subsidy.

(e) Section 5(d) is not applicable to areas of native sod acreage that is five acres or less in the county.

* * * * *

7. Annual Premium and Administrative Fees.

(a) * * *

(6) * * *

(i) You qualify as a beginning farmer or rancher;

(ii) You qualify as a limited resource farmer; or

* * * * *

(h) If you qualify as a beginning farmer or rancher, your premium subsidy will be 10 percentage points greater than the premium subsidy that you would otherwise receive, unless otherwise specified in the Special Provisions.

(i) Effective for any policies with a sales closing date on or after July 1, 2015, you will be ineligible for any premium subsidy paid on your behalf by FCIC for any policy issued by us if:

(1) USDA determines you have committed a violation of the highly erodible land conservation or wetland conservation provisions of 7 CFR part 12 as amended by the Agricultural Act of 2014; or

(2) You have not filed form AD–1026, or successor form, with FSA by June 1 prior to the sales closing date to be properly identified as in compliance with the conservation provisions specified in section 7(i)(1) (For example, to be eligible for a premium subsidy for a crop with a sales closing date of March 15, 2016, you must have filed your form AD–1026 by June 1, 2015).

(i) Notwithstanding section 7(i)(2), if you demonstrate you are a beginning farmer or rancher who has not previously had an insurable interest in a crop or livestock and began farming for the first time after June 30 prior to the sales closing date, you fail to file form AD–1026 or successor form with the FSA by June 1 after you make application for insurance.

(ii) To be eligible for premium subsidy paid on your behalf by FCIC, it is your responsibility to assure you meet all the requirements for:

(A) Compliance with the conservation provisions specified in section 7(i)(1) of this section; and

(B) Filing form AD–1026, or successor form, to be properly identified as in compliance with the conservation provisions specified in section 7(i)(1) of this section.

* * * * *

31. Correction of Errors.

(a) In addition to any other corrections allowed in your policy subject to section 31(b), we may correct:

(1) Within 60 days after the sales closing date, any incorrect information on your application or provided by the sales closing date, including identification numbers for you and any person with a substantial beneficial interest in the you, to ensure that the eligibility information is correct and consistent with information reported by you to any USDA agency;

(2) Within 30 days after the acreage reporting date, information reported to reconcile errors in the information with correct information that has been determined by any USDA agency;

(3) Within 30 days of any subsequent correction of data by FSA, erroneous information corrected as a result of verification of information; and

(4) At any time, any incorrect information if the incorrect information was caused by electronic transmission errors by us or errors made by any agency within USDA in transmitting the information provided by you for purposes of other USDA programs.

(b) Corrections may be made but will not take effect for the current crop year if the correction would allow you to:

(1) Avoid ineligibility requirements for insurance or obtain a disproportionate benefit under the crop insurance program or any related program administered by the Secretary;

(2) Obtain, enhance, or increase an insurance guarantee or indemnity if a cause of loss exists or has occurred before any correction has been made, or avoid premium owed if no loss is likely to occur; or

(3) Avoid an obligation or requirement under any Federal or State law.

PART 457—COMMON CROP INSURANCE REGULATIONS

■ 9. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(1), 1506(o).

■ 10. Amend § 457.8 as follows:
■ a. In section 1 by adding the definition of ''beginning farmer or rancher,'' revising the definition of ''native sod,'' and removing the definition of ''Prairie Pothole National Priority Area;''
■ b. Revise section 2(f)(2)(iii);
■ c. Add new section 2(f)(2)(iv);
■ d. Add new section 3(b)(2)(iii);
■ e. Add new section 3(l);
■ f. Add new section 5;
■ g. Revise section 7(e)(4)(i);
■ h. Redesignate section 7(e)(4)(ii) as section 7(e)(4)(iii) and add a new section 7(e)(4)(ii);
■ i. Add new sections 7(g) and (h);
■ j. Revise section 9(e);
■ k. Add a new section 9(f);
■ l. In section 24(b) [For FCIC policies] by removing the phrase '', or any part thereof,'';
■ m. In section 24(a) [For reinsured policies] by removing the phrase '', or any portion thereof,'';
■ n. Add new section 25;
■ o. Add new section 34(a)(4)(viii); and
■ p. Revise section 36(c).

The revisions and additions reads as follows:

§ 457.8 The application and policy.

* * * * *

1. Definitions.

* * * * *

Beginning farmer or rancher. An individual who has not actively operated and managed a farm or ranch in any state, with an insurable interest in a crop or livestock as an owner-operator, landlord, tenant, or sharecropper for more than five crop years, as determined in accordance with FCIC procedures. Any crop year's insurable interest may, at your election, be excluded if earned while under the age of 18, while in full-time military service of the United States, or while in post-secondary education, in accordance with FCIC procedures. A person other than an individual may be eligible for beginning farmer or rancher benefits if all of the substantial beneficial interest holders qualify as a beginning farmer or rancher.

* * * * *

Native sod. Acreage that has no record of being tilled (determined in accordance with information collected and maintained by an agency of the USDA or other verifiable records that you provide and are acceptable to us) for the production of an annual crop on or before February 7, 2014, and on which the plant cover is composed principally of native grasses, grass-like plants, forbs, or shrubs suitable for grazing and browsing.

* * * * *

2. Life of Policy, Cancellation, and Termination.

* * * * *

(f) * * *

(2) * * *

(iii) Once the policy is terminated, it cannot be reinstated for the current crop year unless:

(A) The termination was in error;

(B) The Administrator of the Risk Management Agency, at his or her sole discretion, determines that the following are met:

(1) In accordance with 7 CFR part 400, subpart U and FCIC issued procedures, you provide documentation that your failure to pay your debt is due to an unforeseen or unavoidable event or an extraordinary weather event that created an impossible situation for you to make timely payment;

(2) You remit full payment of the delinquent debt owed to us or FCIC with your request submitted in accordance with section 2(f)(2)(iii)(B)(*3*); and

(3) You submit a written request for reinstatement of your policy to us no later than 60 days after the termination date or the missed payment date of a previously executed written payment agreement, or the due date specified in the notice to you of the amount due, if applicable.

(i) If authorization for reinstatement is granted, your policies will be reinstated effective at the beginning of the crop year for which you were determined ineligible, and you will be entitled to all applicable benefits under such policies, provided you meet all eligibility requirements and comply with the terms of the policy; and

(ii) There is no evidence of fraud or misrepresentation; or

(C) We determine that, in accordance with 7 CFR part 400, subpart U and FCIC issued procedures, the following are met:

(1) You can demonstrate:

(i) You made timely payment for the amount of premium owed but you inadvertently omitted some small amount, such as the most recent month's interest or a small administrative fee;

(ii) The amount of the payment was clearly transposed from the amount that was otherwise due (For example, you owed $832 but you paid $823); or

(iii) You made the full payment of the amount owed but the payment was delayed and postmarked by no more than 7 calendar days after the termination date or the missed payment date of a previously executed written payment agreement, or the due date specified in the notice to you of the amount due, as applicable.

(2) You remit full payment of the delinquent debt owed to us; and

(3) You submit a written request for reinstatement of your policy to us in accordance with 7 CFR part 400, subpart U and applicable procedures no later than 30 days after the termination date or the missed payment date of a previously executed written payment agreement, or the due date specified in the notice to you of the amount due, if applicable; and

(4) There is no evidence of fraud or misrepresentation.

(iv) A determination made in section 2(f)(2)(iii)(B) exhausts all administrative remedies for purposes of termination.

* * * * *

3. Insurance Guarantees, Coverage Levels, and Prices.

* * * * *

(b) * * *

(2) * * *

(iii) You have additional coverage for the crop in the county, and the actuarial documents provide for separate coverage by irrigated and non-irrigated practices for the crop.

(A) You may select one coverage level for all irrigated acreage and one coverage level for all non-irrigated acreage. For example: You may choose a 65 percent coverage level for all irrigated acreage (corn irrigated practice) and an 80 percent coverage level for all non-irrigated acreage (corn non-irrigated practice).

(B) If the Crop Provisions allow the option to separately insure individual crop types or varieties, and the actuarial documents provide for separate coverage, you may select coverage levels by irrigated and non-irrigated practice for each separate type or variety.

* * * * *

(l) Notwithstanding any other provision, if you qualify as a beginning farmer or rancher and were previously involved in a farming or ranching operation, including involvement in the decision-making or physical involvement in the production of the crop or livestock on the farm, for any acreage obtained by you, you may receive a yield that is the higher of:

(1) The actual production history of the previous producer of the crop or livestock on the acreage you were previously involved with; or

(2) Your actual production history.

* * * * *

5. Exclusion of Yields.

If provided in the actuarial documents, you may elect to exclude any actual yield for any crop year when FCIC determines for a county, or its contiguous counties, the per planted acre yield was at least 50 percent below

the simple average of the per acre planted yield for the crop in the county for the previous 10 consecutive crop years.

* * * * *

7. Annual Premium and Administrative Fees.

* * * * *

(e) * * *

(4) * * *

(i) You qualify as a beginning farmer or rancher;

(ii) You qualify as a limited resource farmer; or

* * * * *

(g) If you qualify as a beginning farmer or rancher, your premium subsidy will be 10 percentage points greater than the premium subsidy that you would otherwise receive, unless otherwise specified in the Special Provisions.

(h) Effective for any policies with a sales closing date on or after July 1, 2015, you will be ineligible for any premium subsidy paid on your behalf by FCIC for any policy issued by us if:

(1) USDA determines you have committed a violation of the highly erodible land conservation or wetland conservation provisions of 7 CFR part 12 as amended by the Agricultural Act of 2014; or

(2) You have not filed form AD–1026, or successor form, with FSA by June 1 prior to the sales closing date to be properly identified as in compliance with the applicable conservation provisions specified in section 7(h)(1).

(i) Notwithstanding section 7(h)(2), if you demonstrate you are a beginning farmer or rancher who has not previously had an insurable interest in a crop or livestock and began farming for the first time after June 30 prior to the sales closing date, you fail to file form AD–1026 or successor form with the FSA, by June 1 after you make application for insurance.

(ii) To be eligible for premium subsidy paid on your behalf by FCIC, it is your responsibility to assure you meet all the requirements for:

(A) Compliance with the conservation provisions specified in section 7(h)(1) of this section; and

(B) Filing form AD–1026, or successor form, to be properly identified as in compliance with the conservation provisions specified in section 7(h)(1) of this section.

* * * * *

9. Insurable Acreage.

* * * * *

(e) Except as provided in section 9(f), in the states of Iowa, Minnesota, Montana, Nebraska, North Dakota, or South Dakota, during the first four crop years of planting on native sod acreage that has been tilled and is planted to an annual crop after February 7, 2014, such acreage may be insured if the requirements of section 9(a) have been met but will:

(1) Notwithstanding the provisions in section 3 regarding your production guarantee, receive a production guarantee (per acre) that is based on 65 percent of the transitional yield for the county; and

(2) For additional coverage policies, receive a premium subsidy that is 50 percentage points less than would otherwise be provided on acreage not qualifying as native sod. If the premium subsidy applicable to these acres is less than 50 percent before the reduction, you will receive no premium subsidy.

(f) Section 9(e) is not applicable to areas of native sod acreage that is five acres or less in the county.

* * * * *

25. Correction of Errors.

(a) In addition to any other corrections allowed in your policy subject to section 25(b), we may correct:

(1) Within 60 days after the sales closing date, any incorrect information on your application or provided by the sales closing date, including identification numbers for you and any person with an substantial beneficial interest in the you, to ensure that the eligibility information is correct and consistent with information reported by you to any USDA agency;

(2) Within 30 days after the acreage reporting date, information reported to reconcile errors in the information with correct information that has been determined by any USDA agency;

(3) Within 30 days of any subsequent correction of data by FSA, erroneous information corrected as a result of verification of information; and

(4) At any time, any incorrect information if the incorrect information was caused by electronic transmission errors by us or errors made by any agency within USDA in transmitting the information provided by you for purposes of other USDA programs.

(b) Corrections may be made but will not take effect for the current crop year if the correction would allow you to:

(1) Avoid ineligibility requirements for insurance or obtain a disproportionate benefit under the crop insurance program or any related program administered by the Secretary;

(2) Obtain, enhance, or increase an insurance guarantee or indemnity if a cause of loss exists or has occurred before any correction has been made, or avoid premium owed if no loss is likely to occur; or

(3) Avoid an obligation or requirement under any Federal or State law.

* * * * *

34. Units.

(a) * * *

(4) * * *

(viii) If allowed by the actuarial documents, you may elect separate enterprise units for irrigated and non-irrigated practices.

(A) You may elect one enterprise unit for all irrigated practices and one enterprise unit for all non-irrigated practices.

(B) You must separately meet the requirements in section 34(a)(4) for each enterprise unit.

(C) If we discover you do not qualify for an enterprise unit for the irrigated and non-irrigated practices and such discovery is made:

(*1*) On or before the acreage reporting date, you may elect to insure all acreage of the crop in the county in one enterprise unit provided you meet the requirements in section 34(a)(4), or your unit division will be based on basic or optional units, whichever you report on your acreage report and qualify for; or

(*2*) At any time after the acreage reporting date, your unit structure will be one enterprise unit provided you meet the requirements in section 34(a)(4). Otherwise, we will assign the basic unit structure.

* * * * *

36. Substitution of Yields.

* * * * *

(c) Each excluded actual yield will be replaced with a yield equal to 60 percent of the applicable transitional yield for the crop year in which the yield is being replaced, unless you qualify as a beginning farmer or rancher in which case the excluded actual yield will be replaced with a yield equal to 80 percent of the applicable transitional yield for the crop year in which the yield is being replaced. (For example, if you elect to exclude a 2001 crop year actual yield, the transitional yield in effect for the 2001 crop year in the county will be used. If you also elect to exclude a 2002 crop year actual yield, the transitional yield in effect for the 2002 crop year in the county will be used). The replacement yields will be used in the same manner as actual yields for the purpose of calculating the approved yield.

* * * * *

Signed in Washington, DC, on June 23, 2014.

Brandon C. Willis,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 2014–15074 Filed 6–30–14; 8:45 am]

BILLING CODE 3410–08–P

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Docket No. R–1493 RIN 7100 AE–21]

Interagency Guidelines Establishing Information Security Standards

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; technical amendment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is amending Appendix D–2 of Regulation H and Appendix F of Regulation Y to correct citations to rules on privacy of consumer financial information.

DATES: *Effective Date:* This rule is effective July 31, 2014.

FOR FURTHER INFORMATION CONTACT: Clinton Chen, Attorney, (202) 452–3952, Legal Division. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263–4869.

SUPPLEMENTARY INFORMATION: Section 501(b) of the Gramm-Leach-Bliley Act (GLB Act) [1] requires the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and Office of Thrift Supervision (the Agencies), as well as the National Credit Union, the Securities and Exchange Commission, and the Federal Trade Commission, to establish appropriate standards for the financial institutions subject to their respective jurisdictions relating to the administrative, technical, and physical safeguards for customer records and information.

In February 2001, the Agencies issued a joint final rule implementing guidelines for establishing standards for safeguarding customer information under section 501(b) of the GLB Act.[2] The Board's versions of the guidelines (now entitled *Interagency Guidelines Establishing Information Security Standards* (Security Guidelines)) are codified in Appendix D–2 of Regulation H (12 CFR part 208) and Appendix F of Regulation Y (12 CFR part 225). In December 2004, the Agencies amended the Security Guidelines pursuant to section 628 of the Fair Credit Reporting Act,[3] which requires proper disposal of consumer information.[4] The Security Guidelines establish standards relating to administrative, technical, and physical safeguards to ensure the security, confidentiality, integrity and the proper disposal of consumer information. The Security Guidelines in the Board's Regulation H and Y currently cross-reference the definitions of ''customer'' and ''customer information'' in the Board's Regulation P (Privacy of Consumer Financial Information).

In May 2014, the Board approved the repeal of Regulation P, effective June 30, 2014.[5] The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred rulemaking authority for a number of consumer financial protection laws from the Board and other agencies to the Consumer Financial Protection Bureau (CFPB), except with respect to certain motor vehicle dealers.[6] The transfer includes rulemaking authority for Regulation P under the financial privacy provisions of the GLB Act.[7] (The Dodd-Frank Act did not transfer responsibility for the Security Guidelines.) The CFPB has issued interim final rules that are substantially identical to the Board's Regulation P.

The Board is amending the cross-references in the Security Guidelines to refer to the CFPB's version of Regulation P. These amendments do not have any effect on the substantive requirements imposed by the Security Guidelines.

Administrative Procedure Act

In accordance with section 553(b) the Administrative Procedures Act (APA) (5 U.S.C. 553(b)), the Board finds, for good cause, that providing an opportunity for public comment is unnecessary. The amendments are solely technical amendments that change citations in two definitions from references to the Board's Regulation P to the CFPB's Regulation P, which contain identical definitions. The revisions result in no substantive change to the rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR part 1320 Appendix A.1), the Board has reviewed the final rule under authority delegated to the Board by the Office of Management and Budget. The technical amendments to the Security Guidelines will revise the cross-references in the Security Guidelines to refer to the CFPB's version of Regulation P. The amendments do not change any substantive requirements of the regulation or currently approved information collections. Therefore, no additional paperwork burden will be imposed as a result of this rulemaking.

List of Subjects

12 CFR Part 208

Banks, banking, Consumer protection, Federal Reserve System, Foreign banking, Holding companies, Information, Privacy, Reporting and recordkeeping requirements.

12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Privacy, Reporting and recordkeeping requirements, Securities.

Authority and Issuance

For the reasons set forth in the preamble, the Board amends Regulations H and Y, 12 CFR parts 208 and 225 as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

■ 1. The authority citation for part 208 continues to read as follows:

Authority: 12 U.S.C. 24, 36, 92a, 93a, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1816, 1818, 1820(d)(9), 1823(j), 1828(o), 1831, 1831o, 1831p–1, 1831r–1, 1831w, 1831x, 1835a, 1882, 2901–2907, 3105, 3310, 3331–3351, 3905–3909, and 5371; 15 U.S.C. 78b, 78I(b), 78l(i), 780–4(c)(5), 78q, 78q–1, and 78w, 1681s, 1681w, 6801, and 6805; 31 U.S.C. 5318; 42 U.S.C. 4012a, 4104a, 4104b, 4106 and 4128.

■ 2. Amend Appendix D–2 to part 208, as follows:

■ a. In section I.C.2.d., remove ''§ 216.3(h)'' and add in its place ''§ 1016.3(i)''; and

■ b. In section I.C.2.e., remove ''§ 216.3(n)'' and add in its place ''§ 1016.3(p).''

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

■ 3. The authority citation for part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b),

[1] 15 U.S.C. 6801.

[2] 66 FR 8616 (Feb. 1, 2001).

[3] 15 U.S.C. 1681w. This section was added by section 216 of the Fair and Accurate Credit Transactions Act of 2003.

[4] 69 FR 77610 (Dec. 28, 2004).

[5] 79 FR 30708 (May 29, 2014).

[6] Pub. L. 111–203, 124 Stat. 1376 (Jul. 21, 2010).

[7] The GLB Act's privacy provisions are contained in sections 502 and 503 of that Act. 15 U.S.C. 6802–6803.

1972(1), 3106, 3108, 3310, 3331–3351, 3907, and 3909; 15 U.S.C. 1681s, 1681w, 6801 and 6805.

■ 4. Amend Appendix F to part 225, as follows:

■ a. In section I.C.2.b., remove ''§ 216.3(h)'' and add in its place ''§ 1016.3(i)''; and

■ b. In section I.C.2.c., remove ''§ 216.3(n)'' and add in its place ''§ 1016.3(p).''

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, June 25, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–15292 Filed 6–30–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1238

[No. 2014–N–8]

Order: Supplemental Order on Reporting by Regulated Entities of Stress Testing Results as of September 30, 2013

AGENCY: Federal Housing Finance Agency.

ACTION: Orders.

SUMMARY: In this document, the Federal Housing Finance Agency (FHFA) provides notice that it issued an Order to supplement its Orders dated November 26, 2013 and December 13, 2013, with respect to the reporting of each Federal Home Loan Banks' results under section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

DATES: Effective July 1, 2014. The Order is applicable June 24, 2014.

FOR FURTHER INFORMATION CONTACT: Naa Awaa Tagoe, Senior Associate Director, Office of Financial Analysis, Modeling and Simulations, (202) 649–3140, *naaawaa.tagoe@fhfa.gov*; Stefan Szilagyi, Examination Manager, FHLBank Modeling, FHLBank Risk Modeling Branch, (202) 649–3515, *stefan.szilagy@fhfa.gov*; or Mark D. Laponsky, Deputy General Counsel, Office of General Counsel, (202) 649–3054 (these are not toll-free numbers), *mark.laponsky@fhfa.gov.* The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

FHFA is responsible for ensuring that the regulated entities operate in a safe and sound manner, including the maintenance of adequate capital and internal controls, that their operations and activities foster liquid, efficient, competitive, and resilient national housing finance markets, and that they carry out their public policy missions through authorized activities. *See* 12 U.S.C. 4513. The Supplemental Order is being issued under 12 U.S.C. 4514(a), which authorizes the Director of FHFA to require by Order that the regulated entities submit regular or special reports to FHFA and establishes remedies and procedures for failing to make reports required by Order. The Supplemental Order provides to the Federal Home Loan Banks a revised template to use in reporting to the public the severely adverse results of their respective stress tests.

II. Order

For the convenience of the affected parties, the text of the Order, without appendices, follows below in its entirety. You may access this Order with its attachment from FHFA's Web site at *http://www.fhfa.gov/SupervisionRegulation/LegalDocuments/Pages/Orders.aspx.* The Order will be available for public inspection and copying at the Federal Housing Finance Agency, Eighth Floor, 400 Seventh St. SW., Washington, DC 20024. To make an appointment, call (202) 649–3804.

The text of the Supplemental Order is as follows:

Federal Housing Finance Agency

Order No. 2014–OR–B–1

SUPPLEMENTAL ORDER ON REPORTING BY REGULATED ENTITIES OF STRESS TESTING RESULTS AS OF SEPTEMBER 30, 2013

Whereas, section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') requires certain financial companies with total consolidated assets of more than $10 billion, and which are regulated by a primary Federal financial regulatory agency, to conduct annual stress tests to determine whether the companies have the capital necessary to absorb losses as a result of adverse economic conditions;

Whereas, FHFA's rule implementing section 165(i)(2) of the Dodd-Frank Act is codified as 12 CFR part 1238 and requires that ''[e]ach regulated entity must file a report in the manner and form established by FHFA.'' 12 CFR § 1238.5(b);

Whereas, on November 26, 2013, FHFA issued an Order to each regulated entity accompanied by appendices numbered 1 through 10 and amended Summary Instructions and Guidance relating to the performance of stress tests as of September 30, 2013, and the reporting of the results of such tests;

Whereas, on December 13, 2013, FHFA issued a Supplemental Order to each regulated entity providing two additional appendices for use in reporting stress testing results as of September 30, 2013;

Whereas, each of the Federal Home Loan Banks timely submitted its stress test results pursuant to 12 CFR part 1238 and the implementing Orders, instructions, and guidance;

Whereas, after analyzing the results of each of the Federal Home Loan Banks' stress testing and the methodologies and practices used in testing, FHFA has determined that the original template designed for public disclosure of the severely adverse test results should be revised; and

Whereas, section 1314 of the Safety and Soundness Act, 12 U.S.C. § 4514(a) authorizes the Director of FHFA to require regulated entities, by general or specific order, to submit such reports on their management, activities, and operations as the Director considers appropriate.

Now Therefore, it is hereby ordered as follows:

Each of the Federal Home Loan Banks shall publicly report as required by 12 CFR part 1238 the severely adverse results of the required stress testing using the template provided herewith as Attachment 1.

It is so ordered, this 24th day of June 2014

This Order is effective immediately.

Signed at Washington, DC, this 24th day of June, 2014.

Melvin L. Watt,

Director, Federal Housing Finance Agency.

Dated: June 24, 2014.

Melvin L. Watt,

Director, Federal Housing Finance Agency.

[FR Doc. 2014–15396 Filed 6–30–14; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0953; Directorate Identifier 2013–NE–32–AD; Amendment 39–17877; AD 2014–13–02]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Rolls-Royce plc (RR) RB211-Trent 875–17, 877–17, 884–17, 884B–17, 892–17, 892B–17, and 895–17 turbofan engines. This AD requires inspection of the

affected low-pressure (LP) turbine bearing support and exhaust case assembly and, if necessary, its replacement with a part eligible for installation. This AD was prompted by thin-walled LP turbine bearing support and exhaust case assemblies having been delivered into service. We are issuing this AD to prevent failure of the LP turbine bearing support and exhaust case assembly, which could lead to engine separation and damage to the airplane.

DATES: This AD becomes effective August 5, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 5, 2014.

ADDRESSES: For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp*; Internet: *https://www.aeromanager.com.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call (781) 238–7125.

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–2013–0953; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: (800) 647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: (781) 238–7148; fax: (781) 238–7199; email: *eugene.triozzi@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 the specified products. The NPRM was published in the **Federal Register** on March 3, 2014 (79 FR 11719). The NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> Rolls-Royce has identified that limitations in the drawing definition for the Trent 800 low-pressure (LP) turbine bearing support and exhaust case assembly (EIPC 72–52–51, 03–300, also known as the tail bearing housing or TBH) may have resulted in thin-wall section parts being delivered into service. Further analysis has concluded that under certain circumstances, the structural integrity of a thin-walled part may be insufficient to withstand a fan blade failure event.
>
> This condition, if not detected and corrected, could, in case of fan blade failure, lead to a loss of integrity of the TBH and leave the engine unsupported at the rear mount, possibly resulting in damage to, or reduced control of, the aeroplane.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received. The commenters support the NPRM (79 FR 11719, March 3, 2014).

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD affects about 110 engines installed on airplanes of U.S. registry. We also estimate that it will take about 1 hour per engine to comply with this AD. The average labor rate is $85 per hour. Required parts cost about $9,250 per engine. Based on these figures, we estimate the cost of this AD on U.S. operators to be $92,600.

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 to the extent that it justifies making a regulatory distinction, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–13–02 Rolls-Royce plc: Amendment 39–17877; Docket No. FAA–2013–0953, Directorate Identifier 2013–NE–32–AD.

(a) Effective Date

This AD becomes effective August 5, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Rolls-Royce plc (RR) RB211-Trent 875–17, 877–17, 884–17, 884B–17, 892–17, 892B–17, and 895–17 turbofan engines, except those that have been

reworked in accordance with RR Service Bulletin (SB) No. RB.211–72–G604, dated March 18, 2013.

(d) Reason

This AD was prompted by the identification by RR of limitations in the drawing definition for the Trent 800 low-pressure (LP) turbine bearing support and exhaust case assembly, which resulted in thin-wall section parts being delivered into service. We are issuing this AD to prevent failure of the LP turbine bearing support and exhaust case assembly, which could lead to engine separation and damage to the airplane.

(e) Actions and Compliance

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

(1) For engines that have an LP turbine bearing support and exhaust case assembly identified by part number (P/N) and serial number (S/N) in Table 1 to paragraph (e) of this AD, installed, at the next engine shop visit after the effective date of this AD, but not later than June 30, 2017, replace the assembly with one that is eligible for installation.

(2) For engines with an LP turbine bearing support and exhaust case assembly not identified by P/N and S/N in Table 1 to paragraph (e) of this AD, installed, at the next piece-part exposure of the LP turbine bearing support and exhaust case assembly after the effective date of AD:

(i) Inspect the hub to conical panel weld line thickness using paragraphs 3.B.(3)(a) through 3.B.(3)(d)(iii) of RR Alert Service Bulletin (ASB) No. RB.211–72–AG644, dated April 30, 2013; and

(ii) Inspect the hub to conical panel flange thickness using paragraphs 3.B.(4)(a) through 3.B.(4)(c)(v) of RR ASB No. RB.211–72–AG644, dated April 30, 2013.

(iii) If the LP turbine bearing support and exhaust case assembly does not pass the inspections required by paragraphs (e)(2)(i) and (e)(2)(ii) of this AD, replace the LP turbine bearing support and exhaust case assembly with one that is eligible for installation.

TABLE 1 TO PARAGRAPH (e)—LP TURBINE BEARING SUPPORT AND EXHAUST CASE ASSEMBLY P/NS AND S/NS

P/Ns	S/Ns
FK31446	118–01
FK31446	209–01
FK31446	216–01
FK31446	232–01
FK32232	113–01
FK32085	268–01
FK32085	269–01
FK31446	022–01
FK31446	028–01

(f) Definitions

The following definitions apply for the purpose of this AD:

(1) An LP turbine bearing support and exhaust case assembly is eligible for installation if it has passed the inspections of paragraphs (e)(2)(i) and (e)(2)(ii) of this AD; or has been reworked in accordance with RR SB No. RB.211–72–G604, dated March 18, 2013.

(2) ''Piece-part exposure'' occurs whenever the LP turbine bearing support and exhaust case assembly is sufficiently exposed to do the inspections required by paragraphs (e)(2)(i) and (e)(2)(ii) of this AD.

(3) An ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges, except that the separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance is not an engine shop visit.

(g) Alternative Methods of Compliance (AMOCs)

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

(h) Related Information

(1) For more information about this AD, contact Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: (781) 238–7148; fax: (781) 238–7199; email: *eugene.triozzi@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2013–0223, dated September 19, 2013, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0953.

(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) Rolls-Royce plc Service Bulletin No. RB.211–72–G604, including Supplement, dated March 18, 2013.

(ii) Rolls-Royce plc Alert Service Bulletin No. RB.211–72–AG644, dated April 30, 2013.

(3) For RR service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* Internet: *https://www.aeromanager.com.*

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

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

Issued in Burlington, Massachusetts, on June 16, 2014.

Colleen M. D'Alessandro,

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

[FR Doc. 2014–14954 Filed 6–30–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0241; Directorate Identifier 2014–CE–008–AD; Amendment 39–17880; AD 2014–13–05]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Regional Aircraft Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2007–10–16 for all British Aerospace Regional Aircraft Jetstream Model 3201 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the need to incorporate revisions to the Airworthiness Limitations section of the Instructions for Continued Airworthiness. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective August 5, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of August 5, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0241; or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone: +44 1292 675207; fax: +44

1292 675704; email: *RApublications@baesystems.com;* Internet: *http://www.baesystems.com/Businesses/RegionalAircraft/.* 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: Taylor Martin, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4138; fax: (816) 329–4090; email: *taylor.martin@faa.gov.*

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 all British Aerospace Regional Aircraft Jetstream Model 3201 airplanes. That NPRM was published in the **Federal Register** on April 14, 2014 (79 FR 20832), and proposed to supersede AD 2007–10–16, Amendment 39–15057 (72 FR 27953, May 18, 2007).

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:

> The Jetstream Series 3200 Aircraft Maintenance Manual (AMM), includes Chapter 05–10–05 ''Airworthiness Limitations, Description and Operation''. The maintenance tasks and limitations contained in this chapter have been identified as mandatory actions for continued airworthiness and EASA issued AD 2007–0074 to require operators to comply with those instructions.
>
> Since that AD was issued, BAE Systems (Operations) Ltd amended Jetstream Series 3200 AMM Chapter 05–10–05 to introduce life limitations for the main landing gear radius rod mounting shaft assemblies and to incorporate wing structure inspections previously introduced through BAE Systems (Operations) Ltd Service Bulletin (SB) SB 51–JA020940. In addition, a new table was introduced to provide extended fatigue life limitations for structural items for aeroplanes entered into a life extension programme. Reference to BAE Systems (Operations) Ltd SB 32–JA981042 was updated from Revision 7 to Revision 8 to reflect increased life limits of the nose landing gear.
>
> Failure to comply with the new and more restrictive instructions could result in an unsafe condition.
>
> For the reasons described above, this EASA AD retains the requirements of EASA AD 2007–0074, which is superseded, and requires implementation of the maintenance requirements and/or airworthiness limitations as specified in Chapter 05–10–05 of the Jetstream Series 3200 AMM at Revision 29.

The MCAI can be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0241-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (79 FR 20832, April 14, 2014) or on the determination of the cost to the public.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (79 FR 20832, April 14, 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 20832, April 14, 2014).

Costs of Compliance

We estimate that this AD will affect 14 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD of inserting the document into the Airworthiness Limitations section of the Instructions for Continued Airworthiness. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of this AD on U.S. operators to be $1,190, or $85 per product.

We have no way of determining the cost to replace the life limited parts and to do the applicable maintenance tasks on each airplane.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0241; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–15057 (72 FR 27953, May 18, 2007), and adding the following new AD:

2014–13–05 British Aerospace Regional Aircraft: Amendment 39–17880; Docket No. FAA–2014–0241; Directorate Identifier 2014–CE–008–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective August 5, 2014.

(b) Affected ADs

This AD supersedes AD 2007–10–16, Amendment 39–15057 (72 FR 27953, May 18, 2007).

(c) Applicability

This AD applies to British Aerospace Regional Aircraft Jetstream Model 3201 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 the need to incorporate revisions to the Airworthiness Limitations section of the Instructions for Continued Airworthiness (ICA). We are issuing this AD to enforce compliance with these requirements in order to maintain airworthiness.

(f) Actions and Compliance

Unless already done, do the actions in paragraphs (f)(1) and (f)(2) of this AD:

(1) As of August 5, 2014 (the effective date of this AD), replace each component before exceeding the applicable life limit and complete all applicable maintenance tasks within the thresholds and intervals as specified in Chapter 05–10–05, Airworthiness Limitations, of the British Aerospace Jetstream 3200 Series Aircraft Maintenance Manual, Revision, 29, dated December 15, 2012.

(2) You may comply with the requirements in paragraph (f)(1) of this AD by incorporating British Aerospace Jetstream 3200 Series Aircraft Maintenance Manual, Revision 29, Airworthiness Limitations, Chapter 05–10–05, dated December 15, 2012, into the Airworthiness Limitations section of your ICA and complying with that program.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(h) Related Information

Refer to European Aviation Safety Agency (EASA) AD No.: 2014–0044, dated February 24, 2014. You may examine the MCAI on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2014-0241-0002.*

(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 05–10–05, Airworthiness Limitations, of the British Aerospace Jetstream 3200 Series Aircraft Maintenance Manual, Revision, 29, dated December 15, 2012.

(ii) Reserved.

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

(4) You may view this service information at 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 20, 2014.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–15136 Filed 6–30–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1009; Directorate Identifier 2013–NE–35–AD; Amendment 39–17855; AD 2014–11–05]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada Corp. Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Pratt & Whitney Canada Corp. (P&WC) turboprop engines. This AD requires installing a reinforcement liner to the power turbine (PT) containment ring and, for certain PT containment rings, adding scallops. This AD was prompted by in-service events involving the perforation of engine cases as a result of the liberation of PT blades and the fracture/displacement of the PT containment ring. We are issuing this AD to prevent uncontained engine failure and damage to the airplane.

DATES: This AD becomes effective August 5, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of August 5, 2014.

ADDRESSES: For service information identified in this AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; phone: 800–268–8000; fax: 450–647–2888; Internet: *www.pwc.ca.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

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–2013–1009; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S.

Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: (781) 238–7754; fax: (781) 238–7199; email: *robert.green@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 the specified products. The NPRM was published in the **Federal Register** on January 7, 2014 (79 FR 763). The NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> There have been in-service events involving the perforation of PT6A small series engine cases as a result of the loss of integrity of Power Turbine (PT) Containment Rings under failure loads. Perforation of engine cases has been seen to result from the liberation of PT blades and from fracture/displacement of the PT Containment Ring itself.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

Request To Add Engine Models to the List of Applicable Engines

Friend Aircare requested that we add the engine models listed in P&WC Service Bulletin (SB) No. 12076, Revision 3, dated January 17, 1992, to the applicability of this AD because that SB requires the same modification to the PT containment ring assembly.

We agree. We revised paragraph (c) of this AD by adding certain serial numbers of the following P&WC engine models: PT6A–11, PT6A–11AG, PT6A–15AG, PT6A–110, PT6A–112, and PT6A–121. We revised paragraph (e) of this AD to specify use of either P&WC SB No. 12076, Revision 3, dated January 17, 1992; or P&WC SB No. PT6A–72–A1427, Revision 3, dated January 27, 2012, as applicable. We revised paragraph (f) of this AD by adding credit for corrective actions taken in accordance with P&WC SB No. 12076, Revision 2, dated April 24, 1991, or earlier versions.

Request To Exclude Engines Used on Single-Engine Aircraft

Reabe Spraying Services, Inc. requested that we exclude from applicability engines used on single-engine aircraft, or aircraft where the engine has nothing alongside of it that would sustain damage from release of debris.

We disagree. We consider the uncontained release of engine hardware to be an unsafe condition. We did not change this AD.

Request To Withdraw the NPRM

Dynamic Aviation requested that the FAA withdraw the NPRM (79 FR 763, January 7, 2014). Dynamic Aviation has not experienced any PT disk blade failure in 16 years and 800,000 flight hours.

We disagree. There have been in-service events involving the perforation of PT6A series engine cases as a result of the loss of integrity of the PT containment rings under failure loads. Perforation of engine cases has been seen to result from the liberation of PT blades and from fracture/displacement of the PT containment ring itself. We consider the release of engine hardware to be an unsafe condition. This AD requires the incorporation of P&WC SB No. 12076, Revision 3, dated January 17, 1992, or P&WC SB No. PT6A–72–A1427, Revision 3, dated January 27, 2012, as applicable, to prevent uncontained events. We did not change this AD.

Requests To Extend the Period of Compliance

Dynamic Aviation requested that we change the compliance time from within 24 months after the effective date of this AD, to within 36 to 48 months after the effective date of this AD. Dynamic Aviation said the extended compliance period would better allow the complete modification of all engines.

Ameriflight LLC requested that we reconsider the period of compliance to allow a longer, more realistic timeframe for compliance.

We agree. The compliance period can be increased without an appreciable risk effect. We revised paragraph (e)(2) of this AD to read, ''Within 48 months after the effective date of this AD, modify the existing PT containment ring.''

Request To More Accurately Estimate the Time Required To Modify an Engine

Several entities requested that the estimated time and costs of compliance for completing the requirements of this AD more accurately reflect the actual time required to modify an engine.

We agree. In the NPRM (79 FR 763, January 7, 2014), we based our estimate of 3 hours to modify an engine on original equipment manufacturer service information. Further analysis indicates this estimate is inadequate. We increased the estimated hours required to modify an engine from 3 hours to 20 hours.

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously. We determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Costs of Compliance

We estimate that this AD affects 1,000 engines installed on airplanes of U.S. registry. We estimate that it will take about 20 hours per engine to comply with this AD. The average labor rate is $85 per hour. Required parts cost about $1,655 per engine. Based on these figures, we estimate the cost of this AD on U.S. operators to be $3,355,000.

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 to the extent that it justifies making a regulatory distinction, and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–11–05 Pratt & Whitney Canada Corp.: Amendment 39–17855; Docket No. FAA–2013–1009; Directorate Identifier 2013–NE–35–AD.

(a) Effective Date

This AD becomes effective August 5, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pratt & Whitney Canada Corp. (P&WC) turboprop engines as follows: all model PT6A–20, PT6A–20A, PT6A–20B, PT6A–25, PT6A–28, PT6A–34B, PT6A–36, and PT6A–135 engines; model PT6A–11 engines, serial number (S/N) PC–E10539 and earlier; PT6A–11AG, S/N PC–E10224 and earlier; PT6A–15AG engines, S/N earlier than PC–E14089; model PT6A–21 engines, S/N PCE–25361 and earlier; model PT6A–25A engines, S/N PCE–48757 and earlier; model PT6A–25C engines, S/N PCE–26258 and earlier; model PT6A–27 engines, S/N PCE–42523 and earlier as well as all engines converted to PT6A–27; model PT6A–34 engines, S/N PCE–57303 and earlier as well as all engines converted to PT6A–34; model PT6A–34AG engines, S/N PCE–57312 and earlier as well as all engines converted to PT6A–34AG; model PT6A–110 engines, S/N PC–E15052 and earlier; model PT6A–112 engines, S/N earlier than PC–E12563; model PT6A–114 engines, S/N PCE–17218 and earlier; and model PT6A–135A engines, S/N PCE–35089 and earlier.

(d) Reason

This AD was prompted by in-service events involving the perforation of engine cases as a result of the liberation of power turbine (PT) blades and the fracture/displacement of the PT containment ring. We are issuing this AD to prevent uncontained engine failure and damage to the airplane.

(e) Actions and Compliance

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

(2) Within 48 months after the effective date of this AD, modify the existing PT containment ring. Use paragraph 2, Accomplishment Instructions, of P&WC Service Bulletin (SB) No. 12076, Revision 3, dated January 17, 1992, or paragraph 3, Accomplishment Instructions, P&WC SB No. PT6A–72–A1427, Revision 3, dated January 27, 2012, as applicable, to make the modification.

(f) Credit for Previous Actions

If you modified the PT containment ring before the effective date of this AD using P&WC SB No. 12076, Revision 2, dated April 24, 1991, or earlier versions, or P&WC SB No. PT6A–72–A1427, Revision 2, dated April 3, 1990, or earlier versions, you have met the requirements of this AD.

(g) Alternative Methods of Compliance (AMOCs)

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

(h) Related Information

(1) For more information about this AD, contact Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: (781) 238–7754; fax: (781) 238–7199; email: *robert.green@faa.gov.*

(2) Refer to MCAI Transport Canada Civil Aviation AD CF–2013–33R1, dated November 14, 2013, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-1009-0003.*

(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) Pratt & Whitney Canada (P&WC) Corp. Service Bulletin (SB) No. PT6A–72–A1427, Revision 3, dated January 27, 2012.

(ii) P&WC, Inc. SB No. 12076, Revision 3, dated January 17, 1992.

(3) For P&WC service information identified in this AD, contact Pratt & Whitney Canada Corp., 1000 Marie-Victorin, Longueuil, Quebec, Canada, J4G 1A1; phone: 800–268–8000; fax: 450–647–2888; Internet: *www.pwc.ca.*

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

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

Issued in Burlington, Massachusetts, on May 22, 2014.

Colleen M. D'Alessandro,

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

[FR Doc. 2014–14955 Filed 6–30–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0154; Airspace Docket No. 14–ACE–1]

Establishment of Class E Airspace; Steele, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Steele, MO. Controlled airspace is necessary to accommodate new Area Navigation (RNAV) Standard Instrument Approach Procedures at Steele Municipal Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations at the airport.

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

FOR FURTHER INFORMATION CONTACT: Raul Garza, Jr., Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7654.

SUPPLEMENTARY INFORMATION:

History

On April 22, 2014, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E airspace for the Steele, MO, area, creating controlled airspace at Steele Municipal Airport (79 FR 22457) Docket No. FAA–2014–0154. Interested parties were invited to participate in this rulemaking effort by submitting

written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 7-mile radius of Steele Municipal Airport, Steele, MO, for new standard instrument approach procedures developed at the airport. Controlled airspace is needed for the safety and management of IFR operations at the airport.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Steele Municipal Airport, Steele, MO.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR Part 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface.

* * * * *

ACE MO E5 Steele, MO [New]

Steele Municipal Airport, MO
(Lat. 36°05′44″ N., long. 089°51′34″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Steele Municipal Airport.

Issued in Fort Worth, Texas, on June 17, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–15175 Filed 6–30–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2014–0224; Airspace Docket No. 13–ACE–15]

Establishment of Class E Airspace; Memphis, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Memphis, MO. Controlled airspace is necessary to accommodate new Area Navigation (RNAV) Standard Instrument Approach Procedures at Memphis Memorial Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations at the airport.

DATES: Effective date: 0901 UTC, January 8, 2015. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Raul Garza, Jr., Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7654.

SUPPLEMENTARY INFORMATION:

History

On April 22, 2014, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E airspace for the Memphis, MO, area, creating controlled airspace at Memphis Memorial Airport (79 FR 22458) Docket No. FAA–2014–0224. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR Part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Memphis Memorial Airport, Memphis, MO, for new standard instrument approach procedures developed at the airport. Controlled airspace is needed for the safety and management of IFR operations at the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action''

under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Memphis Memorial Airport, Memphis, MO.

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air)

Adoption of the Amendment

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

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

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR Part 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface.

* * * * *

ACE MO E5 Memphis, MO [New]

Memphis Memorial Airport, MO
(Lat. 40°26′50″ N., long. 92°13′37″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Memphis Memorial Airport.

Issued in Fort Worth, Texas, on June 18, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–15180 Filed 6–30–14; 8:45 am]

BILLING CODE 4910–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 514

[Docket No. FDA–2014–N–0108]

New Animal Drug Applications; Confidentiality of Data and Information in a New Animal Drug Application File; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of July 30, 2014, for the final rule that appeared in the **Federal Register** of March 17, 2014. The direct final rule amends the regulation regarding the confidentiality of data and information in and about new animal drug application files to change when certain approval-related information will be disclosed by the Agency. This change ensures that the Agency is able to update its list of approved new animal drug products within the statutory timeframe. It also permits more timely public disclosure of approval-related information, increasing the transparency of FDA decisionmaking in the approval of new animal drugs. This document confirms the effective date of the direct final rule.

DATES: Effective date of final rule published in the **Federal Register** of March 17, 2014 (79 FR 14609) confirmed: July 30, 2014.

FOR FURTHER INFORMATION CONTACT: Scott Fontana, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0656.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 17, 2014 (79 FR 14609), FDA solicited comments concerning the direct final rule for a 75-day period ending June 2, 2014. FDA stated that the effective date of the direct final rule would be on July 30, 2014, 30 days after the end of the comment period, unless any significant adverse comment was submitted to FDA during the comment period. FDA did not receive any significant adverse comments.

Authority: 21 U.S.C. 321, 331, 351, 352, 356a, 360b, 371, 379e, 381.

Accordingly, the amendments issued thereby are effective.

Dated: June 24, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–15209 Filed 6–30–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9657]

RIN 1545–BL73

Regulations Relating to Information Reporting by Foreign Financial Institutions and Withholding on Certain Payments to Foreign Financial Institutions and Other Foreign Entities; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final and temporary regulations (TD 9657), which were published in the **Federal Register** on Thursday, March 6, 2014 (79 FR 12812). The regulations relate to information reporting by foreign financial institutions (FFIs) with respect to U.S. accounts and withholding on certain payments to FFIs and other foreign entities.

DATES: *Effective Date:* These corrections are effective on July 1, 2014.

Applicability Date: These corrections are applicable on March 6, 2014.

FOR FURTHER INFORMATION CONTACT: Nancy Lee, (202) 317–6942 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under sections 1471 through 1474 of the Internal Revenue Code. Sections 1471 through 1474 were added to the Code, as Chapter 4 of Subtitle A, by the Hiring Incentives to Restore Employment Act of 2010 (Pub. L. 111–147, 124 Stat. 71).The final and temporary regulations that are the subject of these corrections are §§ 1.1471–1T, 1.1471–2, 1.1471–2T, 1.1471–3T, 1.1471–4, 1.1471–4T, 1.1471–5T, 1.1471–6T, 1.1472–1T, 1.1473–1T, and 1.1474–1T. These regulations affect persons making certain U.S.-related payments to FFIs and other foreign entities, and affect payments by FFIs to other persons.

Need for Correction

As published, the final and temporary regulations under chapter 4 contain a number of items that need to be corrected or clarified. Several citations and cross references are corrected. These correcting amendments also include the addition, deletion, or modification of temporary regulatory language to clarify the relevant provisions to meet their intended purposes. The addition of final regulatory language only includes language that was inadvertently removed in the final and temporary regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.1471–1 is also issued under 26 U.S.C. 1471
Section 1.1471–2 is also issued under 26 U.S.C. 1471
Section 1.1471–3 is also issued under 26 U.S.C. 1471
Section 1.1471–4 is also issued under 26 U.S.C. 1471
Section 1.1471–5 is also issued under 26 U.S.C. 1471
Section 1.1471–6 is also issued under 26 U.S.C. 1471
Section 1.1472–1 is also issued under 26 U.S.C. 1472
Section 1.1473–1 is also issued under 26 U.S.C. 1473
Section 1.1474–1 is also issued under 26 U.S.C. 1474

■ **Par. 2.** Section 1.1471–1T is amended by revising paragraphs (b)(20) and (b)(98).

The revisions read as follows:

§ 1.1471–1T Scope of chapter 4 and definitions (temporary).

* * * * *

(b) * * *

(20) *Chapter 4 withholding rate pool.* The term *chapter 4 withholding rate pool* means a pool of payees that are nonparticipating FFIs provided on a chapter 4 withholding statement (as described in § 1.1471–3(c)(3)(iii)(B)(*3*)) to which a withholdable payment is allocated. The term *chapter 4 withholding rate pool* also means a pool provided on an FFI withholding statement (as described in § 1.1471–3(c)(3)(iii)(B)(*2*)) to which a withholdable payment is allocated to—

(i) A pool of payees consisting of each class of recalcitrant account holders described in § 1.1471–4(d)(6) (or with respect to an FFI that is a QI, a single pool of recalcitrant account holders without the need to subdivide into each class of recalcitrant account holders described in § 1.1471–4(d)(6)), including a separate pool of account holders to which the escrow procedures for dormant accounts apply; or

(ii) A pool of payees that are U.S. persons as described in § 1.1471–3(c)(3)(iii)(B)(*2*).

* * * * *

(98) *Payor.* The term *payor* has the meaning set forth in §§ 31.3406(a)–2 and 1.6049–4(a)(2) and generally includes a withholding agent.

* * * * *

Par. 3. Section 1.1471–2 is amended by revising paragraph (a)(2)(ii) and adding paragraphs (a)(2)(iii)(A)(*1*) through (*4*) and (a)(4)(ii)(B)(*1*) through (*2*).

The revisions and additions read as follows:

§ 1.1471–2 Requirement to deduct and withhold tax on withholdable payments to certain FFIs.

(a) * * *

(2) * * *

(ii) [Reserved]. For further guidance, see § 1.1471–2T(a)(2)(ii).

* * * * *

(iii) * * *

(A) * * *

(*1*) The withholding agent is a participating FFI, reporting Model 1 FFI, QI, or a U.S. withholding agent;

(*2*) The person who receives the payment is a participating FFI or registered deemed-compliant FFI that acts as a QI with respect to the payment;

(*3*) The person who receives the payment provides the withholding agent, at or before the time of the payment, with a valid intermediary withholding certificate with respect to the payment that notifies the withholding agent that it has elected to be withheld upon, certifies that it is not assuming primary withholding responsibility under chapter 3, and designates whether such election is made for all accounts held with the withholding agent or for the specific accounts identified on the withholding certificate; and

(*4*) The intermediary withholding certificate is accompanied by a withholding statement described in § 1.1471–3(c)(3)(iii)(B).

* * * * *

(4) * * *

(ii) * * *

(B) * * *

(*1*) The withholding agent has available as part of its electronically searchable information a designation for the payee as a QI or NQI; or

(*2*) For an account maintained in the United States, the payee is presumed to be a foreign entity under § 1.1471–3(f) or is documented as a foreign entity for purposes of chapter 3 or 61, and the withholding agent has recorded as part of its electronically searchable information one of the following North American Industry Classification System or Standard Industrial Classification codes indicating that the payee is a financial institution:

(*i*) Commercial Banking (NAICS 522110).

(*ii*) Savings Institutions (NAICS 522120).

(*iii*) Credit Unions (NAICS 522130).

(*iv*) Other Depositary Credit Intermediation (NAICS 522190).

(*v*) Investment Banking and Securities Dealing (NAICS 523110).

(*vi*) Securities Brokerage (NAICS 523120).

(*vii*) Commodity Contracts Dealing (NAICS 523130).

(*viii*) Commodity Contracts Brokerage (NAICS 523140).

(*ix*) Miscellaneous Financial Investment Activities (NAICS 523999).

(*x*) Open-End Investment Funds (NAICS 525910).

(*xi*) Commercial Banks, NEC (SIC 6029).

(*xii*) Branches and Agencies of Foreign Banks (branches) (SIC 6081).

(*xiii*) Foreign Trade and International Banking Institutions (SIC 6082).

(*xiv*) Asset-Backed Securities (SIC 6189).

(*xv*) Security & Commodity Brokers, Dealers, Exchanges & Services (SIC 6200).

(*xvi*) Security Brokers, Dealers & Flotation Companies (SIC 6211).

(*xvii*) Commodity Contracts Brokers & Dealers (SIC 6221).

(*xviii*) Unit Investment Trusts, Face-Amount Certificate Offices, and Closed-End Management Investment Offices (SIC 6726).

* * * * *

■ **Par. 4.** Section 1.1471–2T is amended by revising paragraph (a)(2)(i) to read as follows:

§ 1.1471–2T Requirement to deduct and withhold tax on withholdable payments to certain FFIs (temporary).

(a) * * *

(2) * * *

(i) *Requirement to withhold on payments of U.S. source FDAP income to participating FFIs and deemed-compliant FFIs that are NQIs, NWPs, or NWTs.* A withholding agent that, after June 30, 2014, makes a payment of U.S. source FDAP income to a participating FFI or deemed-compliant FFI that is an NQI receiving the payment as an intermediary, or a NWP or NWT, must withhold 30 percent of the payment unless the withholding is reduced under this paragraph (a)(2)(i). A withholding agent is not required to withhold on a payment, or portion of a payment, that it can reliably associate, in the manner described in § 1.1471–3(c)(2), with a valid intermediary or flow-through withholding certificate that meets the requirements of § 1.1471–3(d)(4) and a withholding statement that meets the requirements of § 1.1471–3(c)(3)(iii)(B) and that allocates the payment or portion of the payment to payees for which no withholding is required under chapter 4. Further, a withholding agent is not required to withhold on a payment that it can reliably associate with documentation indicating that the payee is a U.S. branch treated as a U.S. person (as defined in § 1.1471–1(b)(135)).

* * * * *

■ **Par. 5.** Section 1.1471–3T is amended by:

■ 1. Revising paragraphs (a)(3)(vi), (c)(3)(iii)(A)(*5*), (c)(3)(iii)(B)(*1*), (c)(6)(iv), (d)(4)(i), (d)(11)(xii)(B), (e)(4)(ii)(A), (e)(4)(iv)(A), and (e)(4)(vii)(B).

■ 2. Adding paragraphs (e)(4)(vii)(C) and (D).

The revisions and additions read as follows:

§ 1.1471–3T Identification of payee (temporary).

(a) * * *

(3) * * *

(vi) *U.S. branch of certain foreign banks or foreign insurance companies.* A withholdable payment to a U.S. branch of either a participating FFI, registered deemed-compliant FFI, or NFFE is a payment to a U.S. person if the U.S. branch is treated as a U.S. person under § 1.1441–1(b)(2)(iv)(A). In such case, the U.S. branch is treated as the payee. A U.S. branch treated as a U.S. person (as defined in § 1.1471–1(b)(135)), however, is not treated as a U.S. person for purposes of the withholding certificate it may provide to a withholding agent for purposes of chapter 4. Accordingly, a U.S. branch treated as a U.S. person must furnish a withholding certificate on a Form W–8 to certify its chapter 4 status (and not a Form W–9, ''Request for Taxpayer Identification Number and Certification''). See also paragraph (f)(6) of this section for the rules under which a withholding agent can presume a payment constitutes income that is effectively connected with a U.S. trade or business. A U.S. branch treated as a U.S. person may not make an election to be withheld upon, as described in section 1471(b)(3) and § 1.1471–2(a)(2)(iii), for purposes of chapter 4. See § 1.1471–4(c)(2)(v) for the rule requiring a U.S. branch that has elected to be treated as a U.S. person to apply the due diligence rules applicable to a U.S. withholding agent in lieu of those otherwise applicable to a participating FFI. See also § 1.1474–1(i)(1) and (2) for the requirement of a U.S. branch to report information regarding certain U.S. owners of owner documented FFIs and passive NFFEs. See § 1.1471–4(d) for rules for when a U.S. branch reports as a U.S. person.

* * * * *

(c) * * *

(3) * * *

(iii) * * *

(A) * * *

(*5*) A GIIN, in the case of a participating FFI or a registered deemed-compliant FFI (including a U.S. branch of such an entity, whether or not such branch is treated as a U.S. person, and including a QI, WP, or WT that is a participating FFI or registered deemed-compliant FFI), and an EIN in the case of a QI, WP, or WT. Additionally, if a branch (other than a U.S. branch) of a participating FFI or registered deemed-compliant FFI outside of its country of residence acts as an intermediary, a GIIN of such branch must be provided on the withholding certificate. In the case of a U.S. branch, the GIIN provided must be the GIIN assigned to the participating FFI or registered deemed-compliant FFI.

* * * * *

(B) * * *

(*1*) *In general.* A withholding statement forms an integral part of the withholding certificate and the penalties of perjury statement provided on the withholding certificate applies to the withholding statement as well. The withholding statement may be provided in any manner, and in any form, to which the person submitting the form and the withholding agent mutually agree, including electronically. A withholding statement may be provided electronically only if it meets the requirements of § 1.1441–1(e)(3)(iv)(B). The withholding statement must be updated as often as necessary for the withholding agent to meet its reporting and withholding obligations under chapter 4. A withholding agent will be liable for tax, interest, and penalties under § 1.1474–1(a) to the extent it does not follow the presumption rules of paragraph (f) of this section for any payment, or portion thereof, for which a withholding statement is required and the withholding agent does not have a valid withholding statement prior to making a payment. A withholding agent that is making a withholdable payment for which a withholding statement is also required for purposes of chapter 3 may only rely upon the withholding statement if, in addition to providing the information required by paragraph (c)(3)(iii)(B) of this section, the withholding statement also includes all of the information required for purposes of chapter 3 and specifies the chapter 4 status of each payee or pool of payees identified on the withholding statement for purposes of chapter 3.

* * * * *

(6) * * *

(iv) *Electronic transmission of withholding certificate, written statement, and documentary evidence.* A withholding agent may accept a withholding certificate (including an acceptable substitute form), a written statement, or other such form as the IRS may prescribe, electronically in accordance with the requirements set forth in § 1.1441–1(e)(4)(iv).

* * * * *

(d) * * *

(4) * * *

(i) *In general.* Except as otherwise provided in paragraphs (d)(4)(ii) through (iv) or paragraphs (e)(3)(i) and (ii) of this section, a withholding agent may treat a payee as a participating FFI or registered deemed-compliant FFI

only if the withholding agent has a withholding certificate identifying the payee as a participating FFI, registered deemed-compliant FFI, or branch thereof (including an entity that is disregarded as an entity separate from the FFI), and the withholding certificate contains a GIIN for the payee that is verified against the published IRS FFI list in the manner described in paragraph (e)(3) of this section (indicating when a withholding agent may rely upon a GIIN). For payments made prior to January 1, 2016, a registered deemed-compliant FFI that is a sponsored FFI must provide the GIIN of its sponsoring entity on the withholding certificate if the sponsored FFI has not obtained a GIIN, which the withholding agent has verified against the published IRS FFI list in the manner described in paragraph (e)(3) of this section (substituting the term *sponsored FFI* for the term *sponsored direct reporting NFFE*). See paragraph (c)(3)(iii) of this section for additional requirements that apply to a valid withholding certificate provided by a participating FFI or registered deemed-compliant FFI that is a flow-through entity or is acting as an intermediary with respect to the payment, or by a U.S. branch of a participating FFI or registered deemed-compliant FFI (including a U.S. entity that is disregarded as an entity separate from the FFI).

* * * * *

(11) * * *

(xii) * * *

(B) *Offshore obligations.* A participating FFI that makes a payment with respect to an offshore obligation may treat the payment as made to an excepted inter-affiliate FFI described in § 1.1471–5(e)(5)(iv) if the participating FFI obtains a written statement in which the payee certifies that it is a foreign entity operating as an excepted inter-affiliate FFI and that it is a member of an expanded affiliated group of participating FFIs or registered deemed-compliant FFIs. In the case of a payment of U.S. source FDAP income, the written statement must also indicate that the payee is the beneficial owner and must be supplemented with documentary evidence supporting the payee's claim of foreign status (as described in paragraph (c)(5)(i) of this section).

* * * * *

(e) * * *

(4) * * *

(ii) * * *

(A) *In general.* A withholding agent has reason to know that a withholding certificate provided by a person is unreliable or incorrect if the withholding certificate is incomplete with respect to any item on the certificate that is relevant to the claims made by the person, the withholding certificate contains any information that is inconsistent with the person's claim, the withholding agent has other account information that is inconsistent with the person's claim, or the withholding certificate lacks information necessary to establish entitlement to an exemption from withholding for chapter 4 purposes. Except as otherwise provided in this paragraph (e)(4)(ii)(A), a withholding agent that is a financial institution or other entity described in § 1.1441–7(b)(3) and that has obtained a withholding certificate to reliably associate a payment to a foreign person under paragraph (c) of this section has reason to know that the person's claim of foreign status is unreliable or incorrect only if there are U.S. indicia, as described in § 1.1441–7(b)(5), associated with the person and for which appropriate documentation sufficient to cure the U.S. indicia has not been obtained in accordance with § 1.1441–7(b) within 90 days of when the U.S. indicia was first identified by the withholding agent. See also § 1.1441–1(e)(4)(ii)(D) for requirements that apply when a change in circumstances occurs for purposes of chapter 3 and the related grace period allowed under § 1.1441–1(b)(3)(iv). A withholding agent that relies on an agent to review and maintain a withholding certificate is considered to know or have reason to know the facts within the knowledge of the agent.

* * * * *

(iv) * * *

(A) *In general.* A withholding agent may not treat documentary evidence provided by a person as valid if the documentary evidence does not reasonably establish the identity of the person presenting the documentary evidence. For example, documentary evidence is not valid if it is provided in person by an individual and the photograph or signature on the documentary evidence does not match the appearance or signature of the person presenting the document. A withholding agent may not treat documentary evidence as valid if the documentary evidence contains information that is inconsistent with the person's claim as to its chapter 4 status, the withholding agent has other account information that is inconsistent with the person's chapter 4 status, or the documentary evidence lacks information necessary to establish the person's chapter 4 status. Additionally, a withholding agent that is a financial institution under § 1.1471–5(e), or other entity as described in § 1.1441–7(b)(3) that has obtained documentary evidence to reliably associate a payment to a foreign person under paragraph (c) of this section has reason to know that the person's claim of foreign status is unreliable or incorrect only if there are U.S. indicia, as described in § 1.1441–7(b)(8), associated with the person and appropriate documentation sufficient to cure the U.S. indicia has not been obtained in accordance with § 1.1441–7(b) within 90 days of when the U.S. indicia was first identified by the withholding agent. See also § 1.1441–1(e)(4)(ii)(D) for requirements when a change in circumstances occurs for purposes of chapter 3 and the related grace period allowed under § 1.1441–1(b)(3)(iv).

* * * * *

(vii) * * *

(B) *Reason to know there are U.S. indicia associated with preexisting obligations.* With respect to a preexisting obligation, a withholding agent may apply the limits on reason to know described in § 1.1441–7(b)(3)(ii) for a person that the withholding agent has previously documented for purposes of chapters 3 or 61. A withholding agent that applies the limits on reason to know described in § 1.1441–7(b)(3)(ii) must, however, review for U.S. indicia any additional documentation upon which the withholding agent is relying to determine the chapter 4 status of the person, if any.

(C) and (D) [Reserved]. For further guidance, see § 1.1471–3(e)(4)(vii)(C) and (D).

* * * * *

■ **Par. 6.** Section 1.1471–4 is amended by revising paragraphs (d)(6)(vi) and (vii) and adding paragraphs (d)(7)(ii)(A)(*1*) through (*3*) to read as follows:

§ 1.1471–4 FFI agreement.

* * * * *

(d) * * *

(6) * * *

(vi) [Reserved]. For further guidance, see § 1.1471–4T(d)(6)(vi).

(vii) *Record retention requirements.* A participating FFI that produces, in the ordinary course of its business, account statements that summarize the activity (including withdrawals, transfers, and closures) of an account held by a recalcitrant account holder described in paragraph (d)(6)(i)(B) of this section for any calendar year in which the account was required to be reported under paragraph (d)(6) of this section must retain a record of such account

statements. Such record must be retained for the longer of six years or the retention period under the FFI's normal business procedures. A participating FFI may be required to extend the six year retention period if the IRS requests such an extension prior to the expiration of the six year period.

* * * * *

(7) * * *

(ii) * * *

(A) * * *

(*1*) The name, address, and TIN of each specified U.S. person who is an account holder and, in the case of any account holder that is an NFFE that is a U.S. owned foreign entity or that is an owner-documented FFI, the name of such entity and the name, address, and TIN of each substantial U.S. owner of such NFFE or, in the case of an owner-documented FFI, of each specified U.S. person identified in § 1.1471–3(d)(6)(iv)(A)(*1*) and (*2*);

(*2*) The account balance or value as of the end of the relevant calendar year, or if the account was closed after the effective date of the FFI agreement, the amount or value withdrawn or transferred from the account in connection with closure; and

(*3*) The account number of the account.

* * * * *

■ **Par. 7.** Section 1.1471–4T is amended by revising paragraphs (b)(3)(iii), (d)(2)(ii)(F), (d)(2)(iii)(B) introductory text, and (d)(7)(iv)(B) to read as follows:

§ 1.1471–4T FFI agreement (temporary).

* * * * *

(b) * * *

(3) * * *

(iii) *Election to withhold under section 3406.* A participating FFI may elect to satisfy its withholding obligation under paragraph (b)(1) of this section with respect to recalcitrant account holders that are also U.S. non-exempt recipients subject to backup withholding under section 3406 receiving withholdable payments, to the extent that the payments also constitute reportable payments, by applying withholding under section 3406 at the backup withholding rate to such withholdable payments. A participating FFI may make the election described in this paragraph only if it complies with the information reporting rules under chapter 61 with respect to payments to which backup withholding applies. Nothing in this paragraph relieves a participating FFI of its requirement to backup withhold under section 3406 with respect to reportable payments that are not also withholdable payments. See § 1.1474–6(f) for the general rule that satisfying withholding requirements under chapter 4 will satisfy backup withholding requirements under section 3406 for a payment that is both a withholdable payment and a reportable payment.

* * * * *

(d) * * *

(2) * * *

(ii) * * *

(F) *Reporting by participating FFIs (including QIs, WPs, WTs, and certain U.S. branches not treated as U.S. persons) for accounts of nonparticipating FFIs (transitional).* Except as otherwise provided in the instructions to Form 8966, ''FATCA Report,'' if a participating FFI (including a QI, WP, WT, or U.S. branch of a participating FFI or registered deemed-compliant FFI that is not treated as a U.S. person) maintains an account for a nonparticipating FFI (including a limited branch and limited FFI treated as a nonparticipating FFI), the participating FFI must report on Form 8966 the name and address of the nonparticipating FFI, and the aggregate amount of foreign source payments, as described in paragraph (d)(4)(iv) of this section, paid to or with respect to each such account (foreign reportable amount) for each of the calendar years 2015 and 2016. If, however, the participating FFI is prohibited under domestic law from reporting on a specific payee basis without consent from the nonparticipating FFI account holder and the participating FFI has not been able to obtain such consent, the participating FFI may instead report the aggregate number of accounts held by such non-consenting nonparticipating FFIs and the aggregate amount of foreign reportable amounts paid with respect to such accounts, as described in paragraph (d)(4)(iv) of this section, during the calendar year. A participating FFI may, in lieu of reporting only foreign reportable amounts, report all income, gross proceeds, and redemptions (irrespective of the source) paid to the nonparticipating FFI's account by the participating FFI during the calendar year. In addition, the participating FFI must retain the account statements related to such nonparticipating FFI accounts. See paragraphs (d)(6)(iv), (v), (vi) and (vii) of this section for rules relating to reporting on recalcitrant account holders. Form 8966 shall be filed electronically with the IRS on or before March 31 of the year following the end of the calendar year to which the form relates.

(iii) * * *

(B) *Special reporting rules for U.S. branches treated as U.S. persons.* A U.S. branch treated as a U.S. person (as defined in § 1.1471–1(b)(135)) shall be treated as having satisfied the reporting requirements described in paragraph (d)(2)(i) of this section if it reports under—

* * * * *

(7) * * *

(iv) * * *

(B) *Special determination date and timing for reporting with respect to the 2014 calendar year.* With respect to the 2014 calendar year, a participating FFI must report under paragraph (d)(3) or (5) of this section on all accounts that are identified and documented under paragraph (c) of this section as U.S. accounts or accounts held by owner-documented FFIs as of December 31, 2014, (or as of the date an account is closed if the account is closed prior to December 31, 2014) if such account was outstanding on July 1, 2014. Reporting for the 2014 calendar year shall be filed with the IRS on or before March 31, 2015. However, a U.S. payor (including a U.S. branch treated as a U.S. person (as defined in § 1.1471–1(b)(135))) that reports in accordance with paragraph (d)(2)(iii) of this section may report all or a portion of its U.S. accounts and accounts held by owner-documented FFIs in accordance with the dates otherwise applicable to reporting under chapter 61 with respect to the 2014 calendar year.

* * * * *

■ **Par. 8.** Section 1.1471–5T is amended by revising paragraph (f)(2)(iii) introductory text and the heading of paragraph (i), removing paragraph (i) introductory text, and revising paragraph (i)(1) to read as follows:

§ 1.1471–5T Definitions applicable to section 1471 (temporary).

* * * * *

(f) * * *

(2) * * *

(iii) *Sponsored, closely held investment vehicles.* Subject to the provisions of paragraph (f)(2)(iii)(E) of this section, an FFI is described in this paragraph (f)(2)(iii) if it meets the requirements described in paragraphs (f)(2)(iii)(A) through (D) of this section.

* * * * *

(i) *Expanded affiliated group*—(1) *Scope of paragraph.* This paragraph (i) defines the term *expanded affiliated group* for purposes of chapter 4. For the requirements of a participating FFI with respect to members of its expanded affiliated group that are FFIs, see § 1.1471–4(e).

* * * * *

■ **Par. 9.** Section 1.1471–6T is amended by revising paragraph (h)(2) to read as follows:

§ 1.1471–6T Payments beneficially owned by exempt beneficial owners (temporary).

* * * * *

(h) * * *

(2) *Limitation.* Paragraph (h)(1) of this section will not apply to treat an exempt beneficial owner as engaged in a commercial financial activity if—

(i) The entity undertakes commercial financial activity described in paragraph (h)(1) of this section solely for or at the direction of other exempt beneficial owners and such commercial financial activity is consistent with the purposes of the entity;

(ii) The entity has no outstanding debt that would be a financial account under § 1.1471–5(b)(1)(iii); and

(iii) The entity otherwise maintains financial accounts only for exempt beneficial owners, or, in the case of a foreign central bank of issue as described in paragraph (d), the entity only maintains financial accounts that are depository accounts for current or former employees of the entity (and the spouses and children of such employees) or financial accounts for exempt beneficial owners.

* * * * *

■ **Par. 10.** Section 1.1472–1T is amended by revising paragraphs (c)(1)(ii) and (c)(3)(iii) to read as follows:

§ 1.1472–1T Withholding on NFFEs (temporary).

* * * * *

(c) * * *

(1) * * *

(ii) *Certain affiliated entities related to a publicly traded corporation.* A NFFE is described in this paragraph (c)(1)(ii) if it is a corporation that is a member of the same expanded affiliated group (as defined in § 1.1471–5(i)) as a corporation described in paragraph (c)(1)(i) of this section (without regard to whether such corporation is a NFFE).

* * * * *

(3) * * *

(iii) The NFFE must obtain a written certification (contained on a withholding certificate or in a written statement) from each person that would be treated as a substantial U.S. owner of the NFFE if such person were a specified U.S. person. Such written certification must indicate whether the person is a substantial U.S. owner of the NFFE, and if so, the name, address and TIN of the person. If the NFFE has reason to know that such written certification is unreliable or incorrect, it must contact the person and request a revised written certification. If no revised written certification is received, the NFFE must treat the person as a substantial U.S. owner and report on Form 8966 the information required under paragraph (c)(3)(ii) of this section. The NFFE has reason to know that such a written certification is unreliable or incorrect if the certification is inconsistent with information in the NFFE's possession, including information that the NFFE provides to a financial institution in order for the financial institution to meet its AML or other account identification due diligence procedures with respect to the NFFE's account, information that is publicly available, or U.S. indicia as described in § 1.1441–7(b) for which appropriate documentation sufficient to cure the U.S. indicia in the manner set forth in § 1.1441–7(b)(8) has not been obtained.

* * * * *

■ **Par. 11.** Section 1.1473–1T is amended by revising paragraphs (a)(4)(vi) and (a)(4)(vii) to read as follows:

§ 1.1473–1T Section 1473 definitions (temporary).

(a) * * *

(4) * * *

(vi) *Offshore payments of U.S. source FDAP income prior to 2017 (transitional).* A payment with respect to an offshore obligation (as defined in § 1.1471–1(b)(88)) made prior to January 1, 2017, if such payment is U.S. source FDAP income and made by a person that is not acting as an intermediary or as a WP or WT with respect to the payment. Additionally, a payment with respect to an account, obligation, contract, or other instrument that is issued or maintained by an entity other than a financial institution and that would be treated as an offshore obligation under § 1.6049–5(c)(1) (applied by substituting the term *entity* for the term *financial institution (as defined in § 1.1471–5(e))* in each place that it appears), made prior to January 1, 2017, if such payment is U.S. source FDAP and made by a person that is not acting as an intermediary or as a WP or WT with respect to the payment is not a withholdable payment under paragraph (a)(1) of this section. The exception for offshore payments of U.S. source FDAP income provided in the preceding sentences shall not apply, however, in the case of a flow-through entity that has a residual withholding requirement with respect to its partners, owners, or beneficiaries under § 1.1471–2(a)(2)(ii), or in the case of payments made with respect to debt or equity issued by a U.S. person (excluding interest payments made by a foreign branch of a U.S. financial institution with respect to depository accounts it maintains). For purposes of this paragraph (a)(4)(vi), an intermediary includes a person that acts as a qualified securities lender as defined for purposes of chapter 3 and does not include a person acting as an insurance broker with respect to premiums.

(vii) *Collateral arrangements prior to 2017 (transitional).* A payment made prior to January 1, 2017, by a secured party, or to a secured party other than a nonparticipating FFI, with respect to collateral securing one or more transactions under a collateral arrangement, provided that only a commercially reasonable amount of collateral is held by the secured party (or by a third party for the benefit of the secured party) as part of the collateral arrangement. For purposes of this paragraph (a)(4)(vii), the term *transaction* generally includes a debt instrument, a derivative financial instrument (including a notional principal contract, future, forward, and option), and any securities lending transaction, sale-repurchase transaction, margin loan, or substantially similar transaction that is subject to a collateral arrangement. Solely for purposes of this paragraph (a)(4)(vii), a secured party may provide documentation to the withholding agent indicating that it is the beneficial owner of a payment described in this paragraph (a)(4)(vii), and a withholding agent may rely on such certification for purposes of its requirements under § 1.1471–3(d) for determining whether withholding under chapter 4 applies.

* * * * *

■ **Par. 12.** Section 1.1474–1T is amended by revising paragraphs (d)(4)(iii)(C), (i)(1)(i), (i)(1)(ii), (i)(1)(iii)(C), (i)(2) introductory text, and (i)(2)(iii) to read as follows:

§ 1.1474–1T Liability for withheld tax and withholding agent reporting (temporary).

* * * * *

(d) * * *

(4) * * *

(iii) * * *

(C) *Reporting by a U.S. branch treated as a U.S. person.* A U.S. branch treated as a U.S. person (as defined in § 1.1471–1(b)(135)) must report amounts paid to recipients on Forms 1042–S in the same manner as a U.S. withholding agent under paragraph (d)(4)(i) of this section.

* * * * *

(i) * * *

(1) * * *

(i) Beginning on July 1, 2014, if a withholding agent (other than an FFI reporting accounts held by owner-

documented FFIs under § 1.1471–4(d)) makes a withholdable payment to an entity account holder or payee of an obligation and the withholding agent treats the entity as an owner-documented FFI under § 1.1471–3(d)(6), the withholding agent is required to report for July 1 through December 31, 2014, with respect to each specified U.S. person identified in § 1.1471–3(d)(6)(iv)(A)(*1*) and (*2*) the information described in paragraph (i)(1)(iii) of this section.

(ii) Beginning in calendar year 2015, if a withholding agent (other than an FFI reporting accounts held by owner-documented FFIs under § 1.1471–4(d)) makes during a calendar year a withholdable payment to an entity account holder or payee of an obligation and the withholding agent treats the entity as an owner-documented FFI under § 1.1471–3(d)(6), the withholding agent is required to report for such calendar year with respect to each specified U.S. person identified in § 1.1471–3(d)(6)(iv)(A)(*1*) and (*2*) the information described in paragraph (i)(1)(iii) of this section.

(iii) * * *

(C) For the period from July 1 through December 31, 2014, the total of all withholdable payments made to the owner-documented FFI and with respect to payments made after the 2014 calendar year the total of all withholdable payments made to the owner-documented FFI during the calendar year;

* * * * *

(2) *Reporting by certain withholding agents with respect to U.S. owned foreign entities that are NFFEs.* Beginning on July 1, 2014, in addition to the reporting on Form 1042–S required under paragraph (d)(4)(i)(E) of this section, a withholding agent (other than an FFI reporting accounts held by NFFEs under § 1.1471–4(d)) that makes a withholdable payment to, and receives information about any substantial U.S. owners of, a NFFE that is not an excepted NFFE as defined in § 1.1472–1(c) shall file a report with the IRS for the period from July 1 through December 31, 2014, and in each subsequent calendar year in which a withholdable payment is made with respect to any substantial U.S. owners of such NFFE. Such report must be made on Form 8966 (or such other form as the IRS may prescribe) and filed on or before March 31 of the calendar year following the year in which the withholdable payment was made. The IRS shall grant an automatic 90-day extension of time in which to file Form 8966. Form 8809, ''Request for Extension of Time to File Information Returns,'' (or such other form as the IRS may prescribe) must be used to request such extension of time and must be filed no later than the due date of Form 8966. Under certain hardship conditions, the IRS may grant an additional 90-day extension. A request for extension due to hardship must contain a statement of the reasons for requesting the extension and such other information as the form or instructions may require. The report must contain the following information—

* * * * *

(iii) For the period from July 1, 2014 through December 31, 2014, the total of all withholdable payments made to the NFFE and, with respect to payments made after the 2014 calendar year, the total of all withholdable payments made to the NFFE during the calendar year; and

* * * * *

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2014–15465 Filed 6–30–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 31

[TD 9658]

RIN 1545–BL18

Withholding of Tax on Certain U.S. Source Income Paid to Foreign Persons, Information Reporting and Backup Withholding on Payments Made to Certain U.S. Persons, and Portfolio Interest Treatment; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final and temporary regulations (TD 9658), which were published in the **Federal Register** on Thursday, March 6, 2014 (79 FR 12726). The regulations relate to the withholding of tax on certain U.S. source income paid to foreign persons, information reporting and backup withholding with respect to payments made to certain U.S. persons, and portfolio interest paid to nonresident alien individuals and foreign corporations.

DATES: *Effective Date:* These corrections are effective on July 1, 2014, and are applicable on March 6, 2014.

FOR FURTHER INFORMATION CONTACT: John Sweeney, (202) 317–6942 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under sections 871, 1441, 1461, 6041, and 6049 of the Code and the Employment Tax Regulations (26 CFR part 31) under section 3406 of the Code. The final and temporary regulations that are the subject of these corrections are §§ 1.871–14, 1.871–14T, 1.1441–1, 1.1441–1T, 1.1441–5T, 1.1441–6T, 1.1441–7T, 1.1461–1, 1.1461–1T, 1.6041–1, 1.6049–4T, 1.6049–5T, 31.3406(g)-1T, and 31.3406(h)-2T. These regulations affect persons making payments of U.S. source income to foreign persons, persons making payments to certain U.S. persons subject to reporting and backup withholding, and foreign persons claiming the exclusion from tax provided for portfolio interest.

Need for Correction

As published, the final and temporary regulations contain a number of items that need to be corrected or clarified. Several citations and cross references are corrected. The correcting amendments also include the addition, deletion, or modification of regulatory language to clarify the relevant provisions to meet their intended purposes or for consistency with other related provisions of these regulations. The addition of final regulatory language only includes language that was inadvertently removed in the final and temporary regulations.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Correction of Publication

Accordingly, 26 CFR parts 1 and 31 are corrected by making the following correcting amendments:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.871–14 is amended by revising paragraphs (c)(2) through (c)(3)(i) to read as follows:

§ 1.871–14 Rules relating to repeal of tax on interest of nonresident alien individuals and foreign corporations received from certain portfolio debt investments.

* * * * *

(c) * * *

(2) through (c)(2)(iv) [Reserved]. For further guidance, see § 1.871–14T(c)(2) through (c)(2)(iv).

(v) The U.S. person receives a statement from a securities clearing organization, a bank, or another financial institution that holds customers' securities in the ordinary course of its trade or business. In such case the statement must be signed under penalties of perjury by an authorized representative of the financial institution and must state that the institution has received from the beneficial owner a withholding certificate described in § 1.1441–1(e)(2)(i) (a Form W–8 or an acceptable substitute form as defined § 1.1441–1(e)(4)(vi)) or that it has received from another financial institution a similar statement that it, or another financial institution acting on behalf of the beneficial owner, has received the Form W–8 from the beneficial owner. In the case of multiple financial institutions between the beneficial owner and the U.S. person, this statement must be given by each financial institution to the one above it in the chain. No particular form is required for the statement provided by the financial institutions. However, the statement must provide the name and address of the beneficial owner, and a copy of the Form W–8 provided by the beneficial owner must be attached. The statement is subject to the same rules described in § 1.1441–1(e)(4) that apply to intermediary Forms W–8 described in § 1.1441–1(e)(3)(iii). If the information on the Form W–8 changes, the beneficial owner must so notify the financial institution acting on its behalf within 30 days of such changes, and the financial institution must promptly so inform the U.S. person. This notice also must be given if the financial institution has actual knowledge that the information has changed but has not been so informed by the beneficial owner. In the case of multiple financial institutions between the beneficial owner and the U.S. person, this notice must be given by each financial institution to the institution above it in the chain.

(vi) The U.S. person complies with procedures that the U.S. competent authority may agree to with the competent authority of a country with which the United States has an income tax treaty in effect.

(3) [Reserved]. For further guidance, see § 1.871–14T(c)(3).

(i) [Reserved]. For further guidance, see § 1.871–14T(c)(3)(i).

* * * * *

■ **Par. 3.** Section 1.871–14T is amended by adding paragraphs (c)(2)(v) and (vi) to read as follows:

§ 1.871–14T Rules relating to repeal of tax on interest of nonresident alien individuals and foreign corporations received from certain portfolio debt investments (temporary).

* * * * *

(c) * * *

(2) * * *

(v) and (vi) [Reserved]. For further guidance, see § 1.871–14(c)(2)(v) and (vi).

* * * * *

■ **Par. 4.** Section 1.1441–1 is amended by revising paragraph (b)(2)(vii) and the introductory text of paragraph (e)(4)(ii)(B) to read as follows:

§ 1.1441–1 Requirement for the deduction and withholding of tax on payments to foreign persons.

* * * * *

(b) * * *

(2) * * *

(vii) *Rules for reliably associating a payment with a withholding certificate or other appropriate documentation*—(A) *Generally.* The presumption rules of paragraph (b)(3) of this section and §§ 1.1441–5(d) and (e)(6) and 1.6049–5(d) apply to any payment, or portion of a payment, that a withholding agent cannot reliably associate with valid documentation. Generally, a withholding agent can reliably associate a payment with valid documentation if, prior to the payment, it holds valid documentation (either directly or through an agent), it can reliably determine how much of the payment relates to the valid documentation, and it has no actual knowledge or reason to know that any of the information, certifications, or statements in, or associated with, the documentation are incorrect. Special rules apply for payments made to intermediaries, flow-through entities, and certain U.S. branches. See paragraph (b)(2)(vii)(B) through (F) of this section. The documentation referred to in this paragraph (b)(2)(vii) is documentation described in paragraphs (c)(16) and (17) of this section upon which a withholding agent may rely to treat the payment as a payment made to a payee or beneficial owner, and to ascertain the characteristics of the payee or beneficial owner that are relevant to withholding or reporting under chapter 3 of the Internal Revenue Code and the regulations thereunder. A withholding agent that is not required to obtain documentation with respect to a payment is considered to lack documentation for purposes of this paragraph (b)(2)(vii). For example, a withholding agent paying U.S. source interest to a person that is an exempt recipient, as defined in § 1.6049–4(c)(1)(ii), is not required to obtain documentation from that person in order to determine whether an amount paid to that person is reportable under an applicable information reporting provision under chapter 61 of the Internal Revenue Code. The withholding agent must, however, treat the payment as made to an undocumented person for purposes of chapter 3 of the Internal Revenue Code. Therefore, the presumption rules of paragraph (b)(3)(iii) of this section apply to determine whether the person is presumed to be a U.S. person (in which case, no withholding is required under this section), or whether the person is presumed to be a foreign person (in which case 30-percent withholding is required under this section). See paragraph (b)(3)(v) of this section for special reliance rules in the case of a payment to a foreign intermediary and § 1.1441–5(d) and (e)(6) for special reliance rules in the case of a payment to a flow-through entity.

(B) through (F) [Reserved]. For further guidance, see § 1.1441–1T(b)(2)(vii)(B) through (F).

* * * * *

(e) * * *

(4) * * *

(ii) * * *

(B) [Reserved]. For further guidance, see § 1.1441–1T(e)(4)(ii)(B).

* * * * *

■ **Par. 5.** Section 1.1441–1T is amended by:

■ 1. Correcting the language ''§ 1.1471–1(b)(16)'' in the eighth sentence of paragraph (b)(2)(iv)(A) to read ''§ 1.1471–1(b)(18)''.

■ 2. Correcting the language ''paragraphs (e)(5)(iv)(C)(*1*) and (*2*)'' in the last sentence of paragraph (b)(2)(vii)(C)(*1*) to read ''paragraphs (e)(5)(v)(C)(*1*) and (*2*)''.

■ 3. Revising paragraphs (e)(2)(ii), (e)(3)(ii)(A), (e)(3)(ii)(D), (e)(3)(iii)(A), (e)(3)(iii)(D), (e)(3)(iv)(C)(*2*)(*i*), (e)(3)(iv)(C)(*2*)(*iv*), (e)(3)(iv)(D)(*2*)(*ii*).

■ 4. Correcting the language ''paragraph (c)(3)(iv)(D)(*2*)(*ii*)'' in the first sentence of paragraph (e)(3)(iv)(D)(*3*) to read ''paragraph (e)(3)(iv)(D)(*2*)(*ii*)''.
■ 5. Correcting the language ''§ 1.1471–1(d)(2)'' in the last sentence of paragraph (e)(3)(iv)(D)(*6*) to read ''§ 1.1474–1(d)(2)''.
■ 6. Revising paragraphs (e)(3)(v)(A), (e)(3)(v)(C), (e)(3)(v)(D), (e)(4)(ii)(B) introductory text, (e)(4)(ii)(B)(*2*), and (e)(4)(ix)(C)(*1*).
■ 7. At the end of paragraphs (e)(4)(iv)(C) and (e)(4)(ix)(D), adding the language ''Notwithstanding the effective date of this section, the provisions of this paragraph apply for payments made on or after March 6, 2014.''
■ 8. Revising paragraphs (e)(5)(ii)(A), (e)(5)(iv), (e)(5)(v)(C)(*1*), and (e)(5)(v)(C)(*2*)(*i*).

The revisions read as follows:

§ 1.1441–1T Requirement for the deduction and withholding of tax on payments to foreign persons (temporary).

* * * * *

(e) * * *

(2) * * *

(ii) *Requirements for validity of certificate.* A beneficial owner withholding certificate is valid for purposes of a payment of an amount subject to chapter 3 withholding only if it is provided on a Form W–8, or a Form 8233 in the case of personal services income described in § 1.1441–4(b) or certain scholarship or grant amounts described in § 1.1441–4(c) (or a substitute form described in paragraph (e)(4)(vi) of this section or such other form as the IRS may prescribe). A Form W–8 is valid only if its validity period has not expired, it is signed under penalties of perjury by the beneficial owner, and it contains all of the information required on the form. The required information is the beneficial owner's name, permanent residence address (as defined in § 1.1441–1(c)(38)), TIN (if required), a certification that the person is not a U.S. citizen (if the person is an individual) or a certification of the country under the laws of which the beneficial owner is created, incorporated, or governed (if a person other than an individual), the classification of the entity, and such other information as may be required by the regulations under section 1441 or by the form or accompanying instructions in addition to, or in lieu of, the information described in this paragraph (e)(2)(ii) (including when a foreign TIN and an individual's date of birth are required). A beneficial owner withholding certificate must also include the chapter 4 status of a beneficial owner when required for chapter 4 purposes in order to be valid. See paragraph (e)(4)(vii) of this section for circumstances in which a TIN is required on a beneficial owner withholding certificate.

* * * * *

(3) * * *

(ii) * * *

(A) The name, permanent residence address, qualified intermediary employer identification number (QI–EIN), and the country under the laws of which the intermediary is created, incorporated, or governed. If required for purposes of chapter 4 or if the qualified intermediary is a participating FFI or registered deemed-compliant FFI and certifies that it is providing (or will provide) a chapter 4 withholding rate pool of U.S. payees under § 1.6049–4(c)(4) with respect to accounts that the qualified intermediary maintains, the withholding certificate must also include the chapter 4 status of the qualified intermediary and its GIIN (if applicable). See paragraph (e)(5)(ii) for the chapter 4 status required of a qualified intermediary, including when a qualified intermediary withholding certificate may include a chapter 4 status of limited FFI (as defined in § 1.1471–1(b)(77)). A qualified intermediary that does not act in its capacity as a qualified intermediary must not use its QI–EIN. Rather, the intermediary should provide a nonqualified intermediary withholding certificate, if it is acting as an intermediary, and should use the taxpayer identification number (if any) and GIIN (if applicable) that it uses for all other purposes;

* * * * *

(D) A certification that the qualified intermediary meets the requirements of § 1.6049–4(c)(4) when the qualified intermediary provides (or will provide) a withholding statement associated with its Form W–8 that allocates a payment to a chapter 4 withholding rate pool of U.S. payees that hold accounts with the qualified intermediary. Additionally, when the qualified intermediary provides a chapter 4 withholding rate pool of U.S. payees that do not hold accounts maintained by the qualified intermediary, the qualified intermediary provides a certification on the Form W–8 that the qualified intermediary has obtained (or will obtain) documentation from the intermediary or flow through entity allocating the payment to the pool to establish that the entity's status is as a participating FFI, registered deemed-compliant FFI, or qualified intermediary under § 1.1471–3(d)(4) (or, as applicable, § 1.1471–3(e)(4)(vi)(B) or § 1.1441–1(b)(2)(vii)); and

* * * * *

(iii) * * *

(A) The name and permanent resident address of the nonqualified intermediary, chapter 4 status (if required for chapter 4 purposes or if the nonqualified intermediary provides the certification described in paragraph (e)(3)(iii)(D) of this section,), GIIN (if applicable), and the country under the laws of which the nonqualified intermediary is created, incorporated, or governed;

* * * * *

(D) If the nonqualified intermediary provides a withholding statement associated with the Form W–8 allocating a payment to a chapter 4 withholding rate pool of U.S. payees, a certification that the nonqualified intermediary meets the requirements of § 1.6049–4(c)(4) with respect to any payees included in such pool that hold accounts maintained (as defined in § 1.1471–5(b)(5)) by the nonqualified intermediary; and

* * * * *

(iv) * * *

(C) * * *

(*2*) * * *

(*i*) The withholding statement must include the chapter 4 status (using the applicable status code used for filing Form 1042–S) and GIIN (when required for chapter 4 purposes under § 1.1471–3(d)) of each other intermediary or flow-through entity that is a foreign person and that receives the payment, excluding an intermediary or flow-through entity that is an account holder of or interest holder in a withholding foreign partnership, withholding foreign trust, or qualified intermediary;

* * * * *

(*iv*) For a payment allocated to a payee that is a foreign person (other than a person included in a chapter 4 withholding rate pool described in paragraphs (e)(3)(iv)(C)(*2*)(*ii*) and (*iii*) of this section) that is reported on a withholding statement described in § 1.1471–3(c)(3)(iii)(B)(*2*) or (c)(3)(iii)(B)(*3*), the withholding statement must include the chapter 4 status of the payee (unless an exception applies for purposes of providing such status under chapter 4) and, for a payee other than an individual, the recipient code for chapter 4 purposes used for filing Form 1042–S.

(D) * * *

(*2*) * * *

(*ii*) *Withholding rate pools for chapter 4 purposes.* This paragraph (e)(3)(iv)(D)(*2*)(*ii*) modifies the provisions of paragraph

(e)(3)(iv)(D)(*2*)(*i*) of this section with respect to the withholding rate pools permitted for the alternative procedures described in paragraph (e)(3)(iv)(D)(*1*) of this section in the case of a payment that is allocable on a withholding statement to a chapter 4 withholding rate pool as described in this paragraph. In the case of a withholdable payment, a nonqualified intermediary may include reportable amounts allocable to a chapter 4 withholding rate pool (other than a chapter 4 withholding rate pool of U.S. payees) in a 30-percent rate pool together with a withholding rate pool for amounts subject to chapter 3 withholding at the 30-percent rate. For a payment of a reportable amount that is allocable to a chapter 4 withholding rate pool of U.S. payees on a withholding statement, a nonqualified intermediary may include such amount in a single withholding rate pool with the amount of the payment that is exempt from withholding under chapter 3 instead of providing documentation regarding U.S. non-exempt recipients included in the pool or separately allocating the amount to the chapter 4 withholding rate pool. To the extent that a nonqualified intermediary allocates an amount to any chapter 4 withholding rate pool, the nonqualified intermediary is required to notify the withholding agent of the allocation before receiving the payment and is not required to provide documentation with respect to the payees included in such pool. The nonqualified intermediary shall determine the chapter 4 withholding rate pools permitted to be used under this paragraph (e)(3)(iv)(D)(*2*)(*ii*) in accordance with the nonqualified intermediary's applicable chapter 4 status and under § 1.1471–3(c)(3)(iii)(B)(*2*) (for an FFI withholding statement) or (c)(3)(iii)(B)(*3*) (for a chapter 4 withholding statement) or under § 1.6049–4(c)(4) for a chapter 4 withholding rate pool of U.S. payees (or similar applicable coordination rule in chapter 61 for payments other than interest). Additionally, the nonqualified intermediary shall identify those payees to which withholding under chapter 4 applies that are not included in a chapter 4 reporting pool (including payees that could be included in a chapter 4 withholding rate pool for whom the nonqualified intermediary chooses to provide payee specific information).

* * * * *

(v) * * *

(A) The name of the territory financial institution or person of which the U.S. branch is a part, the address of the territory financial institution or U.S. branch, and, for a withholding certificate provided by a U.S. branch, a certification that the person of which the branch is a part is a participating FFI, registered deemed-compliant FFI, or NFFE;

* * * * *

(C) The EIN of the U.S. branch or territory financial institution;

(D) When required for chapter 4 purposes, the chapter 4 status and GIIN (if applicable) of the entity of which the U.S. branch is a part; and

* * * * *

(4) * * *

(ii) * * *

(B) *Indefinite validity period.* Notwithstanding paragraph (e)(4)(ii)(A) of this section, the following certificates (or parts of certificates) and documentary evidence described in paragraphs (e)(4)(ii)(B)(*1*) through (*11*) of this section shall remain valid until a change in circumstances makes the information on the documentation incorrect under paragraph (e)(4)(ii)(D)(*3*). See, however, § 1.1471–3(c)(6)(ii) for when a withholding certificate or documentary evidence remains valid (or is subject to renewal) when also provided with respect to a withholdable payment made to an entity (including an intermediary) for purposes of whether a withholding agent may continue to rely on the entity's claim of chapter 4 status. Additionally, the provisions of paragraphs (e)(4)(ii)(B)(*1*), (*2*), and (*12*) of this section do not apply to documentary evidence or a withholding certificate furnished prior to July 1, 2014. (For documentary evidence or a withholding certificate furnished after December 31, 2000, and before July 1, 2014, see this section as in effect and contained in 26 CFR part 1, as revised April 1, 2013.)

* * * * *

(*2*) A beneficial owner withholding certificate (other than the portion of the certificate making a claim for treaty benefits) described in § 1.1471–3(c)(6)(ii)(C)(*2*) and documentary evidence provided by an entity supporting the entity's claim of foreign status when both are provided together.

* * * * *

(ix) * * *

(C) * * *

(*1*) *Withholding agent as agent.* A withholding agent that acts on behalf of a principal may rely upon documentation (or copies of documentation) obtained from the principal, and, with respect to a principal that is a U.S. withholding agent, a qualified intermediary (when acting as such for determining a payee's status), or a withholding foreign partnership or withholding foreign trust with respect to a partner, owner, or beneficiary in the partnership or trust, the withholding agent may rely upon certification provided by the principal for purposes of determining a payee's chapter 3 status. Thus an agent (such as a paying agent or transfer agent) may not rely upon a certification provided by a principal that is a participating FFI but is not also a qualified intermediary, withholding foreign partnership, or withholding foreign trust for purposes of this section, even though it may rely on the certification when provided solely for purposes of chapter 4 under § 1.1471–3(c)(9)(iv).

* * * * *

(5) * * *

(ii) * * *

(A) A foreign financial institution that is a participating FFI (including a reporting Model 2 FFI), a registered deemed-compliant FFI (including a reporting Model 1 FFI), an FFI treated as a deemed-compliant FFI under an applicable IGA that is subject to due diligence and reporting requirements with respect to its U.S. accounts similar to those applicable to a registered deemed-compliant FFI under § 1.1471–5(f)(1), excluding a U.S. branch of any of the foregoing entities, or any other category of FFI identified in a qualified intermediary agreement as eligible to act as a qualified intermediary;

* * * * *

(iv) *Assignment of primary withholding responsibility.* Any person who meets the definition of a withholding agent under § 1.1441–7(a) (for payments subject to chapter 3 withholding) and § 1.1473–1(d) (for withholdable payments) (whether a U.S. person or a foreign person) is required to withhold and deposit any amount withheld under §§ 1.1461–1(a) and 1.1474–1(b) and to make the returns prescribed by §§ 1.1461–1(b) and (c), and by 1.1474–1(c), and (d). Under its qualified intermediary agreement, a qualified intermediary may, however, inform a withholding agent from which it receives a payment that it will assume the primary obligation to withhold, deposit, and report amounts under chapters 3 and 4 of the Internal Revenue Code and/or under chapter 61 of the Internal Revenue Code and section 3406. For assuming withholding obligations as described in the previous sentence, a qualified intermediary that assumes primary withholding responsibility for payments made to an account under chapter 3 is also required to assume primary withholding responsibility under chapter 4 for

payments made to the account that are withholdable payments. Additionally, a qualified intermediary may represent that it assumes chapter 61 reporting and section 3406 obligations for a payment when the qualified intermediary meets the requirements to have provided a chapter 4 withholding rate pool of U.S. payees with respect to the payment under § 1.6049–4(c)(4)(iii) had the qualified intermediary not assumed these obligations. If a withholding agent makes a payment of an amount subject to withholding under chapter 3, a reportable payment (as defined in section 3406(b)), or a withholdable payment to a qualified intermediary that represents to the withholding agent that it has assumed primary withholding responsibility for the payment, the withholding agent is not required to withhold on the payment. The withholding agent is not required to determine that the qualified intermediary actually performs its primary withholding responsibilities. A qualified intermediary that assumes primary withholding responsibility under chapters 3 and 4 or primary reporting and backup withholding responsibility under chapter 61 and section 3406 is not required to assume primary withholding responsibility for all accounts it has with a withholding agent but must assume primary withholding responsibility for all payments made to any one account that it has with the withholding agent.

(v) * * *

(C) * * *

(*1*) *In general.* Except to the extent it has assumed both primary withholding responsibility under chapters 3 and 4 of the Internal Revenue Code and primary reporting and backup withholding responsibility under chapter 61 and section 3406 with respect to a payment, a qualified intermediary shall provide as part of its withholding statement the chapter 3 withholding rate pool information that is required for the withholding agent to meet its withholding and reporting obligations under chapters 3 and 61 of the Internal Revenue Code and section 3406. See, however, paragraph (e)(5)(v)(C)(*2*) of this section for when a qualified intermediary may provide a chapter 4 withholding rate pool (as described in paragraph (c)(48) of this section) with respect to a payment that is a withholdable payment. A chapter 3 withholding rate pool is a payment of a single type of income, determined in accordance with the categories of income reported on Form 1042–S, that is subject to a single rate of withholding paid to a payee that is a foreign person and for which withholding under chapter 4 does not apply. A chapter 3 withholding rate pool may be established by any reasonable method on which the qualified intermediary and a withholding agent agree (*e.g.,* by establishing a separate account for a single chapter 3 withholding rate pool, or by dividing a payment made to a single account into portions allocable to each chapter 3 withholding rate pool). A qualified intermediary may include a separate pool for account holders that are U.S. exempt recipients or may include such accounts in a chapter 3 withholding rate pool to which withholding does not apply. The withholding statement must identify the chapter 4 exemption code (as provided in the instructions to Form 1042–S) applicable to the chapter 3 withholding rate pools contained on the withholding statement. To the extent a qualified intermediary does not assume primary reporting and backup withholding responsibility under chapter 61 and section 3406, a qualified intermediary's withholding statement must establish a separate withholding rate pool for each U.S. non-exempt recipient account holder that the qualified intermediary has disclosed to the withholding agent unless the qualified intermediary uses the alternative procedures in paragraph (e)(5)(v)(C)(*3*) of this section or the account holder is a payee that the qualified intermediary is permitted to include in a chapter 4 withholding rate pool of U.S. payees. A qualified intermediary that is a participating FFI or registered deemed-compliant FFI may include a chapter 4 withholding rate pool of U.S. payees on a withholding statement by applying the rules under paragraph (e)(3)(iv)(A) of this section (by substituting ''qualified intermediary'' for ''nonqualified intermediary'') with respect to an account that it maintains (as described in § 1.1471–5(b)(5)) for the payee of the payment. A qualified intermediary shall determine withholding rate pools based on valid documentation that it obtains under its withholding agreement with the IRS, or if a payment cannot be reliably associated with valid documentation, under the applicable presumption rules. If a qualified intermediary has an account holder that is another intermediary (whether a qualified intermediary or a nonqualified intermediary) or a flow-through entity, the qualified intermediary may combine the account holder information provided by the other intermediary or flow-through entity with the qualified intermediary's direct account holder information to determine the qualified intermediary's chapter 3 withholding rate pools and each of the qualified intermediary's chapter 4 withholding rate pools to the extent provided in the agreement described in (e)(5)(iii) of this section.

(*2*) * * *

(*i*) If the qualified intermediary provides a withholding statement described in § 1.1471–3(c)(3)(iii)(B)(*2*) (describing an FFI withholding statement), the withholding statement may include a chapter 4 withholding rate pool with respect to the portion of the payment allocated to a single pool of recalcitrant account holders (without the need to subdivide into the pools described in § 1.1471–4(d)(6)), including both account holders of the qualified intermediary and of any participating FFI, registered deemed-compliant FFI, or other qualified intermediary for whom the first-mentioned qualified intermediary receives the payment, and nonparticipating FFIs (to the extent permitted) in lieu of reporting chapter 3 withholding rate pools with respect to such persons as described in paragraph (e)(5)(v)(C)(*1*) of this section); or

* * * * *

■ **Par. 6.** Section 1.1441–5T is amended by revising paragraphs (c)(2)(iv)(A), (d)(2), (e)(5)(iii)(A), and (e)(6)(ii) to read as follows:

§ 1.1441–5T Withholding on payments to partnerships, trusts, and estates (temporary).

* * * * *

(c) * * *

(2) * * *

(iv) * * *

(A) The name, permanent residence address (as described in § 1.1441–1(e)(2)(ii)), the employer identification number of the partnership, the country under the laws of which the partnership is created or governed, the chapter 4 status of the partnership if required for purposes of chapter 4 or if the partnership provides (or will provide) a withholding statement associated with the Form W–8 allocating a payment to a chapter 4 withholding rate pool of U.S. payees under § 1.6049–4(c)(4) with respect to its partners, and the GIIN of the partnership (if applicable). If the partnership provides (or will provide) a chapter 4 withholding rate pool of U.S. payees as described in the preceding sentence, the partnership must certify to its chapter 4 status as a participating FFI (including a reporting Model 2 FFI) or registered deemed-compliant FFI (including a reporting Model 1 FFI);

* * * * *

(d) * * *

(2) *Determination of partnership status as U.S. or foreign in the absence*

of documentation. In the absence of a valid representation of U.S. partnership status in accordance with paragraph (b)(1) of this section or of foreign partnership status in accordance with paragraph (c)(2)(i) or (c)(3)(i) of this section, the withholding agent shall determine the classification of the payee under the presumptions set forth in § 1.1441–1(b)(3)(ii). If the withholding agent treats the payee as a partnership under § 1.1441–1(b)(3)(ii), the withholding agent shall apply the presumptions set forth in § 1.1441–1(b)(3)(iii)(A)(*1*) (applied by substituting the term *partnership* for the term *exempt recipient*) to determine whether to treat the partnership as a U.S. person or foreign person. For rules regarding reliable association with a withholding certificate from a domestic or a foreign partnership, see § 1.1441–1(b)(2)(vii).

* * * * *

(e) * * *

(5) * * *

(iii) * * *

(A) The name, permanent residence address (as described in § 1.1441–1(e)(2)(ii)), the employer identification number, if required, of the trust, the country under the laws of which the trust is created, the chapter 4 status of the trust if required for purposes of chapter 4 or if the trust provides (or will provide) a withholding statement associated with the Form W–8 allocating a payment to a chapter 4 withholding rate pool of U.S. payees under § 1.6049–4(c)(4) with respect to the nonwithholding foreign trust's owners and beneficiaries, and the GIIN of the trust (if applicable). If a nonwithholding foreign trust provides (or will provide) a chapter 4 withholding rate pool of U.S. payees as described in the preceding sentence, the trust must certify to its chapter 4 status as a participating FFI (including a reporting Model 2 FFI) or registered deemed-compliant FFI (including a reporting Model 1 FFI);

* * * * *

(6) * * *

(ii) *Determination of status as U.S. or foreign trust or estate in the absence of documentation.* In the absence of valid documentation that establishes the U.S. status of a trust or estate under paragraph (b)(1) of this section and of documentation that establishes the foreign status of a trust or estate under paragraph (e)(4) or (e)(5)(iii) of this section, the withholding agent shall determine the classification of the payee based upon the presumptions set forth in § 1.1441–1(b)(3)(ii). If, based upon those presumptions, the withholding agent classifies the payee as a trust or estate, the withholding agent shall apply the presumptions set forth in § 1.1441–1(b)(3)(iii)(A)(*1*) (applied by substituting the term *trust* for the term *exempt recipient*) to determine whether the trust or estate is a U.S. person or foreign person. An undocumented payee presumed to be a foreign trust shall be presumed to be a foreign complex trust. If a withholding agent has documentary evidence that establishes that an entity is a foreign trust, but the withholding agent cannot determine whether the foreign trust is a complex trust, a simple trust, or foreign grantor trust, the withholding agent shall presume that the trust is a foreign complex trust. Notwithstanding the preceding sentence, in the case of a foreign trust with a settlor that is a U.S. person for which a withholding agent has both a U.S. address and TIN, the withholding agent shall presume that the trust is a grantor trust when it cannot determine the status of the trust as a simple trust, complex trust, or grantor trust. See § 1.1471–3(f)(4) and (5) to determine the status of the payee for purposes of chapter 4.

* * * * *

■ **Par. 7.** Section 1.1441–6T is amended by:

■ 1. Revising paragraphs (a) and (b)(1).

■ 2. At the end of paragraph (c)(1), adding the language ''Notwithstanding the effective date of this section, the provisions of this paragraph apply for payments made on or after March 6, 2014.''

The revisions read as follows:

§ 1.1441–6T Claim of reduced withholding under an income tax treaty (temporary).

(a) *In general.* The rate of withholding on a payment of income subject to withholding may be reduced to the extent provided under an income tax treaty in effect between the United States and a foreign country. Most benefits under income tax treaties are to foreign persons who reside in the treaty country. In some cases, benefits are available under an income tax treaty to U.S. citizens or U.S. residents or to residents of a third country. See paragraph (b)(5) of this section for claims of benefits by U.S. persons. If the requirements of this section are met, the amount withheld from the payment may be reduced at source to account for the treaty benefit. See, however, § 1.1471–2(a) and § 1.1472–1(b) for when withholding at source on a withholdable payment may not be reduced to account for a treaty benefit and the beneficial owner of the payment may need to file a claim for refund to obtain a refund for the overwithheld amount of tax. See also § 1.1441–4(b)(2) for rules regarding claims of a reduced rate of withholding under an income tax treaty in the case of compensation from personal services and § 1.1441–4(c)(1) for rules regarding claims of a reduced rate of withholding under an income tax treaty in the case of scholarship and fellowship income.

(b) * * *

(1) *In general.* The withholding imposed under section 1441, 1442, or 1443 on any payment to a foreign person is eligible for reduction under the terms of an income tax treaty only to the extent that such payment is treated as derived by a resident of an applicable treaty jurisdiction, such resident is a beneficial owner, and all other requirements for benefits under the treaty are satisfied. See section 894 and the regulations under section 894 to determine whether a resident of a treaty country derives the income. Absent actual knowledge or reason to know otherwise, a withholding agent may rely on a claim that a beneficial owner is entitled to a reduced rate of withholding based upon an income tax treaty if, prior to the payment, the withholding agent can reliably associate the payment with a beneficial owner withholding certificate, as described in § 1.1441–1(e)(2), that contains the information necessary to support the claim, or, in the case of a payment of income described in paragraph (c)(2) of this section made outside the United States with respect to an offshore obligation, documentary evidence described in paragraphs (c)(3), (c)(4), and (c)(5) of this section. See § 1.6049–5(e) for the definition of payments made outside the United States and § 1.6049–5(c)(1) for the definition of an offshore obligation. For purposes of this paragraph (b)(1), a beneficial owner withholding certificate described in § 1.1441–1(e)(2)(i) contains information necessary to support the claim for a treaty benefit only if it includes the beneficial owner's taxpayer identifying number (except as otherwise provided in paragraph (c)(1) and (g) of this section, or the beneficial owner provides its foreign tax identifying number issued by its country of residence and such country has with the United States an income tax treaty or information exchange agreement in effect) and the representations that the beneficial owner derives the income under section 894 and the regulations under section 894, if required, and meets the limitation on benefits provisions of the treaty, if any. For claims for treaty benefits for scholarship and fellowship income, the beneficial owner withholding certificate must contain the beneficial owner's U.S. taxpayer identifying number (not a foreign taxpayer identifying number).

The withholding certificate must also contain any other representations required by this section and any other information, certifications, or statements as may be required by the form or accompanying instructions in addition to, or in place of, the information and certifications described in this section. Absent actual knowledge or reason to know that the claims are incorrect (applying the standards of knowledge in § 1.1441–7(b)), a withholding agent may rely on the claims made on a withholding certificate or on documentary evidence. A withholding agent may also rely on the information contained in a withholding statement provided under §§ 1.1441–1(e)(3)(iv) and 1.1441–5(c)(3)(iv) and (e)(5)(iv) to determine whether the appropriate statements regarding section 894 and limitation on benefits have been provided in connection with documentary evidence. The Internal Revenue Service (IRS) may apply the provisions of § 1.1441–1(e)(1)(ii)(B) to notify the withholding agent that the certificate cannot be relied upon to grant benefits under an income tax treaty. See § 1.1441–1(e)(4)(viii) regarding reliance on a withholding certificate by a withholding agent. The provisions of § 1.1441–1(b)(3)(iv) dealing with a 90-day grace period shall apply for purposes of this section.

* * * * *

■ **Par. 8.** Section 1.1441–7T is amended by revising paragraphs (b)(2), (b)(3)(i), and (b)(11)(ii) to read as follows:

§ 1.1441–7T General provisions relating to withholding agents (temporary).

* * * * *

(b) * * *

(2) *Reason to know.* A withholding agent shall be considered to have reason to know if its knowledge of relevant facts or of statements contained in the withholding certificates or other documentation is such that a reasonably prudent person in the position of the withholding agent would question the chapter 3 claims made. For an obligation other than a preexisting obligation, a withholding agent will have reason to know that a chapter 3 claim made by the holder of the obligation (account holder) is unreliable or incorrect if any information contained in its account opening files or other files pertaining to the obligation (account information), including documentation collected for purposes of AML due diligence (as defined under § 1.1471–1(b)(4)), conflicts with the account holder's claim. A withholding agent will not, however, be considered to have reason to know that a person's chapter 3 claim is unreliable or incorrect based on documentation collected for AML due diligence until the date that is 30 days after the obligation is executed (or the account is opened for an obligation that is an account with a financial institution).

(3) * * *

(i) *In general.* For purposes of this paragraph (b)(3) and paragraphs (b)(4) through (10) of this section, the terms withholding certificate, documentary evidence, and documentation are defined in § 1.1441–1(c)(16), (17) and (18). Except as otherwise provided in paragraphs (b)(4) through (9) of this section, a withholding agent that is a financial institution under § 1.1471–5(e), an insurance company (without regard to whether such company is a specified insurance company), or a broker or dealer in securities that maintains or opens an account for a beneficial owner (a direct account holder) has reason to know that documentation provided by the direct account holder is unreliable or incorrect only if one or more of the circumstances described in paragraphs (b)(4) through (9) of this section exist. If a direct account holder has provided documentation that is unreliable or incorrect under the rules of paragraph (b)(4) through (9) of this section, the withholding agent may require new documentation. Alternatively, the withholding agent may rely on the documentation originally provided if the rules of paragraphs (b)(4) through (9) of this section permit such reliance based on additional statements and documentation obtained by the withholding agent from the beneficial owner. Paragraph (b)(10) of this section provides rules regarding reason to know for withholding agents that receive beneficial owner documentation from persons (indirect account holders) that have an account relationship with, or an ownership interest in, a direct account holder of the withholding agent. Paragraph (b)(11) of this section provides limitations on a withholding agent's reason to know for multiple obligations held by the same person. Paragraph (b)(12) of this section defines a reasonable explanation provided by an individual with respect to the individual's claim of foreign status. For rules regarding reliance on Form W–9, see § 31.3406(g)–3(e)(2) of this chapter. For payments that are withholdable payments, see § 1.1471–3(e)(3) and (4) for additional rules regarding a withholding agent's reason to know with respect to a payee's claim of chapter 4 status and § 1.1471–3(f) for presumption rules that apply when the claim of chapter 4 status is unreliable or incorrect.

* * * * *

(11) * * *

(ii) The withholding agent has treated the obligations as consolidated obligations for purposes of sharing documentation pursuant to § 1.1441–1(e)(4)(ix).

* * * * *

■ **Par. 9.** Section 1.1461–1 is amended by revising paragraph (i) to read as follows:

§ 1.1461–1 Payments and returns of tax withheld.

* * * * *

(i) *Effective/applicability date.* (1) Unless otherwise provided in this section, this section shall apply to returns required for payments made after December 31, 2000.

(2) [Reserved]. For further guidance, see § 1.1461–1T(i)(2).

■ **Par. 10.** Section 1.1461–1T is amended by:

■ 1. Revising paragraphs (c)(1)(ii)(A)(*6*) and (c)(1)(ii)(B)(*1*).

■ 2. Correcting the language ''(c)(1)(ii)(*9*) or (c)(1)(ii)(*10*)'' in paragraphs (c)(1)(ii)(B)(*3*) and (*4*) to read ''(c)(1)(ii)(A)(*9*) or (c)(1)(ii)(A)(*10*)''.

■ 3. Revising paragraphs (d) through (i).

The revisions read as follows:

§ 1.1461–1T Payments and returns of tax withheld (temporary).

* * * * *

(c) * * *

(1) * * *

(ii) * * *

(A) * * *

(*6*) A nonwithholding foreign partnership or a foreign simple trust as defined in § 1.1441–1(c)(24), but only to the extent the income is (or is treated as) effectively connected with the conduct of a trade or business in the United States by such entity, or if the nonwithholding foreign partnership or foreign simple trust is also described in paragraph (c)(1)(ii)(A)(*9*) or (c)(1)(ii)(A)(*10*) of this section;

* * * * *

(B) * * *

(*1*) A nonqualified intermediary, except with respect to a payment (or portion of a payment) for which a nonqualified intermediary that is an FFI is a recipient reporting as described in § 1.1474–1(d)(1)(ii)(A)(*1*)(*iii*), or if the nonqualified intermediary is also described in paragraph (c)(1)(ii)(A)(*9*) or (c)(1)(ii)(A)(*10*) of this section;

* * * * *

(d) through (i)(1) [Reserved]. For further guidance, see § 1.1461–1(d) through (i)(1).

(2) Unless otherwise provided in this section, this section shall apply to payments made after June 30, 2014.

* * * * *

■ **Par. 11.** Section 1.6041–1 is amended by adding paragraphs (d)(5)(ii)(A) and (B) to read as follows:

§ 1.6041–1 Return of information as to payments of $600 or more.

* * * * *

(d) * * *

(5) * * *

(i) and (ii) * * *

(A) A U.S. payor or U.S. middleman that is not a U.S. person (such as a controlled foreign corporation defined in section 957(a) or certain foreign corporations or foreign partnerships engaged in a U.S. trade or business); or

(B) A foreign branch of a U.S. bank. See § 1.6049–5(c)(5) for a definition of a U.S. payor, a U.S. middleman, a non-U.S. payor, and a non-U.S. middleman.

* * * * *

■ **Par. 12.** Section 1.6049–4T is amended by revising paragraph (c)(4)(i) introductory text and (c)(4)(ii) introductory text to read as follows:

§ 1.6049–4T Return of information as to interest paid and original issue discount includible in gross income after December 31, 1982 (temporary).

* * * * *

(c) * * *

(4) * * *

(i) *U.S. accounts reported by FFIs that are non-U.S. payors.* An information return shall not be required with respect to an interest payment made by a participating FFI (including a reporting Model 2 FFI), or registered deemed-compliant FFI (including a reporting Model 1 FFI), that is a non-U.S. payor (as defined in § 1.6049–5(c)(5)) to an account holder of an account maintained by the FFI, when the payment is not subject to withholding under chapter 4 or to backup withholding under section 3406, and the conditions of paragraphs (c)(4)(i)(A), (B), or (C), as applicable, are met. See paragraph (c)(4)(iii) of this section for circumstances in which an FFI may allocate a payment described in this paragraph (c)(4)(i) to a chapter 4 withholding rate pool of U.S. payees.

* * * * *

(ii) *Other accounts reported by FFIs under chapter 4.* An information return shall not be required under this section with respect to a payment that is not subject to withholding under chapter 3 (as defined in § 1.1441–2(a)) or backup withholding under § 31.3406(g)–1(e) and that is made to a recalcitrant account holder of a participating FFI or registered deemed-compliant FFI (or non-consenting U.S. account of a reporting Model 2 FFI), provided that the FFI reports such account holder in accordance with the classes of account holders described in § 1.1471–4(d)(6) for the year in which the payment is made. See paragraph (c)(4)(iii) of this section for circumstances in which an FFI may allocate a payment described in this paragraph (c)(4)(ii) to a chapter 4 withholding rate pool of U.S. payees. In the case of a payment made by an FFI that is a reporting Model 1 FFI, an information return shall not be required with respect to a payment that is not subject to withholding under chapter 3 or backup withholding under § 31.3406(g)–1(e) and that is made to an account holder of the FFI if the account—

* * * * *

■ **Par. 13.** Section 1.6049–5T is amended by revising paragraph (b)(14) and paragraph (d)(4) *Example 11* to read as follows:

§ 1.6049–5T Interest and original issue discount subject to reporting after December 31, 1982 (temporary).

* * * * *

(b) * * *

(14) Payments that a payor or middleman can, prior to payment, reliably associate with documentation upon which it may rely to treat as made to a foreign intermediary or flow-through entity in accordance with § 1.1441–1(b) if it obtains from the foreign intermediary or flow-through entity a withholding statement under § 1.1471–3(c)(3)(iii)(B)(2) (describing an FFI withholding statement), § 1.1471–3(c)(3)(iii)(B)(3) (describing a chapter 4 withholding statement), § 1.1441–1(e)(3)(iv) (describing a withholding statement provided by a non-qualified intermediary), § 1.1441–1(e)(5)(v) (describing a withholding statement provided by a qualified intermediary), or under § 1.1441–5 (describing a withholding statement provided by a foreign partnership, foreign simple trust, or foreign grantor trust), that allocates the payment (or portion of a payment) to a chapter 4 withholding rate pool or specific payees to which withholding applies under chapter 4. The provisions of each of the foregoing sections shall apply by substituting the term *payor* for the term *withholding agent.* A payor or middleman may rely on a withholding statement provided by a foreign intermediary or flow-through entity that identifies a chapter 4 withholding rate pool of U.S. payees (as described in § 1.6049–4(c)(4)) or, with respect to a withholdable payment, a chapter 4 withholding rate pool of recalcitrant account holders (as described in § 1.1471–4(d)(6)) provided that the payor or middleman identifies the foreign intermediary or flow-through entity that maintains the accounts (as described in § 1.1471–5(b)(5)) included in the chapter 4 withholding rate pool as a participating FFI (including a reporting Model 2 FFI) or registered deemed-compliant FFI (including a reporting Model 1 FFI) by applying the rules in § 1.1471–3(d)(4) or in § 1.1471–3(e)(4)(vi)(B), as applicable, for identifying the payee of a payment (by substituting the term *payor* with the term *withholding agent*). See, however, § 1.1441–1(e)(5)(v)(C)(*2*)(*i*) for when a qualified intermediary may provide a single pool of recalcitrant account holders (without the need to subdivide into the pools described in § 1.1471–4(d)(6)). Additionally, when a foreign intermediary or flow-through entity provides to a payor or middleman a withholding statement that allocates the payment (or portion of a payment) to a chapter 4 withholding rate pool of U.S. payees, the payor or middleman may also rely on the withholding statement if the payor or middleman identifies the intermediary or flow-through entity as a qualified intermediary (as defined in § 1.1441–1(c)(15) by applying the rules described in § 1.1441–1(b)(2)(vii)) that provides the certification described in § 1.1441–1(e)(3)(ii)(D) with respect to U.S. payees that hold accounts with a foreign intermediary or flow-through entity other than the qualified intermediary providing the certification.

* * * * *

(d) * * *

(4) * * *

Example 11. (i) *Facts.* USP is a U.S. payor as defined in paragraph (c)(5) of this section that is a bank. USP pays U.S. source original issue discount from the redemption of an obligation described in section 871(g)(1)(B) to NQI, a foreign corporation that is a nonqualified intermediary as defined in § 1.1441–1(c)(14). The redemption proceeds are not paid outside of the United States as they are paid with respect to an account NQI has with a branch of a bank in the United States. See § 1.6049–5(e)(2). NQI provides a nonqualified intermediary withholding certificate as described in § 1.1441–1(e)(3)(iii) that includes a certification of its status as a registered deemed-compliant FFI but does not attach any payee documentation or a withholding statement described in § 1.1441–1(e)(3)(iv).

(ii) *Analysis.* Under paragraph (d)(3)(ii)(A) of this section, USP must treat the payment as made to an undocumented U.S. payee that is not an exempt recipient and report the payment on Form 1099. Further, because the payment is made inside the United States, the exception to backup withholding with respect to offshore obligations contained in § 31.3406(g)–1(e) of this chapter does not

apply, and the payment is subject to backup withholding.

* * * * *

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

■ **Par. 14.** The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 15.** Section 31.3406(g)–1T is amended by revising paragraph (e) to read as follows:

§ 31.3406(g)–1T Exception for payments to certain payees and certain other payments (temporary).

* * * * *

(e) *Certain reportable payments made outside the United States by foreign persons, foreign offices of United States banks and brokers, and others.* For reportable payments made after June 30, 2014, a payor is not required to backup withhold under section 3406 on a reportable payment that is paid and received outside the United States (as defined in § 1.6049–4(f)(16)) with respect to an offshore obligation (as defined in § 1.6049–5(c)(1)) or on gross proceeds from a sale effected outside the United States (as defined in § 1.6045–1(g)(3)(iii)), unless the payor has actual knowledge that the payee is a United States person. Further, no backup withholding is required on a reportable payment of an amount already withheld upon by a participating FFI (as defined in § 1.1471–1(b)(91)) or another payor in accordance with the withholding provisions under chapters 3 or 4 of the Code and the regulations under those chapters even if the payee is a known U.S. person. For example, a participating FFI is not required to backup withhold on a reportable payment allocable to its chapter 4 withholding rate pool (as defined in § 1.6049–4(f)(5)) of recalcitrant account holders (as described in § 1.6049–4(f)(11)), if withholding was applied to the payment (either by the participating FFI or another payor) pursuant to § 1.1471–4(b) or § 1.1471–2(a). For rules applicable to notional principal contracts, see § 1.6041–1(d)(5) of this chapter. For rules applicable to reportable payments made before July 1, 2014, see this paragraph (e) as in effect and contained in 26 CFR part 1 revised April 1, 2013.)

* * * * *

■ **Par. 16.** Section 31.3406(h)–2T is amended by revising paragraph (i) and adding paragraph (j) to read as follows:

§ 31.3406(h)–2T Special rules (temporary).

* * * * *

(i) *Effective/applicability date.* The provisions of paragraph (a)(3)(i) of this section apply to payments made after June 30, 2014. (For payments made before July 1, 2014, see this section as in effect and contained in 26 CFR part 1 revised April 1, 2013.)

(j) *Expiration date.* The applicability of this section expires on February 28, 2017.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2014–15466 Filed 6–30–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. OSHA–2014–0013; Docket No. OSHA–S048–2006–0674]

Vehicle-Mounted Elevating and Rotating Work Platforms and Logging Operations; Corrections

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Correcting amendments.

SUMMARY: OSHA is correcting typographical errors in its Vehicle-mounted elevating and rotating work platforms and Logging operations standards.

DATES: Effective July 1, 2014.

FOR FURTHER INFORMATION CONTACT: *Press inquiries:* Mr. Frank Meilinger, Director, Office of Communications, OSHA, U.S. Department of Labor, Room N–3647, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–1999; email *meilinger.francis2@dol.gov*.

General and technical information: Mr. Robert Bell, Directorate of Standards and Guidance, Office of Engineering Safety, OSHA, Room N–3621, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2053; email *bell.rb@dol.gov*.

SUPPLEMENTARY INFORMATION:

Background

This notice corrects two typographical errors, one each in OSHA's standards on Vehicle-mounted elevating and rotating work platforms at 29 CFR 1910.67 (39 FR 23502 (6/27/1974))(Docket No. OSHA–2014–0013),[1] and Logging operations at 29 CFR 1910.266 (59 FR 51672 (10/12/1994))(Docket No. OSHA–S048–2006–0674). OSHA believes the standards, as published, may mislead stakeholders; therefore, with this notice, OSHA is correcting these typographical errors.

The first typographical error this notice corrects is the title of a national consensus standards organization referenced in § 1910.67(c)(5). Section 1910.67(c)(5) states that all welding done on vehicle-mounted elevating and rotating work platforms must conform to Automotive Welding Society Standards incorporated by reference in 29 CFR 1910.6. However, as § 1910.6(i) specifies, the correct title of the organization is the American Welding Society Standards. Accordingly, in § 1910.67(c)(5) OSHA replaces ''Automotive'' with ''American.''

The second typographical error this notice corrects is a reference in the Logging operations standard to another OSHA standard. Specifically, § 1910.266(d)(1)(iv), which establishes personal-protective-equipment requirements when logging employees operate chain saws, states that the requirement does not apply to employees who operate chain saws from a vehicle-mounted elevating and rotating work platform that meets the requirements of 29 CFR 1910.68. However, 29 CFR 1910.67, not § 1910.68 (Manlifts), addresses vehicle-mounted elevating and rotating work platforms. Therefore, in § 1910.266(d)(1)(iv), OSHA is inserting § 1910.67 in place of § 1910.68.

List of Subjects in 29 CFR Part 1910

Chain saws, Incorporation by reference, Logging, Occupational safety and health, Safety.

Accordingly, the Occupational Safety and Health Administration is correcting 29 CFR part 1910 by making the following correcting amendments:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

■ 1. Revise the authority citation for subpart F to read as follows:

[1] OSHA adopted 29 CFR 1910.67 pursuant to Section (6)(a) of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651, 655(a)), which allowed the Agency, during the first two years following the effective date of the OSH Act, to adopt as an occupational safety or health standard any national consensus standard or established Federal standard. In 1975, OSHA added new paragraph (c) to § 1910.67 (40 FR 13439 (3/26/1975)). In neither instance did OSHA have a docket number for the rulemaking. Therefore, for the purpose of publishing this notice, OSHA needed to establish a docket number for § 1910.67 (i.e., Docket No. OSHA–2014–0013).

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 5–2007 (72 FR 31159), or 1–2012 (77 FR 3912), as applicable; and 29 CFR part 1911.

■ 2. In § 1910.67, revise paragraph (c)(5) to read as follows:

§ 1910.67 Vehicle-mounted elevating and rotating work platforms.

* * * * *

(c) * * *

(5) ''*Welding standards.''* All welding shall conform to the following American Welding Society (AWS) Standards which are incorporated by reference as specified in § 1910.6, as applicable:

* * * * *

Subpart R—[Amended]

■ 3. Revise the authority citation for subpart R to read as follows:

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order Nos. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable; and 29 CFR part 1911.

■ 4. In § 1910.266, revise paragraph (d)(1)(iv) to read as follows:

§ 1910.266 Logging Operations.

* * * * *

(d) * * *

(1) * * *

(iv) The employer shall provide, at no cost to the employee, and assure that each employee who operates a chain saw wears leg protection constructed with cut-resistant material, such as ballistic nylon. The leg protection shall cover the full length of the thigh to the top of the boot on each leg to protect against contact with a moving chain saw. *Exception:* This requirement does not apply when an employee is working as a climber if the employer demonstrates that a greater hazard is posed by wearing leg protection in the particular situation, or when an employee is working from a vehicular mounted elevating and rotating work platform meeting the requirements of 29 CFR 1910.67.

* * * * *

Signed at Washington, DC, on: June 20, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–15166 Filed 6–30–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 558

South Sudan Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is issuing regulations to implement Executive Order 13664 of April 3, 2014 (''Blocking Property of Certain Persons with Respect to South Sudan''). OFAC intends to supplement this part 558 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy.

DATES: *Effective:* July 1, 2014.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Licensing, tel.: 202/622–2480, Assistant Director for Policy, tel.: 202/622–6746, Assistant Director for Regulatory Affairs, tel.: 202/622–4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, OFAC, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077.

Background

On April 3, 2014, the President issued Executive Order 13664 (79 FR 19283, April 7, 2014) (E.O. 13664), invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA) and the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA).

OFAC is issuing the South Sudan Sanctions Regulations, 31 CFR part 558 (the ''Regulations''), to implement E.O. 13664, pursuant to authorities delegated to the Secretary of the Treasury in E.O. 13664. A copy of E.O. 13664 appears in Appendix A to this part.

The Regulations are being published in abbreviated form at this time for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part 558 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy. The appendix to the Regulations will be removed when OFAC supplements this part with a more comprehensive set of regulations.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. 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 control number.

List of Subjects in 31 CFR Part 558

Administrative practice and procedure, Banking, Banks, Blocking of assets, Brokers, Credit, Foreign Trade, Investments, Loans, Securities, Services, South Sudan.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control adds part 558 to 31 CFR chapter V to read as follows:

PART 558—SOUTH SUDAN SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.
558.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

558.201 Prohibited transactions.
558.202 Effect of transfers violating the provisions of this part.
558.203 Holding of funds in interest-bearing accounts; investment and reinvestment.
558.204 Expenses of maintaining blocked property; liquidation of blocked property.

Subpart C—General Definitions

558.300 Applicability of definitions.
558.301 Blocked account; blocked property.
558.302 Effective date.
558.303 Entity.
558.304 Interest.
558.305 Licenses; general and specific.
558.306 OFAC.
558.307 Person.
558.308 Property; property interest.
558.309 Transfer.
558.310 United States.
558.311 United States person; U.S. person.
558.312 U.S. financial institution.

Subpart D—Interpretations

558.401 [Reserved]
558.402 Effect of amendment.
558.403 Termination and acquisition of an interest in blocked property.
558.404 Transactions ordinarily incident to a licensed transaction.
558.405 Setoffs prohibited.
558.406 Entities owned by a person whose property and interests in property are blocked.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

558.501 General and specific licensing procedures.
558.502 [Reserved]
558.503 Exclusion from licenses.
558.504 Payments and transfers to blocked accounts in U.S. financial institutions.
558.505 Entries in certain accounts for normal service charges authorized.
558.506 Provision of certain legal services authorized.
558.507 Payments for legal services from funds originating outside the United States authorized.
558.508 Authorization of emergency medical services.

Subpart F—[Reserved]

Subpart G—[Reserved]

Subpart H—Procedures

558.801 [Reserved]
558.802 Delegation by the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

558.901 Paperwork Reduction Act notice.
Appendix A to Part 558—Executive Order 13664

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13664, 79 FR 19283, April 7, 2014.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 558.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Note to § 558.101: This part has been published in abbreviated form for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy.

Subpart B—Prohibitions

§ 558.201 Prohibited transactions.

All transactions prohibited pursuant to Executive Order 13664 of April 3, 2014, are also prohibited pursuant to this part.

Note 1 to § 558.201: The names of persons designated pursuant to Executive Order 13664, whose property and interests in property therefore are blocked pursuant to this section, are published in the **Federal Register** and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier ''[SOUTH SUDAN].'' The SDN List is accessible through the following page on OFAC's Web site: *www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in Appendix A to this chapter. *See* § 558.406 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this section.

Note 2 to § 558.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this section also are published in the **Federal Register** and incorporated into the SDN List with the identifier ''[BPI–SOUTH SUDAN]''.

Note 3 to § 558.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to this section.

§ 558.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 558.201, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 558.201, unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, a license or other authorization issued by OFAC before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of this part and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of OFAC each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or

authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with OFAC a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by OFAC; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d) of § 558.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 558.201.

§ 558.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (e) or (f) of this section, or as otherwise directed by OFAC, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 558.201 shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) Funds held or placed in a blocked account pursuant to paragraph (a) of this section may not be invested in instruments the maturity of which exceeds 180 days.

(c) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(d) For purposes of this section, if interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 558.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraphs (a) or (f) of this section.

(f) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 558.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, OFAC may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(h) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 558.201, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 558.204 Expenses of maintaining blocked property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of physical property blocked pursuant to § 558.201 shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 558.201 may, in the discretion of OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

Subpart C—General Definitions

§ 558.300 Applicability of definitions.

The definitions in this subpart apply throughout the entire part.

§ 558.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 558.201 held in the name of a person whose property and interests in property are blocked pursuant to § 558.201, or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from OFAC expressly authorizing such action.

Note to § 558.301: See § 558.406 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 558.201.

§ 558.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part, and, with respect to a person whose property and interests in property are blocked pursuant to § 558.201, is the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

§ 558.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 558.304 Interest.

Except as otherwise provided in this part, the term *interest,* when used with respect to property (*e.g.,* ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 558.305 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part or made available on OFAC's Web site: *www.treasury.gov/ofac.*

(c) The term *specific license* means any license or authorization issued pursuant to this part but not set forth in

subpart E of this part or made available on OFAC's Web site: *www.treasury.gov/ofac.*

Note to § 558.305: *See* § 501.801 of this chapter on licensing procedures.

§ 558.306 OFAC.

The term *OFAC* means the Department of the Treasury's Office of Foreign Assets Control.

§ 558.307 Person.

The term *person* means an individual or entity.

§ 558.308 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 558.309 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, or filing of, or levy of or under, any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 558.310 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 558.311 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§ 558.312 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, or commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 558.401 [Reserved]

§ 558.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by OFAC does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 558.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person whose property and interests in property are blocked pursuant to § 558.201, such property shall no longer be deemed to be property blocked pursuant to § 558.201, unless there exists in the property another interest that is blocked pursuant to § 558.201, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 558.201, such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 558.404 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 558.201; or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 558.405 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 558.201 if effected after the effective date.

§ 558.406 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 558.201 has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 558.201, regardless of whether the name of the entity is incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 558.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. General licenses and statements of licensing policy relating to this part also may be available through the South Sudan sanctions page on OFAC's Web site: *www.treasury.gov/ofac.*

§ 558.502 [Reserved]

§ 558.503 Exclusion from licenses.

OFAC reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. OFAC also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 558.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 558.201 has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

Note to § 558.504: *See* § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. *See also* § 558.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 558.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 558.506 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 558.201 or any further Executive orders relating to the national emergency declared in Executive Order 13664 of April 3, 2014, is authorized, provided that receipt of payment of professional fees and reimbursement of incurred expenses must be specifically licensed or otherwise authorized pursuant to § 558.507:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency;

(3) Initiation and conduct of legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency;

(4) Representation of persons before any U.S. federal, state, or local court or agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 558.201 or any further Executive orders relating to the national emergency declared in Executive Order 13664 of April 3, 2014, not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 558.201 or any further Executive orders relating to the national emergency declared in Executive Order 13664 of April 3, 2014, is prohibited unless licensed pursuant to this part.

Note to § 558.506: U.S. persons seeking administrative reconsideration or judicial review of their designation or the blocking of their property and interests in property may apply for a specific license from OFAC to authorize the release of a limited amount of blocked funds for the payment of legal fees where alternative funding sources are not available. For more information, see OFAC's *Guidance on the Release of Limited Amounts of Blocked Funds for Payment of Legal Fees and Costs Incurred in Challenging the Blocking of U.S. Persons in Administrative or Civil Proceedings,* which is available on OFAC's Web site: *www.treasury.gov/ofac.*

§ 558.507 Payments for legal services from funds originating outside the United States authorized.

Receipts of payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 558.506(a) to or on behalf of any person whose property and interests in property are blocked pursuant to § 558.201 or any further Executive orders relating to the national emergency declared in Executive Order 13664 of April 3, 2014, are authorized from funds originating outside the United States, provided that:

(a) Prior to receiving payment for legal services authorized pursuant to § 558.506(a) rendered to persons whose

property and interests in property are blocked pursuant to § 558.201 or any further Executive orders relating to the national emergency declared in Executive Order 13664 of April 3, 2014, the U.S. person that is an attorney, law firm, or legal services organization provides to OFAC a copy of a letter of engagement or a letter of intent to engage specifying the services to be performed and signed by the individual to whom such services are to be provided or, where services are to be provided to an entity, by a legal representative of the entity. The copy of a letter of engagement or a letter of intent to engage, accompanied by correspondence referencing this paragraph (a), is to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Annex, Washington, DC 20220;

(b) The funds received by U.S. persons as payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 558.506(a) must not originate from:

(1) A source within the United States;

(2) Any source, wherever located, within the possession or control of a U.S. person; or

(3) Any individual or entity, other than the person on whose behalf the legal services authorized pursuant to § 558.506(a) are to be provided, whose property and interests in property are blocked pursuant to any part of this chapter or any Executive order;

Note to paragraph (b) of § 558.507: This paragraph authorizes the blocked person on whose behalf the legal services authorized pursuant to § 558.506(a) are to be provided to make payments for authorized legal services using funds originating outside the United States that were not previously blocked. Nothing in this paragraph authorizes payments for legal services using funds in which any other person whose property and interests in property are blocked pursuant to § 558.201, any other part of this chapter, or any Executive order has an interest.

(c) *Reports.* (1) U.S. persons who receive payments in connection with legal services authorized pursuant to § 558.506(a) must submit quarterly reports no later than 30 days following the end of the calendar quarter during which the payments were received providing information on the funds received. Such reports shall specify:

(i) The individual or entity from whom the funds originated and the amount of funds received; and

(ii) If applicable:

(A) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with authorized legal services, such as private investigators or expert witnesses;

(B) A general description of the services provided; and

(C) The amount of funds paid in connection with such services.

(2) In the event that no transactions occur or no funds are received during the reporting period, a statement is to be filed to that effect; and

(3) The reports, which must reference this section, are to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Annex, Washington, DC 20220.

Note to § 558.507: U.S. persons who receive payments in connection with legal services authorized pursuant to § 558.506(a) do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses, or to pay for such services. Additionally, U.S. persons do not need to obtain specific authorization to provide related services that are ordinarily incident to the provision of legal services authorized pursuant to § 558.506(a).

§ 558.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 558.201 or any further Executive orders relating to the national emergency declared in Executive Order 13664 of April 3, 2014, is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subpart F—[Reserved]

Subpart G—[Reserved]

Subpart H—Procedures

§ 558.801 [Reserved]

§ 558.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13664 of April 3, 2014, and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of OFAC or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 558.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, *see* § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Appendix A to Part 558—Executive Order 13664

Executive Order 13664 of April 3, 2014

Blocking Property of Certain Persons with Respect to South Sudan

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), section 212(f) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(f)), and section 301 of title 3, United States Code,

I, BARACK OBAMA, President of the United States of America, find that the situation in and in relation to South Sudan, which has been marked by activities that threaten the peace, security, or stability of South Sudan and the surrounding region, including widespread violence and atrocities, human rights abuses, recruitment and use of child soldiers, attacks on peacekeepers, and obstruction of humanitarian operations, poses an unusual and extraordinary threat to the national security and foreign policy of the United States, and I hereby declare a national emergency to deal with that threat. I hereby order:

Section 1. (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person (including any foreign branch) of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(i) To be responsible for or complicit in, or to have engaged in, directly or indirectly, any of the following in or in relation to South Sudan:

(A) Actions or policies that threaten the peace, security, or stability of South Sudan;

(B) actions or policies that threaten transitional agreements or undermine democratic processes or institutions in South Sudan;

(C) actions or policies that have the purpose or effect of expanding or extending the conflict in South Sudan or obstructing reconciliation or peace talks or processes;

(D) the commission of human rights abuses against persons in South Sudan;

(E) the targeting of women, children, or any civilians through the commission of acts of violence (including killing, maiming, torture, or rape or other sexual violence), abduction,

forced displacement, or attacks on schools, hospitals, religious sites, or locations where civilians are seeking refuge, or through conduct that would constitute a serious abuse or violation of human rights or a violation of international humanitarian law;

(F) the use or recruitment of children by armed groups or armed forces in the context of the conflict in South Sudan;

(G) the obstruction of the activities of international peacekeeping, diplomatic, or humanitarian missions in South Sudan, or of the delivery or distribution of, or access to, humanitarian assistance; or

(H) attacks against United Nations missions, international security presences, or other peacekeeping operations;

(ii) to be a leader of (A) an entity, including any government, rebel militia, or other group, that has, or whose members have, engaged in any of the activities described in subsection (a)(i) of this section or (B) an entity whose property and interests in property are blocked pursuant to this order;

(iii) to have materially assisted, sponsored, or provided financial, material, logistical, or technological support for, or goods or services in support of (A) any of the activities described in subsection (a)(i) of this section or (B) any person whose property and interests in property are blocked pursuant to this order; or

(iv) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

(b) The prohibitions in subsection (a) of this section apply except to the extent provided in this order and by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the date of this order.

Sec. 2. I hereby determine that the making of donations of the type of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to section 1 of this order would seriously impair my ability to deal with this national emergency, and I hereby prohibit such donations as provided by section 1 of this order.

Sec. 3. The prohibitions in section 1 of this order include but are not limited to:

(a) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(b) the receipt of any contribution or provision of funds, goods, or services from any such person.

Sec. 4. I hereby find that the unrestricted immigrant and nonimmigrant entry into the United States of aliens determined to meet one or more of the criteria in section 1(a) of this order would be detrimental to the interests of the United States, and I hereby suspend entry into the United States, as immigrants or nonimmigrants, of such persons. Such persons shall be treated as persons covered by section 1 of Proclamation 8693 of July 24, 2011 (Suspension of Entry of Aliens Subject to United Nations Security Council Travel Bans and International Emergency Economic Powers Act Sanctions).

Sec. 5. (a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 6. For the purposes of this order:

(a) the term ''person'' means an individual or entity;

(b) the term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization; and

(c) the term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Sec. 7. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing this national emergency, there need be no prior notice of a listing or determination made pursuant to section 1 of this order.

Sec. 8. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 9. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to submit the recurring and final reports to the Congress on the national emergency declared in the order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

Sec. 10. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

The White House,
Dated: April 3, 2014.

Barack Obama.

Dated June 26, 2014.

Barbara C. Hammerle,

Acting Director, Office of Foreign Assets Control.

Approved:

Dated: June 26, 2014.

David S. Cohen,

Under Secretary, Office of Terrorism and Financial Intelligence, Department of the Treasury.

[FR Doc. 2014–15415 Filed 6–30–14; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0475]

Drawbridge Operation Regulation; Sacramento River, Isleton, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Isleton Drawbridge across Sacramento River, mile 18.7, at Isleton, CA. The deviation is necessary to allow the bridge owner to make critical repairs to the bridge deck. This deviation allows the bridge to open with 15 minutes advance notice during the deviation period.

DATES: This deviation is effective from 10 p.m. on June 27, 2014, until 5 a.m. on June 30, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0475], is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

SUPPLEMENTARY INFORMATION: The California Department of Transportation (Caltrans) has requested a temporary change to the operation of the Isleton Drawbridge, mile 18.7, over Sacramento River, at Isleton, CA. The drawbridge

navigation span provides 15 feet vertical clearance above Mean High Water in the closed-to-navigation position. The draw opens on signal from May 1 through October 31 from 6 a.m. to 10 p.m. and from November 1 through April 30 from 9 a.m. to 5 p.m. At all other times the draw shall open on signal if at least four hours notice is given to the drawtender at the Rio Vista bridge across the Sacramento River, mile 12.8, as required by 33 CFR 117.189(a). Navigation on the waterway is commercial and recreational.

During the deviation period, either leaf of the double bascule drawspan will require 15 minutes to raise it to the fully open position. The other leaf will be secured open. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies upon 15 minutes advance notice and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: June 17, 2014.

D.H. Sulouff,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2014–15289 Filed 6–27–14; 11:15 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2014–0514]

Drawbridge Operation Regulation; Pequonnock River, Bridgeport, CT

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the operation of the Stratford Avenue Bridge across the Pequonnock River, mile 0.1, at Bridgeport, Connecticut. The deviation is necessary to allow the bridge to remain in the closed position for scheduled maintenance at the bridge.

DATES: This deviation is effective from 10 a.m. on July 15, 2014 through 4 p.m. on July 18, 2014.

ADDRESSES: The docket for this deviation, [USCG–2014–0514] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140, on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Ms. Judy Leung-Yee, Project Officer, First Coast Guard District, *judy.k.leung-yee@uscg.mil*, or (212)668–7165. If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The Stratford Avenue Bridge has a vertical clearance of 8 feet at mean high water. The existing drawbridge operating regulations are found at 33 CFR 117.219(a).

The City of Bridgeport, requested a bridge closure to facilitate replacement of the transformer at the bridge.

Under this temporary deviation, the Stratford Avenue Bridge may remain in the closed position between 10 a.m. and 4 p.m. on July 15, 2014. In the event of inclement weather the rain dates are July 16, 2014, through July 18, 2014. Vessels that can pass under the bridge in the closed position may do so at all times.

The Pequonnock River supports seasonal recreational vessel traffic and one commercial operator. There are no alternate routes. The bridge can't be opened in the event of an emergency.

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

Dated: June 20, 2014.

C.J. Bisignano,

Supervisory Bridge Management Specialist, First Coast Guard District.

[FR Doc. 2014–15456 Filed 6–30–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0464]

Safety Zone; San Francisco Giants Fireworks, San Francisco Bay, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the San Francisco Giants Fireworks display in the Captain of the Port, San Francisco area of responsibility during the dates and times noted below. This action is necessary to protect life and property of the maritime public from the hazards associated with the fireworks display. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191, Table 1, Item number 1 will be enforced from 11 a.m. to 10:30 p.m. on July 2, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Lieutenant Junior Grade Joshua Dykman, U.S. Coast Guard Sector San Francisco; telephone (415) 399–3585 or email at *D11-PF-MarineEvents@uscg.mil*.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones established in 33 CFR 165.1191, Table 1, Item number 1 on July 2, 2014. From 11 a.m. until 10 p.m. on July 2, 2014 the safety zone applies to the navigable waters around and under the fireworks barge within a radius of 100 feet during the loading, transit, and arrival of the fireworks barge at the launch site and until the start of the fireworks display. From 11 a.m. until 8:30 p.m. on July 2, 2014 the fireworks barge will be loading pyrotechnics at Pier 50 in San Francisco, CA. From 8:30 p.m. to 8:40 p.m. on July 2, 2014 the loaded fireworks barge will transit from Pier 50 to the launch site near Pier 48 in approximate position 37°46′40″ N, 122°22′58″ W (NAD83). At the conclusion of the baseball game, approximately 10 p.m. on July 2, 2014, the safety zone will increase in size and encompass the navigable waters around and under the fireworks barge within a radius of 700 feet in approximate

position 37°46′40″ N, 122°22′58″ W (NAD83) for the San Francisco Giants Fireworks display in 33 CFR 165.1191, Table 1, Item number 1. Upon the conclusion of the fireworks display the safety zone shall terminate. This safety zone will be in effect from 11 a.m. to 10:30 p.m. on July 2, 2014.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order or direction. The PATCOM is empowered to forbid entry into and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

This document is issued under authority of 33 CFR 165.1191 and 5 U.S.C. 552 (a). In addition to this notice in the **Federal Register,** the Coast Guard will provide the maritime community with extensive advance notification of the safety zone and its enforcement period via the Local Notice to Mariners.

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: June 13, 2014.

Gregory G. Stump,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2014–15288 Filed 6–30–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0063]

Safety Zones; Annual Firework Displays Within the Captain of the Port, Puget Sound Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zones for annual firework displays in the Captain of the Port, Puget Sound Zone during the dates and times noted in this document. This action is necessary to prevent injury and to protect life and property of the maritime public from the hazards associated with the firework displays. During the enforcement periods, entry into, transit through, mooring, or anchoring within these safety zones is prohibited unless authorized by the Captain of the Port, Puget Sound or their Designated Representative.

DATES: The regulations in 33 CFR 165.1332 will be enforced during the dates and times noted in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email MST2 Kenneth Hoppe, Sector Puget Sound Waterways Management, Coast Guard; telephone 206–217–6051, *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

The Coast Guard will enforce the safety zones established for Annual Fireworks Displays within the Captain of the Port, Puget Sound Area of Responsibility in 33 CFR 165.1332 during the dates and times noted below.

The following safety zones will be enforced from 5 p.m. on July 3, 2014 through 1 a.m. on July 4, 2014:

Event name	Location	Latitude	Longitude	Radius
Boston Harbor 4th of July	Boston Harbor	47°08.626′ N	122°54.149′ W	100 yds.
Alderbrook Resort & Spa Fireworks	Hood Canal	47°21.033′ N	122°04.1′ W	200 yds.
Liberty Bay Fireworks	Liberty Bay	47°43.917′ N	122°39.133′ W	350 yds.

The following safety zones will be enforced from 5 p.m. on July 4, 2014 through 1 a.m. on July 5, 2014.

Event name	Location	Latitude	Longitude	Radius
Port Angeles Chamber of Commerce	Port Angeles Harbor	48°07.033′ N	123°24.967′ W	150 yds.
Sheridan Beach Community	Lake Forest Park	47°44.783′ N	122°16.917′ W	200 yds.
Brewster Fire Department Fireworks	Brewster	48°05.362′ N	119°47.147′ W	250 yds.
City of Mount Vernon Fireworks	Edgewater Park	48°25.178′ N	122°20.424′ W	150 yds.
Tacoma Freedom Fair	Commencement Bay	47°17.103′ N	122°28.410′ W	300 yds.
City of Renton Fireworks	Renton, Lake Washington	47°30.386′ N	122°12.502′ W	100 yds.
Des Moines Fireworks	Des Moines	47°24.117′ N	122°20.033′ W	150 yds.
Vashon Island Fireworks	Quartermaster Harbor	47°24.0′ N	122°27.0′ W	450 yds.
City of Kenmore Fireworks	Lake Forest Park	47°45.25′ N	122°15.75′ W	150 yds.
Yarrow Point Community	Yarrow Point	47°38.727′ N	122°13.466′ W	150 yds.
Kirkland Fireworks	Kirkland, Lake Washington	47°40.583′ N	122°12.84′ W	250 yds.
Three Tree Point Community Fireworks.	Three Tree Point	47°27.033′ N	122°23.15′ W	200 yds.
Kingston Fireworks	Appletree Cove	47°47.65′ N	122°29.917′ W	150 yds.
Bainbridge Island Fireworks	Eagle Harbor	47°37.142′ N	122°30.397′ W	350 yds.
City of Anacortes Fireworks	Fidalgo Bay	48°30.016′ N	122°36.154′ W	200 yds.
Port Orchard Independence Day Fireworks.	Port Orchard Bay	47°32.883′ N	122°37.917′ W	350 yds.
Orcas Island Fireworks	Orcas Island	48°41.317′ N	122°54.467′ W	200 yds.
Everett 4th of July Fireworks	Port Gardner	48°0.672′ N	122°13.391′ W	300 yds.
Roche Harbor Fireworks	Roche Harbor	48°36.7′ N	123°09.5′ W	200 yds.
Fireworks Display	Henderson Bay	47°21.8′ N	122°38.367′ W	300 yds.
Blast Over Bellingham	Bellingham Bay	48°44.933′ N	122°29.667′ W	300 yds.

Event name	Location	Latitude	Longitude	Radius
Deer Harbor Annual Fireworks Display.	Deer Harbor	48°37.0′ N	123°00.25′ W	150 yds.

The following safety zone will be enforced from 5 p.m. on July 5, 2014 through 1 a.m. on July 6, 2014:

Event name	Location	Latitude	Longitude	Radius
Langlie's Old Fashioned Independence Celebration.	Indianola	47°44.817′ N	122°31.533′ W	300 yds.

The following safety zone will be enforced from 5:00 p.m. on July 12, 2014 through 1:00 a.m. on July 13, 2014:

Event name	Location	Latitude	Longitude	Radius
Mercer Island Celebration	Mercer Island	47°35.517′ N	122°13.233′ W	250 yds.

The following safety zone will be enforced from 5 p.m. on July 25, 2014 through 1 a.m. on July 26, 2014:

Event name	Location	Latitude	Longitude	Radius
Whaling Days	Dyes Inlet	47°38.65′ N	122°41.35′ W	350 yds.

The following safety zone will be enforced from 5 p.m. on July 26, 2014 through 1 a.m. on July 27, 2014:

Event name	Location	Latitude	Longitude	Radius
Port Ludlow Fireworks	Port Ludlow	47°55.161′ N	122°41.157′ W	150 yds.

The following safety zone will be enforced from 5 p.m. on August 2, 2014 through 1 a.m. on August 3, 2014:

Event name	Location	Latitude	Longitude	Radius
Seattle Seafair	Lake Washington	47°34.75′ N	122°38.033′ W	300 yds.

The following safety zone will be enforced from 5 p.m. on August 9, 2014 through 1 a.m. on August 10, 2014:

Event name	Location	Latitude	Longitude	Radius
Medina Days	Medina Park	47°36.867′ N	122°14.5′ W	150 yds.

The special requirements listed in 33 CFR 165.1332, which can be found in the **Federal Register** (75 FR 33700) published on June 15, 2010, apply to the activation and enforcement of these safety zones. All vessel operators who desire to enter the safety zone must obtain permission from the Captain of the Port or their Designated Representative by contacting the Coast Guard Sector Puget Sound Joint Harbor Operations Center (JHOC) on VHF Ch 13 or Ch 16 or via telephone at (206) 217–6002.

The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

This notice is issued under authority of 33 CFR 165.1332 and 33 CFR 165 and 5 U.S.C. 552(a). In addition to this

notice, the Coast Guard will provide the maritime community with extensive advance notification of the safety zones via the Local Notice to Mariners and marine information broadcasts on the day of the events.

Dated: June 13, 2014.

M.W. Raymond,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 2014–15290 Filed 6–30–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2014–0283]

RIN 1625–AA00

Safety Zone: San Francisco Independence Day Fireworks Display, San Francisco Bay, San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zones in the navigable waters of the San Francisco Bay near Aquatic Park in support of San Francisco Independence Day Fireworks Display on July 4, 2014. These safety zones are established to ensure the safety of participants and spectators from the dangers associated with pyrotechnics. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zones without permission of the Captain of the Port or their designated representative.

DATES: This rule is effective on July 3 and 4, 2014. This rule will be enforced from 9 a.m. on July 3, 2014 through 10:15 p.m. on July 4, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2014–0283. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Junior Grade Joshua Dykman, U.S. Coast Guard Sector San Francisco; telephone (415) 399–3585 or email at *D11-PF-MarineEvents@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.''

Under 5 U.S.C. 553(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**. The Coast Guard received the information about the revised location of the fireworks display on June 2, 2014, and the fireworks display would occur before the rulemaking process would be completed. Because of the dangers posed by the pyrotechnics used in this fireworks display, the safety zones are necessary to provide for the safety of event participants, spectators, spectator craft, and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

B. Basis and Purpose

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

San Francisco Travel Association will sponsor the San Francisco Independence Day Fireworks Display on July 4, 2014, near Aquatic Park in San Francisco, CA in approximate positions 37°48′49″ N, 122°24′46″ W and 37°48′39″ N, 122°25′37″ W (NAD83) as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18650. These safety zones establish a temporary restricted area on the waters 100 feet surrounding the fireworks barges during the loading, transit and arrival of the pyrotechnics from the loading site to the launch sites and until the commencement of the fireworks display. Upon the commencement of the fireworks display, the safety zones will increase in size and encompass the navigable waters around the fireworks barges within a radius of 700 feet. The fireworks display is meant for entertainment purposes. This restricted area around the fireworks barges is necessary to protect spectators, vessels, and other property from the hazards associated with pyrotechnics.

C. Discussion of the Final Rule

The Coast Guard will enforce the San Francisco Independence Day Fireworks Display safety zones from 9 a.m. on July 3, 2014 through 10:15 p.m. on July 4, 2014.

During the loading of the fireworks barges, while the barges are being towed to the display location, and until the start of the fireworks display, the safety zones apply to the navigable waters around and under the fireworks barges within a radius of 100 feet. Loading of the pyrotechnics onto the fireworks barges is scheduled to take place from 9 a.m. until 2 p.m. on July 3, 2014, and will take place at Pier 50 in San Francisco, CA. Towing of the barges from Pier 50 to the display locations is scheduled to take place from 8 p.m. until 8:45 p.m. on July 4, 2014. Upon the commencement of the 25 minute fireworks display, scheduled to take place from 9:30 p.m. until 9:55 p.m. on July 4, 2014, the safety zones will increase in size and encompass the navigable waters around and under the fireworks barges within a radius of 700 feet and the will be located 1,000 feet off of Pier 39 in approximate position 37°48′49″ N, 122°24′46″ W (NAD 83) and 900 feet off the Municipal Pier in approximate location 37°48′39″ N, 122°25′37″ W (NAD 83) for the San Francisco Independence Day Fireworks Display. At the conclusion of the fireworks display the safety zones shall terminate.

The effect of the temporary safety zones will be to restrict navigation in the vicinity of the launch site until the conclusion of the scheduled display. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the restricted areas. These regulations are needed to keep spectators and vessels away from the immediate vicinity of the launch sites to ensure the

safety of participants, spectators, and transiting vessels.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

We expect the economic impact of this rule will not rise to the level of necessitating a full Regulatory Evaluation. The safety zone is limited in duration, and is limited to a narrowly tailored geographic area. In addition, although this rule restricts access to the waters encompassed by the safety zone, the effect of this rule will not be significant because the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the safety zone will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

2. Impact on Small Entities

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

This rule may affect owners and operators of waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities and sightseeing. These safety zones would not have a significant economic impact on a substantial number of small entities for the following reasons. These safety zones would be activated, and thus subject to enforcement, for a limited duration. When the safety zones are activated, vessel traffic could pass safely around the safety zones. The maritime public will be advised in advance of these safety zones via Broadcast Notice to Mariners.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National

Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone of limited size and duration. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3707; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165–T11–641 to read as follows:

§ 165–T11–641 Safety zone; San Francisco Independence Day Fireworks Display, San Francisco Bay, San Francisco, CA.

(a) *Location.* These temporary safety zones are established in the navigable waters of the San Francisco Bay near Aquatic Park in San Francisco, CA as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18650. From 9 a.m. on July 3, 2014 until 9:30 p.m. on July 4, 2014, the temporary safety zones apply to the nearest point of the fireworks barge within a radius of 100 feet during the loading, transit, and arrival of the fireworks barge from Pier 50 to the launch sites near Aquatic Park in approximate positions 37°48′49″ N, 122°24′46″ W and 37°48′39″ N, 122°25′37″ W (NAD83). From 9:30 p.m. until 10:15 p.m. on July 4, 2014, the temporary safety zone will increase in size and encompass the navigable waters around and under the fireworks barge in approximate position 37°48′49″ N, 122°24′46″ W and 37°48′39″ N, 122°25′37″ W (NAD83) within a radius of 700 feet.

(b) *Enforcement period.* The zone described in paragraph (a) of this section will be enforced from 9 a.m. on July 3, 2014 until 10:15 p.m. on July 4, 2014. The Captain of the Port San Francisco (COTP) will notify the maritime community of periods during which this zone will be enforced via Broadcast Notice to Mariners in accordance with 33 CFR 165.7.

(c) *Definitions.* As used in this section, ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer on a Coast Guard vessel or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zones.

(d) *Regulations.* (1) Under the general regulations in 33 CFR Part 165, Subpart C, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the COTP or a designated representative.

(2) The safety zones are closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zones must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zones must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zone on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

Dated: June 13, 2014.

Gregory G. Stump,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2014–15308 Filed 6–30–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0485]

RIN 1625–AA00

Safety Zones; Fireworks Displays in Captain of the Port Puget Sound Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing safety zones in Holmes Harbor, Agate Pass, Puget Sound near Steilacoom, WA, Lake Union near Seattle, WA, and Friday Harbor for various summer fireworks displays. The safety zones are necessary to help ensure the safety of the maritime public during the displays and will do so by prohibiting all persons and vessels from entering the safety zones unless authorized by the Captain of the Port or his designated representative.

DATES: This rule is effective from July 1, 2014 until July 06, 2014. This rule will be enforced on the dates and times listed in this document.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014– 0485]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST2 Kenneth W. Hoppe, Coast Guard Sector Puget Sound, Waterways Management Division; telephone (206) 217–6051, email *SectorPugetSoundWWM@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.''

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed

rulemaking (NPRM) with respect to this rule because to do so would be impracticable due to the insufficient time available for notice and opportunity to comment prior to the dates of the actual events and the inability for the events to be rescheduled. In addition, delayed promulgation may result in injury or damage to persons and vessels from the hazards associated with the fireworks displays.

B. Basis and Purpose

(a) Coast Guard Captains of the Port are granted authority to establish safety and security zones in 33 CFR 1.05–1(f) for safety and environmental purposes as described in 33 CFR Part 165.

(b) Fireworks displays create hazardous conditions for the maritime public because of the large number of vessels that congregate near the displays as well as the noise, falling debris, and explosions that occur during the event. Safety zones are necessary in order to prevent vessels from congregating in the proximity of firework discharge sites to ensure maritime public safety.

C. Discussion of the Final Rule

This rule establishes five safety zones for the following firework displays: Freeland Celebrate America Festival on July 3, 2014 in Holmes Harbor near Freeland, WA; Port Madison Fireworks on July 4, 2014 in Agate Pass, Southwest of Suquamish, WA; Steilacoom 4th of July Celebration on July 4, 2014 in Puget Sound near Steilacoom, WA; Seattle Seafair 4th of July on July 4, 2014 in Lake Union in Seattle, WA; San Juan Island Independence Day Celebration on July 4, 2014 in Friday Harbor near Friday Harbor, WA; and Sheridan Beach Community Club Fireworks on July 4, 2014 in Lake Union near Lake Forest Park, WA. All persons and vessels will be prohibited from entering the safety zones during the dates and times they are effective unless authorized by the Captain of the Port or his Designated Representative.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit through the established safety zones during the times of enforcement. This rule will not have a significant economic impact on a substantial number of small entities because the temporary safety zones are minimal in size and short in duration, maritime traffic will be able to transit around them and may be permitted to transit within them with permission from the Captain of the Port or his designated representative.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of

Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T13.273 to read as follows:

§ 165.T13.273 Safety Zones; Fireworks Displays in Captain of the Port Puget Sound Zone.

(a) *Location.* The following areas are designated as safety zones:

(1) *Freeland Celebrate America Festival, Holmes Harbor, Freeland, WA:* All waters encompassed within a 150 yard radius around position 48°1′2.89″ N, 122°31′51.98″ W.

(2) *Port Madison Fireworks, Agate Pass, Suquamish, WA:* All waters encompassed within a 300 yard radius around position 47°42′27.60″ N, 122°34′12.00″ W.

(3) *Steilacoom 4th of July Celebration, Puget Sound North of Steilacoom, WA:* All waters encompassed within a 300 yard radius around position 47°10′42.46″ N, 122°35′46.49″ W.

(4) *Seattle Seafair 4th of July, Lake Union, Seattle, WA:* All waters encompassed within a 300 yard radius around position 47°38′24.85″ N, 122°20′3.81″ W.

(5) *San Juan Island Independence Day Celebration, Friday Harbor, Friday Harbor, WA:* All waters encompassed within a 200 yard radius around position 48°32′28.26″ N, 123°0′42.84″ W.

(b) *Regulations.* In accordance with the general regulations in 33 CFR part 165, Subpart C, no person or vessel may enter or remain in the safety zone created by this section without the permission of the Captain of the Port or his designated representative. Designated representatives are Coast Guard Personnel authorized by the Captain of the Port to grant persons or vessels permission to enter or remain in the safety zone created by this section.

(c) *Enforcement period.* The safety zones created by this section will be enforced as follows:

(1) *Freeland Celebrate America Festival, Holmes Harbor, Freeland, WA:* 5 p.m. on July 3, 2014 until 1 a.m. on July 4, 2014.

(2) *Port Madison Fireworks, Agate Pass, Suquamish, WA:* 5 p.m. on July 4, 2014 until 1 a.m. on July 5, 2014.

(3) *Steilacoom 4th of July Celebration, Puget Sound North of Steilacoom, WA:* 5 p.m. on July 4, 2014 until 1 a.m. on July 5, 2014.

(4) *Seattle Seafair 4th of July, Lake Union, Seattle, WA:* 5 p.m. on July 4, 2014 until 1 a.m. on July 5, 2014.

(5) *San Juan Island Independence Day Celebration, Friday Harbor, Friday Harbor, WA:* 5 p.m. on July 4, 2014 until 1 a.m. on July 5, 2014.

Dated: June 13, 2014.

M.W. Raymond,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 2014–15311 Filed 6–30–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0511]

RIN 1625–AA00

Safety Zone, Delaware River; Chester, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Delaware River in Chester, PA, from 9 p.m. to 10:15 p.m. on July 12, 2014. The safety zone will restrict vessel traffic on the Delaware River while a fireworks event is taking place. This safety zone is necessary to protect the public and vessels in the surrounding area from the hazards associated with a fireworks display.

DATES: This rule is effective from July 1, 2014 through July 12, 2014. It will be enforced from 9 p.m. to 10:15 p.m. on July 12, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0511]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email If you have questions on this

temporary rule, call or email Lieutenant Brennan Dougherty, U.S. Coast Guard, Sector Delaware Bay, Chief Waterways Management Division, Coast Guard; telephone (215) 271–4851, email *Brennan.P.Dougherty@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because allowing this event to go forward without a safety zone in place is contrary to the public interest and would expose mariners and the public to unnecessary dangers associated with fireworks displays. For the same reasons, we find under 5 U.S.C. 553(d) that we have good cause to make the rule effective less than 30 days after publication.

B. Basis and Purpose

On July 12, 2014, fireworks will be launched from a barge with a fall out zone that covers part of Delaware River. The Captain of the Port, Sector Delaware Bay, has determined that the Philadelphia Union Soccer Game at PPL Park Fireworks Display will pose significant risks to the public. The purpose of the rule is to promote public and maritime safety during a fireworks display, and to protect mariners transiting the area from the potential hazards associated with a fireworks display, such as accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone in the waters of the Delaware River in Philadelphia, PA, from 9 p.m. to 10:15 p.m. on July 12, 2014. The safety zone will encompass all waters just south of the Commodore Barry Bridge within a 350 yard radius of the fireworks barge located at latitude 39°49′47.04″ N longitude 075°22′40.72″ W in Chester, PA. During enforcement of the safety zone, all persons and vessels will be prohibited from entering, transiting, mooring, or remaining within the zone, unless specifically authorized by the Captain of the Port Delaware Bay, or her designated representative. Those persons authorized to transit through the safety zone shall abide by and follow all directions provided by the Captain of the Port Delaware Bay, or her designated representative, in order to ensure they are not disrupting the fireworks display. U.S. Coast Guard Sector Delaware Bay will notify the public by broadcast notice to mariners at least one hour prior to the times of enforcement.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation will restrict access to the regulated area, the effect of this rule will not be significant because: (i) The Coast Guard will make extensive notification of the Safety Zone to the maritime public via maritime advisories so mariners can alter their plans accordingly; (ii) vessels may still be permitted to transit through the safety zone with the permission of the Captain of the Port on a case-by-case basis; and (iii) this rule will be enforced for only the duration of the fireworks display.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to anchor or transit along a portion of the Delaware River near Chester, PA, from 9 p.m. to 10:15 p.m. on July 12, 2014, unless cancelled earlier by the Captain of the Port once all operations are completed.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reason: Vessel traffic will be allowed to pass through the zone with permission of the Coast Guard Captain of the Port Delaware Bay or her designated representative and zone is limited in size and duration. Sector Delaware Bay will issue maritime advisories widely available to users of the Delaware Bay and River.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR Part 165, applicable to safety zones on the navigable waterways. This zone will temporarily restrict vessel traffic from transiting the Delaware River along the shoreline of Chester, Pennsylvania, in order to protect the safety of life and property on the waters for the duration of the fireworks display. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Add temporary § 165.T05–0511 to read as follows:

§ 165.T05–0511 Safety Zone, Delaware River; Philadelphia, PA.

(a) *Location.* The following area is a safety zone: All waters of the Delaware River in Chester, PA, inside a boundary encompassing all waters just south of the Commodore Barry Bridge within a 350 yard radius of the fireworks barge located at latitude 39°49′47.04″ N longitude 075°22′40.72″ W in Chester, PA.

(b) *Enforcement period.* This rule will be enforced from 9 p.m. to 10:15 p.m. on July 12, 2014, unless cancelled earlier by the Captain of the Port once all operations are completed.

(c) *Regulations.* All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.33.

(1) All persons or vessels wishing to transit through the Safety Zone must request authorization to do so from the Captain of the Port or her designated representative one hour prior to the intended time of transit.

(2) Vessels granted permission to transit must do so in accordance with the directions provided by the Captain of the Port or her designated representative to the vessel.

(3) To seek permission to transit the Safety Zone, the Captain of the Port's representative can be contacted via marine radio VHF Channel 16.

(4) This section applies to all vessels wishing to transit through the Safety Zone except vessels that are engaged in the following operations:

(i) Enforcing laws;

(ii) Servicing aids to navigation, and

(iii) Emergency response vessels.

(5) No person or vessel may enter or remain in a safety zone without the permission of the Captain of the Port;

(6) Each person and vessel in a safety zone shall obey any direction or order of the Captain of the Port;

(7) No person may board, or take or place any article or thing on board, any vessel in a safety zone without the permission of the Captain of the Port; and

(8) No person may take or place any article or thing upon any waterfront

facility in a safety zone without the permission of the Captain of the Port.

(d) *Definitions.* The Captain of the Port means the Commander of Sector Delaware Bay or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on her behalf.

(e) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the Safety Zone by Federal, State, and local agencies.

Dated: June 18, 2014.

K. Moore,

Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.

[FR Doc. 2014–15441 Filed 6–30–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0494]

RIN 1625–AA00

Safety Zone, Atlantic Ocean; Ocean City, NJ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Atlantic Ocean near Ocean City, NJ, from 9:10 p.m. to 10:20 p.m. on July 16, 2014 with a rain date scheduled for July 17, 2014. The safety zone will restrict vessel traffic in the North Atlantic Ocean within a 500 yard radius of a fireworks barge located at position 39–16.22 N, 074–33.54 W. This safety zone is necessary to protect the surrounding public and vessels from the hazards associated with a fireworks display.

This regulation is necessary to provide for the safety of life on the navigable waters of the North Atlantic Ocean. This safety zone is intended to restrict vessel traffic movement to ensure the safety of the surrounding public and vessels.

DATES: This rule is effective from July 1, 2014 through July 17, 2014. It will be enforced from 9:10 p.m. to 10:20 p.m. on July 16, 2014 with a rain date of July 17, 2014, unless cancelled earlier.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0494]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Brennan Dougherty, U.S. Coast Guard, Sector Delaware Bay, Chief Waterways Management Division, Coast Guard; telephone (215) 271–4851, email *Brennan.P.Dougherty@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because a safety zone is impracticable because the final details for this event were not received by the Coast Guard until June 6, 2014, and this event is scheduled for July 16, 2014 with a rain date scheduled for July 17, 2014. Further, allowing this event to go forward without a safety zone in place would expose mariners and the public to unnecessary dangers associated with fireworks displays, contrary to the public interest.

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.**

B. Basis and Purpose

On July 16, 2014 fireworks will be launched from a barge with a fall out zone that covers part of the North Atlantic Ocean. The City of Ocean City has contracted with Pyrotecnico Fireworks to arrange for this display. The Captain of the Port, Sector Delaware Bay, has determined that the City of Ocean City Fireworks Display will pose significant risks to the public. The purpose of the rule is to promote public and maritime safety during a fireworks display, and to protect mariners transiting the area from the potential hazards associated with a fireworks display, such as accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. This rule is required to ensure safety on the waterway during the event and to protect both life and property on the navigable waterways of the North Atlantic Ocean in respect to the commercial/recreational vessel traffic. U.S. Coast Guard Sector Delaware Bay will notify the public by broadcast notice to mariners at least one hour prior to the times of enforcement.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone on the Atlantic Ocean near Ocean City, NJ, from 9:10 p.m. to 10:20 p.m. on July 16, 2014 with a rain date scheduled for July 17, 2014. The safety zone will restrict vessel traffic in the North Atlantic Ocean within a 500 yard radius of a fireworks barge located at position 39–16.22 N, 074–33.54 W. During the period of the safety zone, all persons and vessels will be prohibited from entering, transiting, mooring, or remaining within the zone, unless specifically authorized by the Captain of the Port Delaware Bay, or her designated representative. Those persons authorized to transit through the safety zone shall abide by and follow all directions provided by the Captain of the Port Delaware Bay, or her designated representative, in order to ensure they are not disrupting the event.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

restrict access to the regulated area, the effect of this rule will not be significant because: (i) The Coast Guard will make extensive notification of the Safety Zone to the maritime public via maritime advisories so mariners can alter their plans accordingly; (ii) vessels may still be permitted to transit through the safety zone with the permission of the Captain of the Port on a case-by-case basis; and (iii) this rule will be enforced for only the duration of the fireworks display.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to anchor or transit along a portion of North Atlantic Ocean near Ocean City, New Jersey from 9:10 p.m. to 10:20 p.m. on July 16, 2014, with a rain date scheduled for July 17, 2014, unless cancelled earlier by the Captain of the Port once all operations are completed.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reason: Vessel traffic will be allowed to pass through the zone with permission of the Coast Guard Captain of the Port Delaware Bay or her designated representative and the safety zone is limited in size and duration. Sector Delaware Bay will issue maritime advisories widely available to users of the North Atlantic Ocean near Ocean City, New Jersey.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR Part 165, applicable to safety zones on the navigable waterways. This zone will temporarily restrict vessel traffic from transiting a portion of the North Atlantic Ocean near Ocean City, New Jersey, in order to protect the safety of life and property on the waters while a firework display is conducted. This rule

is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. Add temporary § 165.T05–0494 to read as follows:

§ 165.T05–0494 Safety Zone, Atlantic Ocean; Ocean City, NJ.

(a) *Location.* The following area is a safety zone: A portion of the North Atlantic Ocean within a 500 yard radius of a fireworks barge located at position 39–16.22 N, 074–33.54 W.

(b) *Enforcement period.* This rule will be enforced from 9:10 p.m. to 10:20 p.m. on July 16, 2014, with a rain date scheduled for July 17, 2014, unless cancelled earlier by the Captain of the Port once all operations are completed.

(c) *Regulations.* All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.33.

(1) All persons or vessels wishing to transit through the Safety Zone must request authorization to do so from the Captain of the Port or her designated representative one hour prior to the intended time of transit.

(2) Vessels granted permission to transit must do so in accordance with the directions provided by the Captain of the Port or her designated representative to the vessel.

(3) To seek permission to transit the Safety Zone, the Captain of the Port's representative can be contacted via marine radio VHF Channel 16.

(4) This section applies to all vessels wishing to transit through the Safety Zone except vessels that are engaged in the following operations:

(i) Enforcing laws;

(ii) Servicing aids to navigation, and

(iii) Emergency response vessels.

(5) No person or vessel may enter or remain in a safety zone without the permission of the Captain of the Port;

(6) Each person and vessel in a safety zone shall obey any direction or order of the Captain of the Port;

(7) No person may board, or take or place any article or thing on board, any vessel in a safety zone without the permission of the Captain of the Port; and

(8) No person may take or place any article or thing upon any waterfront facility in a safety zone without the permission of the Captain of the Port.

(d) *Definitions. The Captain of the Port* means the Commander of Sector Delaware Bay or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on her behalf.

(e) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the Safety Zone by Federal, State, and local agencies.

Dated: June 18, 2014.

K. Moore,

Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.

[FR Doc. 2014–15442 Filed 6–30–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2014–0501]

RIN 1625–AA00

Safety Zone, Delaware River; Philadelphia, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone on the Delaware River in Philadelphia, PA, from 8:30 p.m. to 9:30 p.m. on July 1, 2014. The safety zone will restrict vessel traffic on the Delaware River while a fireworks event is taking place, inside a boundary described as spanning from the Pennsylvania shore to the New Jersey shore and is bounded in the south by a line from position 39°56′18″ N, longitude 075°08′30″ W; thence to latitude 39°56′17″ N, longitude 075°07′56″ W, and bounded on the north by the Benjamin Franklin Bridge. This safety zone is necessary to protect the public and vessels in the surrounding area from the hazards associated with a fireworks display.

DATES: This rule is effective and will be enforced from 8:30 p.m. to 9:30 p.m. on July 1, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2014–0501]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email If you have questions on this temporary rule, call or email Lieutenant Brennan Dougherty, U.S. Coast Guard, Sector Delaware Bay, Chief Waterways Management Division, Coast Guard; telephone (215) 271–4851, email *Brennan.P.Dougherty@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule; the usual procedure is impracticable because we did not receive final details for this event until May 28, 2014, and the event is scheduled for July 1, 2014. Further, allowing this event to go forward without a safety zone in place would expose mariners and the public to

unnecessary dangers associated with fireworks displays, contrary to the public interest.

B. Basis and Purpose

On July 1, 2014, fireworks will be launched from a barge with a fall out zone that covers part of Delaware River. The Captain of the Port, Sector Delaware Bay, has determined that the Delaware River Waterfront Corp. Fireworks Display will pose significant risks to the public. The purpose of the rule is to promote public and maritime safety during a fireworks display, and to protect mariners transiting the area from the potential hazards associated with a fireworks display, such as accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris.

C. Discussion of the Final Rule

The Coast Guard is establishing a safety zone in the waters of the Delaware River in Philadelphia, PA, from 8:30 p.m. to 9:30 p.m. on July 1, 2014. The safety zone will restrict vessel traffic from entering in the immediate area of the fireworks barge. The fireworks barge will be held in place by a tug inside a boundary described as spanning from the Pennsylvania shore to the New Jersey shore and is bounded in the south by a line from position 39°56′18″ N, longitude 075°08′30″ W; thence to latitude 39°56′17″ N, longitude 075°07′56″ W, and bounded on the north by the Benjamin Franklin Bridge. During the period of the safety zone, all persons and vessels will be prohibited from entering, transiting, mooring, or remaining within the zone, unless specifically authorized by the Captain of the Port Delaware Bay, or her designated representative. Those persons authorized to transit through the safety zone shall abide by and follow all directions provided by the Captain of the Port Delaware Bay, or her designated representative, in order to ensure they are not disrupting the fireworks display. U.S. Coast Guard Sector Delaware Bay will notify the public by broadcast notice to mariners at least one hour prior to the times of enforcement.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. Although this regulation will restrict access to the regulated area, the effect of this rule will not be significant because: (i) The Coast Guard will make extensive notification of the Safety Zone to the maritime public via maritime advisories so mariners can alter their plans accordingly; (ii) vessels may still be permitted to transit through the safety zone with the permission of the Captain of the Port on a case-by-case basis; and (iii) this rule will be enforced for only the duration of the fireworks display.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to anchor or transit along a portion of the Delaware River near Philadelphia, Pennsylvania from 8:30 p.m. to 9:30 p.m. on July 1, 2014, unless cancelled earlier by the Captain of the Port once all operations are completed.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reason: Vessel traffic will be allowed to pass through the zone with permission of the Coast Guard Captain of the Port Delaware Bay or her designated representative and zone is limited in size and duration. Sector Delaware Bay will issue maritime advisories widely available to users of the Delaware Bay and River.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

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

7. Unfunded Mandates Reform Act

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

we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR Part 165, applicable to safety zones on the navigable waterways. This zone will temporarily restrict vessel traffic from transiting the Delaware River along the shoreline of Philadelphia, Pennsylvania, in order to protect the safety of life and property on the waters for the duration of the fireworks display. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T05–0501 to read as follows:

§ 165.T05–0501 Safety Zone, Delaware River; Philadelphia, PA.

(a) *Location.* The following area is a safety zone: All waters of the Delaware River in Philadelphia, PA inside a boundary described as spanning from the Pennsylvania shore to the New Jersey shore and is bounded in the south by a line from position 39°56′18″ N, longitude 075°08′30″ W; thence to latitude 39°56′17″ N, longitude 075°07′56″ W, and bounded on the north by the Benjamin Franklin Bridge.

(b) *Enforcement period.* This rule will be enforced from 8:30 p.m. to 9:30 p.m. on July 1, 2014, unless cancelled earlier by the Captain of the Port once all operations are completed.

(c) *Regulations.* All persons are required to comply with the general regulations governing safety zones in 33 CFR 165.33.

(1) All persons and vessels transiting through the Safety Zone must be authorized by the Captain of the Port or her designated representative.

(2) Vessels granted permission to transit must do so in accordance with the directions provided by the Captain of the Port or her designated representative to the vessel.

(3) To seek permission to transit the Safety Zone, the Captain of the Port's representative can be contacted via marine radio VHF Channel 16.

(4) This section applies to all vessels wishing to transit through the Safety Zone except vessels that are engaged in the following operations:

(i) Enforcing laws;

(ii) Servicing aids to navigation, and

(iii) Emergency response vessels.

(5) No person or vessel may enter or remain in a safety zone without the permission of the Captain of the Port;

(6) Each person and vessel in a safety zone shall obey any direction or order of the Captain of the Port;

(7) No person may board, or take or place any article or thing on board, any vessel in a safety zone without the permission of the Captain of the Port; and

(8) No person may take or place any article or thing upon any waterfront facility in a safety zone without the permission of the Captain of the Port.

(d) *Definitions.* The Captain of the Port means the Commander of Sector Delaware Bay or any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port to act on her behalf.

(e) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the Safety Zone by Federal, State, and local agencies.

Dated: June 18, 2014.

K. Moore,

Captain, U.S. Coast Guard, Captain of the Port Delaware Bay.

[FR Doc. 2014–15440 Filed 6–30–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 77

RIN 2900–AP07

Grants for Adaptive Sports Programs for Disabled Veterans and Disabled Members of the Armed Forces

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This interim final rule amends Department of Veterans Affairs (VA) regulations to establish a new program to provide grants to eligible entities to provide adaptive sports activities to disabled veterans and

disabled members of the Armed Forces. This rulemaking is necessary to implement a change in the law that authorizes VA to make grants to entities other than the United States Olympic Committee for adaptive sports programs. It establishes procedures for evaluating grant applications under this grant program, and otherwise administering the grant program. This rule implements section 5 of the VA Expiring Authorities Extension Act of 2013.

DATES: *Effective date:* This interim final rule is effective July 1, 2014.

Comment date: Comments must be received by VA on or before September 2, 2014.

Applicability date: The provisions of this regulatory amendment apply to all grant applications from entities for planning, developing, managing, and implementing programs to provide adaptive sports activities for disabled veterans and disabled members of the Armed Forces during fiscal years 2014 through 2016.

ADDRESSES: Written comments may be submitted through *http://www.regulations.gov;* by mail or hand delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to ''RIN 2900–AP07, Grants for Adaptive Sports Programs for Disabled Veterans and Disabled Members of the Armed Forces.'' Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Michael F. Welch, Program Specialist, Office of National Veterans Sports Programs and Special Events (002C), Department of Veterans Affairs, 810 Vermont Ave. NW., Washington DC 20420, (202) 632–7136. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: VA is required by 38 U.S.C. 521A to ''carry out a program under which the Secretary may make grants to eligible entities for planning, developing, managing, and implementing programs to provide adaptive sports opportunities for disabled veterans and disabled members of the Armed Forces.'' To comply with this law, VA will award grants to eligible entities to provide adaptive sport activities to disabled veterans and disabled members of the Armed Forces. This rule establishes regulations for conducting the grant program including evaluation of grant applications and otherwise administering the grant program in accordance with the law. Section 521A authorizes $8,000,000 to be appropriated for each fiscal year through 2015 to carry out the grant program. In addition, section 521A(l) specifies that VA may only provide assistance under this program for adaptive sports activities occurring through fiscal year 2016. We will indicate the funding limitation for each of the fiscal years in a Notice of Funding Availability (NOFA) publication in the Office of Management and Budget (OMB)-designated government-wide Web site, to adequately provide notice to eligible recipients of the grants. However, we will not include the funding limitation or indicate the specific fiscal years for the program's funding in this rule because the amount of authorized appropriations may change and Congress could extend the program. By not including the funding limitation or the specific fiscal years the program is to be funded in this rule, we prevent having a regulation in the Code of Federal Regulations that appeared to restrict or stop the grant program beyond a certain date, when VA may still be authorized to administer the grant program. If funding ceases to be provided or the grant program is not extended, we would not publish a subsequent NOFA in the OMB-designated government-wide Web site for that following fiscal year, and we would amend our regulations to remove this rule from the Code of Federal Regulations.

77.1 Purpose and Scope

Section 77.1 establishes the grant program and explains what the program provides. This section indicates that VA may provide grants to eligible entities to plan, develop, manage, and implement programs to provide adaptive sports activities for disabled veterans and disabled members of the Armed Forces.

77.2 Definitions

Section 77.2 defines terms used throughout part 77, and in Notices of Fund Availability (NOFA) for this grant program to be published in the OMB-designated government-wide Web site.

Adaptive sports would be defined to include all sports played by persons with a disability, not just sports that have been modified to meet the needs of persons with a disability. This is because several sports have been specifically created for persons with disabilities and have no equivalent able-bodied sport. We believe that this would be consistent with the legislative intent. In particular, the law provides that the activities for which an eligible entity may reimburse a subgrantee may be used include: ''instruction, participation, and competition in Paralympic sports.'' 38 U.S.C. 521A. There are Paralympic sports that were created specifically for disabled participants, such as Goalball. Permitting grantees to reimburse subgrantees for Paralympic sports activities demonstrates that Congress did not intend to restrict the sports promoted by these grants to just sports that have been modified to meet the needs of persons with a disability. *See also* 159 Cong. Rec. H7614–H7617 (daily ed. Dec 10, 2013) (Statement of Rep. Coffman: ''participation in adaptive sports and other athletic activities can help speed the rehabilitation process for disabled veterans'').

Adaptive sports activities is defined as that term is defined in 38 U.S.C. 521A(d)(3) except that the regulatory definition does not limit ''instruction, participation, and competition'' in sports to Paralympic sports as the statutory definition does. Instead, it includes instruction, participation, and competition in adaptive sports. *See* further discussion of this statutory provision with respect to § 77.15.

Adaptive sports grant is defined as a grant awarded or to be awarded under this part.

Adaptive sports grant agreement is defined as the agreement executed between VA and a grantee as specified under § 77.17.

Applicant is defined as an eligible entity that submits an application for an adaptive sport grant announced in a Notice of Funding Availability.

For purposes of this grant program, 38 U.S.C. 521A(a)(2) provides that an eligible entity must have ''significant experience in managing a large-scale adaptive sports program.'' In the regulation, we have thus defined ''eligible entity'' as a Non-Federal Government entity with significant experience in managing a large-scale adaptive sports program for persons with disabilities if those disabilities are those that many disabled veterans and disabled members of the Armed Forces have. The definition provides that to have significant experience, all the key personnel identified in the adaptive sports grant application must have qualifications that demonstrate

experience implementing the adaptive sports activities to be provided and demonstrate experience working with persons with the disabilities that the disabled veterans and disabled members of the Armed Forces to be served through the adaptive sports grant would have. We believe the experience of the applicant's key personnel is the best way to measure whether the applicant has the significant experience required. The regulation further provides that this experience must be for the two continuous years immediately prior to the submission of the grant application. In most cases, two continuous years of experience demonstrates that the key personnel have conducted a program through two fiscal cycles including the planning, implementation and closeout periods associated with adaptive sports activities that have an annual operational cycle. Less than two annual operating cycles most likely means that the key personnel have not conducted an adaptive sports program through an annual program life cycle or successfully transitioned such a program to conduct a subsequent annual program. We also believe that this experience must be in providing adaptive sports activities for those with disabilities that a disabled veteran or disabled member of the Armed Forces might experience. If a key person has experience solely in disabilities that would not be experienced by the current and former military personnel to be served by this program, the person's experience may not translate to effective provision of adaptive sports activities for disabled veterans and disabled members of the Armed Forces. It follows that if more than one entity is providing the activities, the applicant can rely on the combined experience of the entities to demonstrate significant experience. When more than one entity is engaged in the provision of the adaptive sport activities, the entity applying for the adaptive sports grant must provide documentation that verifies that through the partnership, it has the experience necessary to implement all of the adaptive sports activities proposed in the adaptive sports grant application.

DoD is defined as the Department of Defense.

Grantee is defined as an entity that is awarded an adaptive sport grant under this part.

International Paralympic Committee (IPC) is defined as the global governing body of the Paralympic movement.

To be an ''eligible entity,'' 38 U.S.C. 521A(a)(2) requires that the entity must have ''significant experience in managing a large-scale adaptive sports program.'' We define Large-scale Adaptive Sports Program as one of three specific categories of programs.

(a) An adaptive sports program of a National Paralympic Committee (NPC) or of a National Governing Body (NGB) that is authorized to provide Paralympic sports programs in one or more States is a Large-scale Adaptive Sports Program because it is part of the International Paralympic program which involves thousands of disabled athletes;

(b) An adaptive sports program of a NGB that has been recognized by an external validating authority such as an international sports entity responsible for international participation in that adaptive sport is a Large-scale Adaptive Sports Program if the external validating authority has recognized programs that in total would meet the requirements of (c) below. While an individual program of the NGB may be small, we believe it can be considered part of a much larger program that the external validating authority has approved; and

(c) An adaptive sports program in which at least 50 persons with disabilities participate or in which the persons with disabilities who participate reside in at least five different congressional districts is a Large-scale Adaptive Sports Program because it has drawn people from a sufficient population base or has a sufficient number of individuals with disabilities to be considered large-scale. Because some adaptive sports programs are conducted in areas with low eligible participant populations, we believe using five congressional districts is advisable because it shows whether an adaptive sports program is able to draw from a sufficiently large population to be a Large-Scale Adaptive Sports Program. Because congressional districts are based on resident population with an average of 710,767 in the 2010 census, the use of congressional districts establishes a fairly equal standard of outreach capacity. Similarly, having 50 persons with disabilities participate demonstrates the program's ability to draw a large number of individuals when we consider that the population density of eligible participants in the particular program is lower than the general population of persons with disabilities.

National Governing Body (NGB) is defined as an organization that looks after all aspects of a sport and is responsible for training, competition and development for their sports.

National Paralympic Committee (NPC) is defined as the national organization recognized by the International Paralympic Committee (IPC) as the sole representative of athletes with disabilities from their respective jurisdiction.

Notice of funding availability (NOFA) is defined as a Notice of Funding Availability published in the OMB-designated government-wide Web site in accordance with § 77.13 and 2 CFR Part 200.

Paralympics is defined as a series of international contests for athletes with a range of physical and intellectual disabilities, including mobility disabilities, amputations, blindness, and traumatic brain injury, that are associated with and held following the summer and winter Olympic Games. This is a synthesis of several definitions from dictionaries, including Cambridge, Merriam-Webster, and Oxford, and better meets the program intent.

Participant is defined as a disabled veteran or disabled member of the Armed Forces who is receiving adaptive sport activities from a grantee.

Partnership is defined to include any arrangement in which the parties agree to cooperate and not just a legal partnership.

Peer review is defined as the technical and programmatic evaluation by a group of experts qualified by training and experience to give expert advice, based on selection criteria established under § 77.13 or in a program announcement, on the technical and programmatic merit of adaptive sports grant applications.

Persons with a disability is defined to include persons with physical and intellectual disabilities.

Sport is defined as a usually-competitive individual or group physical activity governed by a set of rules or customs, which, through casual or organized participation, aim to use, maintain, or improve physical ability and skills while normally providing entertainment to participants.

VA is defined as the Department of Veterans Affairs.

Veteran is defined using the definition in § 3.1 of this title.

Veterans Service Organization (VSO) is defined to include both organizations recognized to represent veterans with regard to their claims for VA benefits (and their subgroups) and nonprofit entities registered with the U.S. Government that have a primary mission to provide services to veterans and disabled members of the Armed Services. Subgroups of recognized organizations are included because they may desire to apply for a grant on their own behalf.

77.3 Grants—General

Section 77.3(a) establishes that only eligible entities may receive grants

under this grant program. Section 77.3(b) establishes that the grant amounts will be specified in the NOFA. Section 77.3(c) specifies that VA will not require an applicant to provide matching funds as a condition of receiving a grant. Section 77.3(d) specifies that a grantee may not charge a participant for adaptive sports activities that were outlined in the adaptive sports grant application. This is done to ensure that participants have the most access to these adaptive sports activities as feasible, regardless of their ability to pay and to ensure that a grantee does not penalize participants for the grantee's poor financial planning. However, this provision does not prohibit the grantee from charging participants for activities or services that were not outlined in the adaptive sports grant application. Section 77.3(e) specifies that the adaptive sports grant is not a veteran's benefit, and, therefore is not subject to the same rights of appeal as an adjudication of benefits. *See* 38 U.S.C. 7104(a).

77.4 Applications

Section 77.4 addresses grant application procedures. Section 77.4(a) requires applicants to submit a complete grant application package to apply for an initial grant, as described in the NOFA. Section 77.4(b) requires applicants to submit a complete renewal grant application package to be considered for a renewal grant if the grantee's program remains substantially the same and specifies that the renewal grant application procedures to be followed will be described in the NOFA. By allowing grantees to submit a renewal grant application, additional grant funds could be sought for subsequent fiscal years with little or no interruption in the provision of adaptive sports services. Section 77.4(c) requires applicants to submit a grant application package to be considered for a noncompetitive grant and specifies that the grant application must meet the same format as outlined for competitive grants in the NOFA.

77.5 Selection Criteria

Section 77.5(a) specifies the selection criteria for grant applications. The criterion in § 77.5(a) will require the application to have a clearly defined plan for successful program implementation demonstrated by scope, budget, staffing, and timeframe. The existence of basic parameters such as those set forth is a reliable indicator that the program is well thought out, and likely to be successfully implemented. The criterion in § 77.5(a) also will allow VA to give priority to proposals that will provide adaptive sports activities that are aligned with the identified needs of disabled veterans and disabled members of the Armed Forces. Moreover, the criteria will allow VA, to the extent feasible, to target geographic areas which have limited adaptive sports opportunities. Section 77.5(b) establishes that supplementary information that clarifies the selection criteria in § 77.5(a) may be set forth in the NOFA. Section 77.5(b) also establishes that VA will establish in the NOFA a relative weight for each selection criteria.

77.6 Amendments to Grant Applications

Section 77.6 authorizes an applicant to amend an adaptive sports grant application. The section limits the type of amendment that will be accepted after the deadline for submitting applications. These limits are necessary because allowing major changes such as a change in scope of an application or increasing the grant amount by more than a total of 10 percent after the deadline would most likely disrupt VA's review of the grant applications and result in a delay or cancellation of grant awards.

77.7 Withdrawal of Grant Applications

Section 77.7 establishes the process for an applicant to withdraw an adaptive sports grant application from consideration for award.

77.8 Additional Requirements and Procedures for Applications

Section 77.8 establishes additional requirements and procedures for adaptive sports grant applications. Section 77.8(a) requires applications to meet the requirements of the NOFA and permits VA to require applicants to submit pre-applications prior to submission of an application. Section 77.8(b) authorizes cooperative arrangements among eligible entities and submission of joint applications. Section 77.8(c) authorizes evaluation of all applications. Section 77.8(d) authorizes VA consideration of an applicant's performance on prior awards and an applicant's past noncompliance with grant requirements. Section 77.8(e) requires applicants to meet Federal fiscal standards as reflected in 2 CFR 200. Section 77.8(f) sets forth the options that VA has with respect to applications based on the review of the applications. Section 77.8(g) requires that VA must notify an applicant in writing of the disposition of an application and must issue a signed grant agreement to an applicant of an approved application. Section 77.8(h) discusses the availability of grant funds and the effective date of the grant. Additionally, § 77.8(h) provides that grant funds will only be used to pay for costs incurred prior to the effective date of the grant if the costs are authorized by VA and are otherwise allowable.

77.9 Use of Pre-Applications

Section 77.9 authorizes VA to use pre-applications for adaptive sports grants. In the case of competitive grant awards for which a large number of applications is expected, VA may require pre-applications (concept papers) which may be used to eliminate those pre-applications which fail to meet minimum requirements for a grant criteria under this regulation or clearly lack sufficient merit to qualify as potential candidates for funding consideration. A pre-application in a noncompetitive grant situation may validate both the capability of the adaptive sports entity to provide the unique activity sought and verify that a noncompetitive condition exists prior to engaging in a thorough adaptive sports grant development process.

77.10 Peer Review Methods

The quantity and complexity of formal adaptive sports grant applications that meet minimum requirements may create a large administrative workload; thus § 77.10 permits VA to subject both pre-applications and formal applications to the peer review process in order to more efficiently and effectively manage the selection of adaptive sports grants. Section 77.10(a) establishes how peer reviewers will provide their views and that peer review may be conducted at meetings and through mail reviews. Site visits may also be scheduled. Prior to conducting a meeting of peer reviewers, VA will take steps to comply with the Federal Advisory Committee Act. To further the efficient review of formal grant applications, § 77.10(b) establishes that VA staff will conduct an initial review of grant applications prior to peer review and eliminate from further consideration those applications that do not meet minimum program requirements specified in this regulation and weighting factors provided in the NOFA.

77.11 Outreach Required

Section 77.11(a) requires eligible entities to agree to conduct outreach as required by 38 U.S.C. 521A(e). In order to ensure that outreach is appropriate for adaptive sports programs being conducted at the community level, § 77.11(b) establishes outreach

requirements for those programs. Similarly, to ensure that outreach is appropriate for adaptive sports programs occurring at the national and regional levels, § 77.11(c) establishes outreach requirements for grantees conducting programs at that level.

77.12 Notice of Funding Availability

To comply with OMB rules regarding notices of funding opportunities in 2 CFR Part 200, § 77.12 establishes that VA will publish a NOFA in the OMB-designated government-wide Web site when funds are available to award grants. Section 77.12(a)–(f) specifies additional information that a NOFA must include. This additional information is intended to ensure that eligible entities have the information required to apply for grants.

77.13 Applications for Noncompetitive Adaptive Sports Grants

VA believes that in some cases awarding adaptive sports grants using a noncompetitive process may be more effective and efficient than using the competitive grant process. This includes instances where there is only one responsible source for a particular adaptive sport and no other providers capable of meeting the agency requirements. To set forth when noncompetitive adaptive sports grants are appropriate, § 77.13(a) establishes the criteria for an entity to qualify for a noncompetitive adaptive sports grant. Section 77.13(b) establishes that an applicant for a noncompetitive grant must submit an adaptive sports grant application in a manner similar to the competitive adaptive sports grant process. Section 77.13(c) establishes information that must be included in the application for a noncompetitive adaptive sports grant.

77.14 Grant Agreements

Section 77.14(a) establishes that upon a grantee being awarded a grant, VA will draft a grant agreement to be executed by VA and the grantee. Upon execution, VA obligates the grant amount. Section 77.14(a) also requires that a grantee agree to operate the program in accordance with the pertinent regulations and in accordance with the grant application. To ensure that someone is responsible for equipment purchased with grant money, to protect veterans using adaptive sports equipment, and to ensure that those injured using the equipment are fairly compensated, § 77.14(b) mandates that grant agreements include provisions to address these issues. Section 77.14(c) establishes authorized levels of administrative and personnel expenses as directed in 38 U.S.C. 521A(d)(4). VA has determined administrative and personnel expenses are necessary to implement adaptive sports grants and declines to prohibit grant funds from being used for these purposes. Section 77.14(d) implements section 521A(a)(1), (d)(2)(C)(i), and (ii) to permit the grant agreement to authorize grantees to support or provide services (including adaptive sports activities) to individuals with disabilities who are not veterans or members of the Armed Forces, or both, but to prohibit grant funds from being used to support or provide services (including adaptive sports activities) to those individuals. Finally, § 77.14(e) provides that the agreement will prohibit grant funds from being used to support or provide services to veterans or former servicemembers who are generally barred from qualifying for VA benefits or services due to the character of their discharge or other disqualifying aspects of their service.

77.15 Payments Under the Grant

Section 77.15(a) notifies grantees that information regarding the timeframe and manner of payment of grants will be described in the NOFA. Section 77.15(b) implements the requirement in 38 U.S.C. 521A(d) that payments of grant funds by grantees to subgrantees for instruction, participation, and competition in sports may only be made for instruction, participation, and competition in Paralympic sports. This means that payments of grant funds to subgrantees cannot be used for instruction, participation, and competition in sports other than Paralympic sports. This limitation is not applicable to the grantee's use of grants funds for other than subgrants.

77.16 Grantee Reporting Requirements

In order to comply with 38 U.S.C. 521A(j) and to obtain information in order to analyze the performance of the grantee's program, § 77.16(a) specifies that all grantees must submit an annual report with specific information.

To obtain information in order to analyze the grantee's program, § 77.16(b) requires that all grantees also submit quarterly reports containing the same information required to be in the annual report. Section 77.16(c) requires that any changes occurring in a grantee's program which deviate from the grant agreement must be reported to VA. Review of the reports detailed in § 77.16(a)–(c) ensures that grant funds are being consistently used in accordance with the grant agreements. Section 77.16(d) allows VA to request other information or documentation related to a grant, in the event that information is necessary, to fully assess the success of the program. This further assists VA in determining whether grant funds were used appropriately if any part of the required reports as submitted by a grantee is inadequate. Section 77.16(e) cites non-compliance effects, because if a grantee does not submit the annual report required under this section for any fiscal year, the grantee shall not be eligible to receive a grant under this part for the subsequent fiscal year.

77.17 Recovery of Funds by VA

Section 77.17 establishes that VA may recover grant funds from a grantee under certain circumstances. Section 77.17(a) provides that VA may recover grant funds where the funds were not used in accordance with the grant agreement. Section 77.17(a) also explains that VA will issue a notice to the grantee expressing VA's intent to recover funds and that VA will provide the grantee an opportunity to respond prior to VA's final decision that action be taken to recover the funds. Section 77.17(b) specifies that, where VA makes a final decision that action will be taken to recover grant funds from a grantee, the grantee will be prohibited from receiving further grant funds from VA. This helps safeguard Federal funds and ensures the best use of the grants.

77.18 Visits To Monitor Operations and Compliance

Section 77.18 establishes the right for VA to conduct reasonable visits to all grantee locations where a grantee is using adaptive sports grant funds in order to review grantee accomplishments and management control systems, determine compliance with grant provisions, and to provide such technical assistance as may be required. In the event that a grantee delivers services at a location away from the grantee's place of business, VA may accompany the grantee. If any visit is made by VA on the premises of the grantee or a subcontractor under the adaptive sports grant, the grantee must provide, and must require its subcontractors to provide, all reasonable facilities and assistance for the safety and convenience of the VA representatives in the performance of their duties. All visits and evaluations will be performed in such as manner as will not unduly delay services.

77.19 Financial Management

Section 77.19 establishes the requirement for grant recipients to comply with financial management

requirements for recipients of Federal awards.

77.20 Recordkeeping

Section 77.20 establishes the recordkeeping requirements for grant recipients and authority for VA to request information during the timeframe of record retention.

77.21 Application of Other Regulations

Section 77.21 establishes that VA's administrative requirements for grantees in 38 CFR Parts 43 and 49 do not apply to grants under this part. The requirements in Parts 43 and 49 have been superseded by the regulations in 2 CFR Part 200.

Effect of Rulemaking

The Code of Federal Regulations, as revised by this rulemaking, represents the exclusive legal authority on this subject. No contrary rules or procedures will be authorized. All VA guidance will be read to conform with this rulemaking if possible or, if not possible, such guidance will be superseded by this rulemaking.

Administrative Procedure Act

Pursuant to section 5 of Public Law 113–59 (December 20, 2013), to ensure the uninterrupted provision of adaptive sports for disabled veterans and disabled members of the Armed Forces, any regulations that the Secretary of Veterans Affairs determines are necessary to implement the amendments made by this section may be promulgated by interim final rules to ensure the award of grants before the end of fiscal year 2014.

Paperwork Reduction Act

This interim final rule includes a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that requires approval by OMB. Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking action to OMB for review.

OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Sections 77.4, 77.8, 77.9, 77.13, 77.16, and 77.19 contain collections of information under the Paperwork Reduction Act of 1995. If OMB does not approve the collections of information as requested, VA will immediately remove the provisions containing a collection of information or take such other action as is directed by OMB.

Comments on the collections of information contained in this interim final rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, 725 17th Street NW., Washington, DC 20503, or sent through electronic mail to *oira_submission@omb.eop.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AP07-Grants for Adaptive Sports Programs for Disabled Veterans and Disabled Members of the Armed Forces.''

VA is requesting expedited review of the collections of information by OMB, pursuant to 44 U.S.C. 3507(j). Comments must be received within 14 days of the publication of this rulemaking. This does not affect the deadline for the public to comment on the interim final rule. VA considers comments by the public on proposed collections of information in—

- Evaluating whether the collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The amendments to title 38 CFR Part 77 contain collections of information under the Paperwork Reduction Act of 1995 for which we are requesting approval by OMB. These collections of information are described immediately following this paragraph, under their respective titles.

Title: Grants for Adaptive Sports Programs for Disabled Veterans and Disabled Members of the Armed Forces.

Summary of collections of information: The interim final rule at § 77.4(a) contains application provisions for initial grants and at § 77.4(b) application provisions for renewal grants. The interim final rule at § 77.6 contains provisions for submitting amendments to grant applications. The interim final rule at § 77.8(a) contains additional provisions for grant applications and pre-applications. The interim final rule at § 77.9 contains provisions for pre-applications for competitive and noncompetitive grants. The interim final rule at § 77.13 contains application provisions for noncompetitive adaptive sports grants and provides provisions for an adaptive sports entity to submit documentation to be considered eligible for a noncompetitive grant.

The interim final rule at § 77.16 requires each grantee submit to VA annual and quarterly reports; the annual and quarterly reports would include detailed records of the direct and supporting time expended in the provision of adaptive sports activities, individual adaptive sports activities conducted in the provision of the adaptive sports grant, adaptive sports programs carried out through partnerships with VA, DoD, VSOs, and other adaptive sports entities, the number of veterans who participated in the adapted sports activities funded by the grant, the locations where adaptive sports activities were conducted, accounting of how the grant funds were used including the administrative and personnel expenses incurred by the grantee in carrying out the program and such expenses paid for using grant funds, description of all partnerships at the national and local levels and the programs carried out under such partnerships, and any changes in a grantee's program activities which result in deviations from the grant agreement. The interim final rule at § 77.19 requires grantees must maintain financial management systems that comply with applicable requirements established in 2 CFR Part 200.

Grant Applications

Description of the need for information and proposed use of information: This information is needed to award initial grants and to award renewal grants to eligible entities.

Description of likely respondents: National Paralympic Committees, National Governing Bodies, Veterans Service Organizations, colleges and universities, hospitals, Paralympic Sport Clubs, Parks and Recreation Departments, and other qualified adaptive sport entities.

Estimated number of respondents per year: Initial Grants 100. Renewal Grants 50.

Estimated frequency of responses per year: Initial Grants 1. Renewal Grants 1.

Estimated total annual reporting and recordkeeping burden: 2625 hours.

Estimated average burden per response: Initial Grant 25 hours. Renewal Grants 10 hours.

Annual Reports

Description of the need for information and proposed use of information: This information is needed to determine compliance with the requirements for a grant.

Description of likely respondents: National Paralympic Committees, National Governing Bodies, Veterans Service Organizations, colleges and universities, hospitals, Paralympic Sport Clubs, Parks and Recreation Departments, and other qualified adaptive sport entities.

Estimated number of respondents per year: 150.

Estimated frequency of responses per year: 1.

Estimated total annual reporting and recordkeeping burden: 300 hours.

Estimated average burden per response: 2 hours.

Quarterly Fiscal Reports

Description of the need for information and proposed use of information: This information is needed to determine compliance with the requirements for a grant.

Description of likely respondents: National Paralympic Committees, National Governing Bodies, Veterans Service Organizations, colleges and universities, hospitals, Paralympic Sport Clubs, Parks and Recreation Departments, and other qualified adaptive sport entities.

Estimated number of respondents per year: 150.

Estimated frequency of responses per year: 4.

Estimated total annual reporting and recordkeeping burden: 450 hours.

Estimated annual burden per response: 45 minutes.

Regulatory Flexibility Act

The Acting Secretary hereby certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Due to demographic, economic, infrastructure, and many other factors, a large percentage of small adaptive sports entities do not have sufficient participants, programs and outreach to qualify as an eligible entity under Public Law 113–59. In regions where the disabled veteran population is small relative to participants needed in the entity's applicable adaptive sports areas of expertise, an adaptive sports entity faces constraints in developing a viable grant program. Therefore, the number of small adaptive sports entities involved will be few and their existing programs that meet threshold criteria for eligibility would indicate competence to conduct a viable adaptive sports grant program. There would be no economic impact on any of the eligible entities, as they are not required to provide matching funds to obtain the maximum grant allowance as established under 38 U.S.C. 521A. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by OMB, unless OMB waives such review, as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this interim final rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.034, Grants for Adaptive Sports Programs for Disabled Veterans and Disabled Members of the Armed Forces.

Signing Authority

The Acting Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, approved this document on June 23, 2014 for publication.

List of Subjects in 38 CFR Part 77

Administrative practice and procedure, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Dated: June 24, 2014.

William F. Russo,

Deputy Director, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, VA amends 38 CFR chapter I by adding part 77, to read as follows:

PART 77—GRANTS FOR ADAPTIVE SPORTS PROGRAMS FOR DISABLED VETERANS AND DISABLED MEMBERS OF THE ARMED FORCES

Sec.

77.1 Purpose and scope.
77.2 Definitions.
77.3 Grants—general.
77.4 Applications.
77.5 Selection criteria.
77.6 Amendments to grant applications.
77.7 Withdrawal of grant application.

77.8 Additional requirements and procedures for applications.
77.9 Use of pre-applications.
77.10 Peer review methods.
77.11 Outreach required.
77.12 Notice of funding availability.
77.13 Applications for noncompetitive adaptive sports grants.
77.14 Grant agreements.
77.15 Payments under the grant.
77.16 Grantee reporting requirements.
77.17 Recovery of funds by VA.
77.18 Visits to monitor operations and compliance.
77.19 Financial management.
77.20 Recordkeeping.
77.21 Application of other regulations.

§ 77.1 Purpose and scope.

This section establishes the Grants for Adaptive Sports Programs for Disabled Veterans and Disabled Members of the Armed Forces program. Under this program, VA may provide grants to eligible entities to plan, develop, manage, and implement programs to provide adaptive sports activities for disabled veterans and disabled members of the Armed Forces.

(Authority: 38 U.S.C. 521A)

§ 77.2 Definitions.

For the purposes of this part and any Notice of Funding Availability (NOFA) issued pursuant to this part:

Adaptive sports means a sport that has either been adapted specifically for persons with a disability or created specifically for persons with a disability.

Adaptive sports activities means:

(1) Instruction, participation, and competition in adaptive sports;

(2) Training and technical assistance to program administrators, coaches, recreational therapists, instructors, Department employees, and other appropriate individuals; and

(3) Coordination, Paralympic classification of athletes, athlete assessment, sport-specific training techniques, program development (including programs at the local level), sports equipment, supplies, program evaluation, and other activities related to the implementation and operation of the program.

Adaptive sports grant means a grant awarded or to be awarded under this part.

Adaptive sports grant agreement means the agreement executed between VA and a grantee as specified under § 77.17.

Applicant means an eligible entity that submits an application for an adaptive sports grant announced in a NOFA.

DoD means the Department of Defense.

Eligible entity means a Non-Federal Government entity with significant experience in managing a large-scale adaptive sports program for persons with disabilities if those disabilities are those that many disabled veterans and disabled members of the Armed Forces have. To demonstrate significant experience, all the key personnel identified in the adaptive sports grant application of the entity must have experience implementing the adaptive sports activities to be provided and have experience working with persons with disabilities that many disabled veterans and disabled members of the Armed Forces to be served through the adaptive sports grant have. The experience must be for two continuous years immediately prior to the date of submission to VA of the grant application. When more than one entity would be engaged in the provision of the adaptive sport activities, the entity applying for the adaptive sports grant must provide documentation that verifies that through the partnership, it has the experience necessary to implement all of the adaptive sports activities proposed in the adaptive sports grant application.

Grantee means an entity that is awarded an adaptive sports grant under this part.

International Paralympic Committee (IPC) means the global governing body of the Paralympic movement.

Large-scale adaptive sports program means

(1) An adaptive sports program of a National Paralympic Committee (NPC) or of a National Governing Body (NGB) that is authorized to provide Paralympic sports programs in one or more States;

(2) An adaptive sports program of a NGB that has been recognized by an external validating authority if the programs validated by that authority would meet the requirements of paragraph (3) of this definition if considered one program; and

(3) An adaptive sports program in which at least 50 persons with disabilities participate or in which the persons with disabilities who participate in the program reside in at least five different congressional districts.

National Governing Body (NGB) means an organization that looks after all aspects of a sport and is responsible for training, competition and development for their sports.

National Paralympic Committee (NPC) means the national organization recognized by the International Paralympic Committee (IPC) as the sole representative of athletes with disabilities from their respective jurisdiction.

Notice of funding availability (NOFA) means a Notice of Funding Availability published in the OMB-designated government-wide Web site in accordance with § 77.13 and 2 CFR Part 200.

Paralympics means a series of international contests for athletes with a range of physical and intellectual disabilities, including mobility disabilities, amputations, blindness, and traumatic brain injury, that are associated with and held following the summer and winter Olympic Games.

Participant means a disabled veteran or disabled member of the Armed Forces who is receiving adaptive sport activities from a grantee.

Partnership means any type of arrangement in which the parties agree to cooperate and is not limited to a legal partnership.

Peer review means the technical and programmatic evaluation by a group of experts qualified by training and experience to give expert advice, based on selection criteria established under § 77.13 or in a program announcement, on the technical and programmatic merit of adaptive sports grant applications.

Persons with a disability includes persons with physical and intellectual disabilities.

Sport means a usually competitive individual or group physical activity governed by a set of rules or customs, which, through casual or organized participation, aim to use, maintain or improve physical ability and skills while normally providing entertainment to participants.

VA means the Department of Veterans Affairs.

Veteran means a person described in § 3.1 of this title.

Veterans Service Organization (VSO) means an organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38, United States Code, a subgroup of such an organization, or a nonprofit entity registered with the U.S. Government that has a primary mission to provide services to veterans and members of the Armed Services.

(Authority: Pub. L. 111–163, 38 U.S.C. 501)

§ 77.3 Grants—general.

(a) *Grants.* VA may award adaptive sports grants to eligible entities.

(b) *Maximum amount.* The maximum grant amounts to be awarded will be specified in the NOFA.

(c) *No matching requirement.* A grantee will not be required to provide matching funds as a condition of receiving such grant.

(d) *Participants will not be charged.* A grantee may not charge participants a fee for providing adaptive sports activities that were outlined in their adaptive sports grant application.

(e) *Grant is not veteran's benefit.* The grant offered by this chapter is not a veteran's benefit. As such, the decisions of the Secretary are final and not subject to the same appeal rights as decisions related to veterans benefits.

(Authority: 38 U.S.C. 521A)

§ 77.4 Applications.

(a) *Initial application.* To apply for an initial grant, an applicant must submit to VA a complete grant application package, as described in the NOFA.

(b) *Renewal application.* After receiving an initial grant, grantees may apply for a renewal grant if the grantee's program will remain substantially the same. The grantee must submit to VA a complete renewal application as described in the NOFA. Because evaluations of renewal applications rely on performance data related to the initial grant, the application and supporting documentation may vary from the initial application; however, renewal applications are competitive grants and will be evaluated under competitive grant selection processes.

(c) *Noncompetitive application.* When a condition exists for a noncompetitive grant as outlined in § 77.15, the adaptive sports entity may submit a noncompetitive application that meets the same format as outlined for competitive grants set forth in the NOFA.

(Authority: 38 U.S.C. 521A)

(OMB has approved the information collection requirements in this section that are within the scope of control numbers 0348–0043 for Standard Form 424 & 0348–0041 for Standard Form 424C. The additional information collection requirements have been submitted to OMB and are pending OMB approval.)

§ 77.5 Selection criteria.

(a) VA will review all applications for adaptive sports grants using the following selection criteria:

(1) The adaptive sports activities to be provided by the program are clearly stated;

(2) The objectives of the proposed program are clearly defined;

(3) The program design is based on facts, good reasoning, sound judgment, and logic, and contains program elements directly linked to the achievement of program objectives;

(4) The program management structure is adequate to the successful conduct of the program;

(5) The applicant's capability (including support provided by any partnership or partnerships) is demonstrated at a level sufficient to successfully support the program;

(6) Budgeted costs are reasonable, allowable and produce good value for the amount of funds paid for the activities proposed to be undertaken;

(7) The proposed program provides adaptive sports opportunities in geographic regions where VA has identified limited sports opportunities for disabled veterans and disabled members of the Armed Forces;

(8) The proposed program provides an adaptive sports activity or adaptive sports activities that meet the current needs and priorities for disabled veterans and disabled members of the Armed Forces; and

(9) Inclusion of all required information in the grant application as specified by 38 U.S.C. 521A(c).

(b) NOFA announcements may also clarify the selection criteria in paragraph (a) of this section. The relative weight (point value) for each selection criterion will be specified in the NOFA.

§ 77.6 Amendments to grant applications.

An applicant seeking to amend its grant application must submit a revised Standard Forms 424 (Application for Federal Assistance) and 424C (Budget Information) with a narrative description of, and justification for, the amendment. An applicant may submit an amendment after the deadline for submission of applications and prior to grant award if the amendment does not change the scope of the application. In addition, amendments submitted after the deadline and prior to grant award cannot increase the amount of the grant requested by more than a total of 10 percent.

(OMB has approved the information collection requirements in this section under control number 0348–0043 for Standard Form 424 & 0348–0041 for Standard Form 424C.)

§ 77.7 Withdrawal of grant application.

An applicant may withdraw its application by submitting to VA a written document that withdraws the application.

§ 77.8 Additional requirements and procedures for applications.

(a) *Application for grants.* An applicant may submit, on or before the submission deadline date established in a NOFA, an application in accordance with the instructions in the NOFA and including the forms specified in the NOFA. Such application must be signed by the applicant or an official or representative of the applicant duly authorized to make such application and to assume on behalf of the applicant the obligations imposed by law, applicable regulations, and any additional terms and conditions of the grant. VA may require in the NOFA for applicants to submit a pre-application for review and approval prior to the submission of an application.

(b) *Partnerships.* (1) Eligible entities may enter into partnerships with other eligible entities, including those in other States, and submit joint applications for adaptive sports grants.

(2) A joint application made by two or more applicants may have separate budgets corresponding to the programs, services and activities performed by each of the joint applicants or may have a combined budget. If a joint application presents separate budgets, VA may make separate awards, or may award a single award authorizing separate amounts for each joint applicant.

(c) *Evaluation of applications submitted.* All applications submitted shall be evaluated. After the initial internal or peer review, additional internal evaluations and/or peer reviews may be used.

(d) *Applicant's performance on prior award.* When the applicant has previously received an award from VA or another Federal agency, the applicant's noncompliance with requirements applicable to such prior award as reflected in past written evaluation reports and memoranda on performance, and the completeness of required prior submissions, may be considered by VA. In any case where VA proposes to deny a grant based upon the applicant's noncompliance with requirements applicable to the prior award, VA shall do so only after affording the applicant notice and a reasonable opportunity to rebut the proposed basis for denial of a grant.

(e) *Applicant's fiscal integrity.* Applicants must meet and maintain standards of fiscal integrity for participation in Federal grant programs as reflected in 2 CFR part 200.

(f) *Disposition of applications.* Upon review of an application and dependent on availability of funds, VA will:

(1) Approve the application for funding, in whole or in part, for such amount of funds, and subject to such conditions that VA deems necessary or desirable;

(2) Determine that the application is of acceptable quality for funding, in that it meets minimum criteria, but disapprove the application for funding because it did not rank sufficiently high in relation to other applications to

qualify for an award based on the level of funding available;

(3) Disapprove the application for failure to meet the applicable selection criteria at a sufficiently high level in comparison to other applications to justify an award of funds, or for another reason as provided in the documentation of the decision; or

(4) Defer action on the application for such reasons as lack of funds or a need for further review.

(g) *Notification of disposition.* VA will notify the applicant in writing of the disposition of the application. A signed grant agreement form will be issued to the applicant of an approved application.

(h) *Availability of grant funds.* Federal financial assistance is normally available only with respect to obligations incurred subsequent to the effective date of the grant. The effective date of grant will be set forth in the grant agreement. Recipients may be reimbursed for costs resulting from obligations incurred before the effective date of the grant, if such costs are authorized by VA in the NOFA, the grant agreement or subsequently by VA in writing, and otherwise would be allowable as costs of the grant under applicable guidelines, regulations, and terms and conditions of the grant agreement.

(The information collection requirements have been submitted to OMB and are pending OMB approval.)

§ 77.9 Use of pre-applications.

VA may request pre-applications for competitive and noncompetitive grant applications. Such request would be made in a NOFA.

(OMB has approved the information collection requirements in this section that are within the scope of control numbers 0348–0043 for Standard Form 424 & 0348–0041 for Standard Form 424C. The additional information collection requirements have been submitted to OMB and are pending OMB approval.)

§ 77.10 Peer review methods.

(a) VA may subject both pre-applications and formal applications to a peer review process. For both competitive and noncompetitive applications, peer review will normally consist of written comments based on the selection criteria established in § 77.5 and any weighting factors identified in the NOFA or conveyed in writing to the noncompetitive applicant, together with the assignment of numerical values. Peer review may occur at meetings of peer reviewers that are held under VA oversight, through mail reviews, or a combination of both. When advisable, site visits may also be employed. The method of peer review anticipated for each announced competitive program, including the weighting factors to be used by peer reviewers, will be specified in each NOFA.

(b) When formal applications are required in response to a NOFA, an initial review will be conducted by qualified VA staff, in order to eliminate from peer review consideration applications which do not meet minimum program requirements. Such requirements as listed in § 77.5 and weighting factors will be specified in the NOFA. Applications determined to be qualified and eligible for further consideration may then be considered under the peer review process.

§ 77.11 Outreach required.

(a) As a condition of receiving a grant under this part, an eligible entity must agree to conduct a joint outreach campaign with VA to inform all eligible veterans and separating members of the Armed Forces with physical disabilities about the existence of the adaptive sports activities funded by the grant, as appropriate, and shall provide for, facilitate, and encourage participation of such veterans and separating members of the Armed Forces in programs under this part to the extent possible.

(b) For grantees conducting adaptive sports activities at the community level, outreach must include active liaison with local VA and DoD facilities; State, local, and tribal governments; and VSOs, private agencies, and organizations providing adaptive sport activities to disabled veterans and disabled members of the Armed Forces to be served by the grantee.

(c) For grantees conducting adaptive sports activities occurring at the national and regional levels, outreach must include active liaison with VA and DoD, State governments, VSOs, and private agencies and organizations providing adaptive sport services to disabled veterans and disabled members of the Armed Forces to be served by the grantee and tailored as appropriate to the deliverables of the grant.

(Authority: 38 USC 521A(e))

§ 77.12 Notice of funding availability.

When funds are available for grants, VA will publish a NOFA in the OMB-designated government-wide Web site. The notice will identify:

(a) The information required to be in notices of funding opportunities in 2 CFR Part 200;

(b) The location for obtaining grant applications;

(c) The date, time, and place for submitting completed grant applications;

(d) The estimated amount and type of grant funding available;

(e) The length of term for the grant award, covering the amount of time the award remains in effect through date of completion;

(f) The minimum scores and scores per mandatory evaluation criteria area in § 77.5 that an applicant must receive in order for a grant to be considered for funding; and

(g) The timeframe and manner for payments under the grant.

(Authority: 38 U.S.C. 521A)

§ 77.13 Applications for noncompetitive adaptive sports grants.

(a) When VA identifies that an eligible entity is the only entity capable of providing an adaptive sports activity for disabled veterans and disabled members of the Armed Forces, and VA determines that the award of a grant to this entity is warranted to enable adaptive sports activities for disabled veterans and disabled members of the Armed Forces, VA may request that entity to submit a grant application. To verify that only one entity is capable of providing an adaptive sports activity:

(1) VA must determine that the adaptive sports activity is available only from one eligible entity;

(2) VA must receive a written statement from an entity which verifies that a particular adaptive sports activity is only available from a named non-Federal entity; or

(3) After VA attempts to find competition for a grant by issuing a NOFA, VA receives only one application to provide the adaptive sports activity sought under the NOFA or having received no applications, engages a qualified adaptive sport entity to negotiate provision of the adaptive sports activity sought.

(b) To submit an application for a noncompetitive adaptive sports grant, an applicant must obtain from VA an adaptive sports grant application package and submit to VA the information called for in the adaptive sports grant application package within the time period established in the NOFA.

(c) The noncompetitive adaptive sports grant application must include:

(1) Information regarding the program design and supporting evidence directly linking the program to the achievement of the program's objectives;

(2) Documentation on the eligibility of the applicant to receive an adaptive sports grant and on why the award of a noncompetitive grant is warranted;

(3) Description of the type of adaptive sports activities that would be provided;

(4) Documentation concerning the estimated operating costs and operating budget for the adaptive sports activities for which a grant is sought;

(5) Documentation that the applicant has the technical expertise needed; and

(6) Reasonable assurances that if the applicant receives an adaptive sports grant under this part:

(i) It will provide adequate financial and administrative support for providing the services set forth in the adaptive sports grant application and will actually provide such services; and

(ii) It will keep records and submit reports as VA may reasonably require, within the time frames required; and give VA, upon demand, access to the records upon which such information is based.

(The information collection requirements have been submitted to OMB and are pending OMB approval.)

§ 77.14 Grant agreements.

(a) *General.* After a grant is approved for award, VA will draft a grant agreement to be executed by VA and the grantee. Upon execution of the grant agreement, VA will obligate the grant amount. The grant agreement will include a provision requiring that the grantee will operate the program in accordance with the provisions of this part, 2 CFR Part 200, and the grant application.

(b) *Equipment.* If grant funds will be used to procure or operate adaptive sports equipment to directly provide adaptive sports activities, the grant agreement must provide that:

(1) Title to the adaptive sports equipment vests solely in the grantee, or, for leased equipment, in an identified lessor;

(2) The grantee will at a minimum, provide liability insurance for the adaptive sports equipment to the same extent they would insure adaptive sports equipment procured with their own funds; and

(3) Adaptive sports equipment will be safe to use and maintained in accordance with the manufacturer's recommendations.

(c) *Use of funds for administrative and personnel expenses.* (1) An eligible entity that receives a grant under this part may use a portion of the grant for administrative expenses and personnel expenses of the eligible entity. The amount that may be used for such expenses may not exceed:

(i) In the case of a grant made for adaptive sports activities taking place during fiscal year 2014, 10 percent of the total amount of the grant;

(ii) In the case of a grant made for adaptive sports activities taking place during fiscal year 2015, 7.5 percent of the total amount of the grant; and

(iii) In the case of a grant made for adaptive sports activities taking place during any subsequent fiscal year, 5 percent of the total amount of the grant.

(2) For purposes of § 77.14(c), personnel expenses include any costs associated with an employee of the eligible entity other than reimbursement for time spent by such an employee directly providing coaching or training for participants.

(d) *Use of grant funds for individuals who are not veterans or members of the Armed Forces.* The grant agreement may authorize grantees to support or provide services (including adaptive sports activities) to individuals with disabilities who are not veterans or members of the Armed Forces, or both, but will prohibit grant funds from being used to support or provide services (including adaptive sports activities) to those individuals.

(e) *Restrictions on the participation of certain veterans and former servicemembers.* The grant agreement will prohibit grant funds from being used to support or provide services (including adaptive sports activities) to veterans or former servicemembers who are barred from receiving VA benefits based on their service (see 38 U.S.C. 5303–5303A) and to veterans or former servicemembers who, if otherwise eligible, would be barred from receiving VA pension, compensation or dependency and indemnity compensation based on the character of their discharge from military service (see 38 CFR 3.12).

(Authority: 38 U.S.C. 521A(d)(4))

§ 77.15 Payments under the grant.

(a) *Payments to grantees.* Grantees are to be paid in accordance with the timeframes and manner set forth in the NOFA.

(b) *Payments to subgrantees.* Payments of grant funds by grantees to subgrantees (including entities with which the grantee has entered into a partnership) for instruction, participation, and competition in sports may only be made for instruction, participation, and competition in Paralympic sports.

(Authority: 38 U.S.C. 521A)

§ 77.16 Grantee reporting requirements.

(a) *Annual report.* All grantees must submit to VA, not later than 60 days after the last day of the Federal fiscal year for which a grant is provided under this part, an annual report which sets forth the following information for that fiscal year:

(1) A detailed record of the time involved in providing adaptive sports activities through direct personal interaction with participants and time expended in adaptive sports activities that do not involve direct personal interaction with participants;

(2) A detailed record of the individual adaptive sports activities conducted;

(3) A detailed record of the adaptive sports programs carried out at the national and local levels through partnerships with VA, DoD, VSOs, and other adaptive sports entities;

(4) The number of veterans and the number of participants in the adapted sports activities funded by the grant including those who participated in any programs carried out through a partnership under this part;

(5) The locations where adaptive sports activities were conducted; and

(6) A detailed accounting of how the grant funds were used including the administrative and personnel expenses incurred by the grantee in carrying out the program and such expenses paid for using grant funds.

(b) *Quarterly report.* All grantees must submit to VA a quarterly report 30 days after the close of each Federal fiscal quarter of the grant period which includes the same information required for annual reports, as well as projected change requests if applicable.

(c) *Program variations.* Any changes in a grantee's program activities which result in deviations from the grant agreement must be reported to VA.

(d) *Additional reporting.* Additional reporting requirements may be requested by VA to allow VA to fully assess program effectiveness.

(e) *Annual report compliance.* If a grantee does not submit the annual report required under this section for any fiscal year, the grantee shall not be eligible to receive a grant under this part for the subsequent fiscal year.

(Authority: 38 U.S.C. 521A(j))

(The information collection requirements have been submitted to OMB and are pending OMB approval.)

§ 77.17 Recovery of funds by VA.

(a) *Recovery of funds.* VA may recover from the grantee any funds that are not used in accordance with a grant agreement. If VA decides to recover funds, VA will issue to the grantee a notice of intent to recover grant funds, and grantee will then have 30 days to submit documentation demonstrating why the grant funds should not be recovered. After review of all submitted documentation, VA will determine

whether action will be taken to recover the grant funds.

(b) *Prohibition of additional adaptive sports grant payments.* When VA makes a final decision that action will be taken to recover grant funds from the grantee, VA must stop further payments of grant funds under this part until the grant funds are recovered and the condition that led to the decision to recover grant funds has been resolved.

(Authority: 38 U.S.C. 521A)

§ 77.18 Visits to monitor operations and compliance.

VA has the right, at all reasonable times, to make visits to all grantee locations where a grantee is using adaptive sports grant funds in order to review grantee accomplishments and management control systems and to provide such technical assistance as may be required. VA may conduct inspections of all program locations and records of a grantee at such times as are deemed necessary to determine compliance with the provisions of this part. In the event that a grantee delivers services at a location away from the grantee's place of business, VA may accompany the grantee. If any visit is made by VA on the premises of the grantee or a subcontractor under the adaptive sports grant, the grantee must provide, and must require its subcontractors to provide, all reasonable facilities and assistance for the safety and convenience of the VA representatives in the performance of their duties. All visits and evaluations will be performed in such as manner as will not unduly delay services.

§ 77.19 Financial management.

(a) All recipients will comply with applicable requirements of the Single Audit Act Amendments of 1996, as implemented by 2 CFR part 200.

(b) All grantees must use a financial management system that complies with 2 CFR Part 200. Grantees must meet the applicable requirements of OMB's regulations on Cost Principles at 2 CFR part 200.

(The information collection requirements have been submitted to OMB and are pending OMB approval.)

§ 77.20 Recordkeeping.

Grantees must ensure that records are maintained in accordance with 2 CFR part 200. Grantees must produce such records at VA's request.

§ 77.21 Application of other regulations.

For purposes of this part, the requirements in 38 CFR parts 43 and 49 are superseded by those in 2 CFR part 200.

[FR Doc. 2014–15191 Filed 6–27–14; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0312; FRL–9911–91-Region 9]

Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Ventura County Air Pollution Control District portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from aerospace assembly and component manufacturing and marine coating operations. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule is effective on September 2, 2014 without further notice, unless EPA receives adverse comments by July 31, 2014. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0312, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Nancy Levin, EPA Region IX, (415) 942–3848, *levin.nancy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to EPA.

Table of Contents

I. The State's Submittal
A. What rules did the State submit?
B. Are there other versions of these rules?
C. What is the purpose of the submitted rules revisions?
II. EPA's Evaluation and Action
A. How is EPA evaluating the rules?
B. Do the rules meet the evaluation criteria?
C. EPA Recommendations to Further Improve the Rules
D. Public Comment and Final Action
III. Statutory and Executive Order Reviews

I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Amended	Submitted
VCAPCD	74.13	Aerospace Assembly and Component Manufacturing Operations.	09/11/12	04/22/13
VCAPCD	74.24	Marine Coating Operations	09/11/12	04/22/13

On June 26, 2013, EPA determined that the submittal for Ventura County Air Pollution Control District (VCAPCD) Rules 74.13 and 74.24 met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

There are previous versions of Rules 74.13 and 74.24 in the SIP. We approved earlier versions of Rule 74.13 into the SIP on 10/25/2005 (70 FR 61561), 4/19/2001 (66 FR 20086), and 2/12/1996 (61 FR 5288). We approved earlier versions of Rule 74.24 into the SIP on 10/25/2005 (70 FR 61561), 4/19/2001 (66 FR 20086), and 11/03/1997 (62 FR 59284). The VCAPCD adopted revisions to the SIP-approved versions of Rules 74.13 and 74.24 on 9/11/12 and CARB submitted them to us on 4/22/2013.

C. What is the purpose of the submitted rules revision?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. The main purpose of the rule revisions is to set more stringent VOC limits for solvent cleaners. Rule 74.13 limits Reactive Organic Compound (ROC) content to 25 grams per liter (g/l) or requires solvent cleaner vapor pressure to be less than five millimeters of Mercury at 20 degrees Celsius. Rule 74.24 limits ROC content to 25 g/l. EPA's technical support document (TSD) has more information about these rules.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each NO_X or VOC major source in ozone nonattainment areas classified as moderate or above (see sections 182(b)(2) and 182(f)), and must not relax existing requirements (see sections 110(l) and 193). The VCAPCD regulates an ozone nonattainment area classified as serious for the 8-hour ozone NAAQS (see 40 CFR Part 81.305), so Ventura must implement RACT for all major sources.

Guidance and policy documents that we use to evaluate enforceability and RACT requirements consistently include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,'' EPA, May 25, 1988 (the Bluebook).
3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies,'' EPA Region 9, August 21, 2001 (the Little Bluebook).
4. CTG for Control of Volatile Organic Compounds (VOC) from Coating at Aerospace Manufacturing and Rework Facilities EPA–453/R–97–004, December 1997.
5. 40 CFR part 63 Subpart GG—National Emission Standards for Aerospace Manufacturing and Rework Facilities.
6. Control Techniques Guidelines for Shipbuilding and Ship Repair Operations (Surface Coating), EPA, 61 FR 44050 (Tuesday, August 27, 1996).
7. 40 CFR Part 63, Subpart II—Volatile Organic HAP (VOHAP) Limits for Marine Coatings.

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. According to the VCAPCD, there are no existing or anticipated sources in the District that would meet the Aerospace CTG or major source threshold of 25 tons per year of VOC. Therefore, Rule 74.13 is not required to meet RACT. The TSDs have more information on our evaluation.

C. EPA Recommendations To Further Improve the Rules

The TSDs describe additional rule revisions that we recommend for the next time the local agency modifies the rules.

D. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by July 31, 2014, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on September 2, 2014. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a

substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 2, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: May 23, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.220, is amended by adding paragraphs (c)(429) (i)(A)(*4*) and (*5*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(429) * * *

(i) * * *

(A) * * *

(*4*) Rule 74.13, ''Aerospace Assembly and Component Manufacturing Operations,'' revised on September 11, 2012.

(*5*) Rule 74.24, ''Marine Coating Operations,'' revised on September 11, 2012.

* * * * *

[FR Doc. 2014–15391 Filed 6–30–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0336 FRL–9912–64–Region–9]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the San Joaquin Valley Unified Air Pollution Control District [SJVUAPCD] portion of the California State Implementation Plan (SIP). These revisions concern basic enforcement authorities under the Clean Air Act (CAA or the Act).

DATES: This rule is effective on September 2, 2014 without further notice, unless EPA receives adverse comments by July 31, 2014. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0336, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.

2. *Email: steckel.andrew@epa.gov.*

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov,* some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Vanessa Graham, EPA Region IX, (415) 947–4120, *graham.vanessa@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to EPA.

Table of Contents

I. The State's Submittal
A. What rules did the State submit?
B. Are there other versions of these rules?
C. What is the purpose of the submitted rules?
II. EPA's Evaluation and Action
A. How is EPA evaluating the rules?
B. Do the rules meet the evaluation criteria?
C. Public Comment and Final Action
III. Statutory and Executive Order Reviews

I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by SJVUAPCD and submitted by the California Air Resource Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVUAPCD	1040	Enforcement	12/17/92	09/28/94
SJCUAPCD	1050	Order of Abatement	12/17/92	09/28/94
SJVUAPCD	1070	Inspections	12/17/92	09/28/94
SJVUAPCD	1090	Penalty	12/17/92	09/28/94

On March 28, 1995, the submittal for SJVUAPCD Rules 1040, 1050, 1070, and 1090 was deemed by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

There are no previous versions of Rules 1040, 1050, 1070 and 1090 in the SIP.

C. What is the purpose of the submitted rules?

Rule 1040 defines provisions of the California Health and Safety Code under which SJVUAPCD rules are enforced.

Rule 1050 explains the procedures for issuing an order of abatement, the rules governing hearings in the issuance of orders of abatement and the penalties for violating orders of abatement.

Rule 1070 outlines the district's authority in determining compliance with other District rules and regulations. It also explains that inspections shall be made by the enforcement agency for the purpose of obtaining information necessary to determine whether air pollution sources are in compliance with applicable rules and regulations.

Rule 1090 requires that any person or source operation comply with SJVUAPCD rules and regulations.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), and must not relax existing requirements. (See section 110(a)(1)). These rules support some of the basic infrastructure SIP requirements described in section 110(a)(2) of the CAA, but do not impose any specific air pollution control or emission limitations, so we are not evaluating them with respect to Reasonably Available Control Technology (RACT) or other CAA requirements regarding SIP stringency.

Guidance and policy documents that we use to evaluate enforceability and other CAA requirements consistently include the following:

''Guidance Document for Infrastructure State Implementation Plan'' Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2), EPA (September 2013).

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. Our Technical Support Document (TSD) has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by July 31, 2014, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on September 2, 2014. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under

Executive Order 12866 (58 FR 51735, October 4, 1993);

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 2, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides, Volatile organic compounds.

Dated: May 23, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.220, is amended by adding paragraph (c)(199)(i)(D)(*10*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(199) * * *

(i) * * *

(D) * * *

(*10*) Rules 1040, 1050, 1070 and 1090 adopted on June 18,1992 and amended on December 17, 1992.

* * * * *

[FR Doc. 2014–15263 Filed 6–30–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[EPA–R06–2013–0461; FRL–9911–76–Region–6]

Oklahoma: Incorporation by Reference of Approved State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA), allows the Environmental Protection Agency (EPA) to authorize States to operate their hazardous waste management programs in lieu of the Federal program. The EPA uses the regulations entitled ''Approved State Hazardous Waste Management Programs'' to provide notice of the authorization status of State programs and to incorporate by reference those provisions of the State statutes and regulations that will be subject to the EPA's inspection and enforcement. The rule codifies in the regulations the prior approval of Oklahoma's hazardous waste management program and incorporates by reference authorized provisions of the State's statutes and regulations.

DATES: This regulation is effective September 2, 2014, unless the EPA receives adverse written comment on this regulation by the close of business July 31, 2014. If the EPA receives such comments, it will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that this rule will not take effect. The Director of the Federal Register approves this incorporation by reference as of September 2, 2014 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Email: patterson.alima@epa.gov or banks.julia@epa.gov.*

3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, or Julia Banks, State/Tribal Oversight

Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

4. *Hand Delivery or Courier:* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator or Julia Banks State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–RCRA–2013–0461. EPA's policy is that all comments received will be included in the public docket without change, including 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 *http://www.regulations.gov,* or email. The Federal *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

You can view and copy the documents that form the basis for this codification and associated publicly available materials from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following location: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone number (214) 665–8533 or (214) 665–8178. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Region 6 Regional Authorization Coordinator or Julia Banks, Codification Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone numbers: (214) 665–8533 or (214) 665–8178, email address: *patterson.alima@epa.gov* or *banks.julia@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. What is codification?

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste management program into the Code of Federal Regulations (CFR). Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs to operate in lieu of the Federal hazardous waste management regulatory program. The EPA codifies its authorization of State programs in 40 CFR part 272 and incorporates by reference State statutes and regulations that the EPA will enforce under sections 3007 and 3008 of RCRA and any other applicable statutory provisions.

The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and State requirements that can be Federally enforced. This effort provides clear notice to the public of the scope of the authorized program in each State.

B. What is the history of the authorization and codification of Oklahoma's hazardous waste management program?

Oklahoma initially received Final authorization effective January 10, 1985, (49 FR 50362) to implement its Base Hazardous Waste Management program. Subsequently, the EPA approved additional program revision applications effective on June 18, 1990 (55 FR 14280), November 27, 1990 (55 FR 39274), June 3, 1991 (56 FR 13411), November 19, 1991 (56 FR 47675), November 29, 1993 (58 FR 50854), December 21, 1994 (59 FR 51116), April 27, 1995 (60 FR 2699), March 14, 1997 (62 FR 12100), July 14, 1998 (63 FR 23673), November 23, 1998 (63 FR 50528), February 8, 1999 (63 FR 67800), March 30, 2000 (65 FR 16528), July 10, 2000 (65 FR 29981), March 5, 2001 (66 FR 28), June 9, 2003 (68 FR 17308), April 6, 2009 (74 FR 5994), May 6, 2011 (76 FR 18927), May 14, 2012 (77 FR 15273), and May 29, 2013 (78 FR 32161). The EPA first incorporated by reference Oklahoma's hazardous waste program effective December 13, 1993 (58 FR 52679), and updated the incorporation by reference effective July 14, 1998 (63 FR 23673), October 25, 1999 (64 FR 46567), October 27, 2003 (68 FR 51488), August 27, 2010 (75 FR 36546), July 16, 2012 (77 FR 29231), and October 9, 2012 (77 FR 46964). In this document, the EPA is revising Subpart LL of 40 CFR part 272 to include the recent authorization revision actions effective July 29, 2013 (78 FR 32161).

C. What codification decisions have we made in this rule?

The purpose of this **Federal Register** document is to codify Oklahoma's base hazardous waste management program and its revisions through RCRA Cluster XXI. The EPA provided notices and opportunity for comments on the Agency's decisions to authorize the Oklahoma program, and the EPA is not now reopening the decisions, nor requesting comments, on the Oklahoma authorizations as published in the **Federal Register** notices specified in Section B of this document.

This document incorporates by reference Oklahoma's hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and Federally enforceable program. By codifying Oklahoma's authorized program and by amending the Code of Federal Regulations, the public will be more easily able to discern the status of Federally approved requirements of the Oklahoma hazardous waste management program.

The EPA is incorporating by reference the Oklahoma authorized hazardous waste program in subpart LL of 40 CFR part 272. Section 272.1851 incorporates by reference Oklahoma's authorized hazardous waste statutes and regulations. Section 272.1851 also references the statutory provisions (including procedural and enforcement provisions) which provide the legal basis for the State's implementation of the hazardous waste management program, the Memorandum of Agreement, the Attorney General's Statements and the Program Description, which are approved as part of the hazardous waste management program under Subtitle C of RCRA.

D. What is the effect of Oklahoma's codification on enforcement?

The EPA retains its authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013 and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in authorized States. With respect to these actions, the EPA will rely on Federal sanctions,

Federal inspection authorities, and Federal procedures rather than any authorized State analogues to these provisions. Therefore, the EPA is not incorporating by reference such particular, approved Oklahoma procedural and enforcement authorities. Section 272.1851(c)(2) of 40 CFR lists the statutory provisions which provide the legal basis for the State's implementation of the hazardous waste management program, as well as those procedural and enforcement authorities that are part of the State's approved program, but these are not incorporated by reference.

E. What state provisions are not part of the codification?

The public needs to be aware that some provisions of Oklahoma's hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are ''broader in scope'' than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Federal rules for which Oklahoma is not authorized, but which have been incorporated into the State regulations because of the way the State adopted Federal regulations by reference.

State provisions that are ''broader in scope'' than the Federal program are not part of the RCRA authorized program and the EPA will not enforce them. Therefore, they are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.1851(c)(3) lists the Oklahoma regulatory provisions which are ''broader in scope'' than the Federal program and which are not part of the authorized program being incorporated by reference. ''Broader in scope'' provisions cannot be enforced by the EPA; the State, however, may enforce such provisions under State law.

Oklahoma has adopted but is not authorized for the Federal rules published in the **Federal Register** on October 5, 1990 (55 FR 40834); February 1, 1991 (56 FR 3978); February 13, 1991 (56 FR 5910); April 2, 1991 (56 FR 13406); May 1, 1991 (56 FR 19951); December 23, 1991 (56 FR 66365); June 29, 1995 (60 FR 33912), May 26, 1998 (63 FR 28556), June 14, 2005 (70 FR 34538), August 1, 2005 (70 FR 44150); and December 19, 2008 (73 FR 77954). Therefore, these Federal amendments included in Oklahoma's adoption by reference at 252:205–3–2(b) through 252:205–3–2(m) of the Oklahoma Administrative Code, are not part of the State's authorized program and are not part of the incorporation by reference addressed by this **Federal Register** document.

With respect to any requirement pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) for which the State has not yet been authorized, the EPA will continue to enforce the Federal HSWA standards until the State is authorized for these provisions.

F. What will be the effect of Federal HSWA requirements on the codification?

The EPA is not amending 40 CFR part 272 to include HSWA requirements and prohibitions that are implemented by the EPA. Section 3006(g) of RCRA provides that any HSWA requirement or prohibition (including implementing regulations) takes effect in authorized and not authorized States at the same time. A HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by the EPA (50 FR 28702, July 15, 1985). The EPA has the authority to implement HSWA requirements in all States, including authorized States, until the States become authorized for such requirement or prohibition. Authorized States are required to revise their programs to adopt the HSWA requirements and prohibitions, and then to seek authorization for those revisions pursuant to 40 CFR part 271.

Instead of amending the 40 CFR part 272 every time a new HSWA provision takes effect under the authority of RCRA section 3006(g), the EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the State's 40 CFR part 272 incorporation by reference. Until then, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

Some existing State requirements may be similar to the HSWA requirement implemented by the EPA. However, until the EPA authorizes those State requirements, the EPA can only enforce the HSWA requirements and not the State analogs. The EPA will not codify those State requirements until the State receives authorization for those requirements.

G. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 *FR* 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This rule incorporates by reference Oklahoma's authorized hazardous waste management regulations and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule merely incorporates by reference certain existing State hazardous waste management program requirements which the EPA already approved under 40 CFR part 271, and with which regulated entities must already comply, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 *FR* 43255, August 10, 1999), because it merely incorporates by reference existing authorized State hazardous waste management program requirements without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also does not have Tribal implications within the meaning of Executive Order 13175 (65 *FR* 67249, November 6, 2000).

This action also is not subject to Executive Order 13045 (62 *FR* 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 *FR* 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

The requirements being codified are the result of Oklahoma's voluntary participation in the EPA's State program authorization process under RCRA Subtitle C. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 *FR* 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for

affected conduct. The EPA has complied with Executive Order 12630 (53 *FR* 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

List of Subjects in 40 CFR Part 272

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

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

Dated: May 22, 2014.

Ron Curry,

Regional Administrator, EPA Region 6.

For the reasons set forth in the preamble, 40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

■ 1. The authority citation for part 272 continues to read as follows:

Authority: Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

■ 2. Revise § 272.1851 to read as follows:

§ 272.1851 Oklahoma State-Administered program: Final authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), the EPA granted Oklahoma final authorization for the following elements as submitted to EPA in Oklahoma's base program application for final authorization which was approved by EPA effective on January 10, 1985. Subsequent program revision applications were approved effective on June 18, 1990, November 27, 1990, June 3, 1991, November 19, 1991, November 29, 1993, December 21, 1994, April 27, 1995, March 14, 1997, July 14, 1998 and November 23, 1998, February 8, 1999, March 30, 2000, July 10, 2000, March 5, 2001, June 9, 2003, April 6, 2009, May 6, 2011, May 14, 2012, and July 29, 2013.

(b) The State of Oklahoma has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations.* (1) The Oklahoma statutes and regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the Oklahoma regulations that are incorporated by reference in this paragraph from the State's Office of Administrative Rules, Secretary of State, P.O. Box 53390, Oklahoma City, OK 73152–3390; Phone number: 405–521–4911; Web site: *www.sos.state.ok.us/oar/oar_welcome.htm.* The statutes are available from West Publishing Company, 610 Opperman Drive, P.O. Box 64526, St. Paul, Minnesota 55164 0526; Phone: 1–800–328–4880; Web site: *http://west.thomson.com.* You may inspect a copy at EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202 (Phone number (214) 665–8533), or 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.*

(i) The binder entitled ''EPA-Approved Oklahoma Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program'', July, 2013. Only those provisions that have been authorized by EPA are incorporated by reference. These provisions are listed in Appendix A to Part 272.

(ii) [Reserved]

(2) The following provisions provide the legal basis for the State's implementation of the hazardous waste management program, but they are not being incorporated by reference and do not replace Federal authorities:

(i) Oklahoma Environmental Crimes Act, as amended through July 1, 2011, 21 Oklahoma Statutes (O.S.), Sections 1230.1 *et seq.*

(ii) Oklahoma Open Meetings Act, as amended through July 1, 2011, 25 Oklahoma Statutes (O.S.), Sections 301 *et seq.*

(iii) Oklahoma Statutes, Title 27A, ''Environment and Natural Resources'', as amended through July 1, 2011: Chapter 1, ''Oklahoma Environmental Quality Act'', Sections 1–1–101 *et seq.;* Chapter 2, ''Oklahoma Environmental Quality Code'', Sections 2–2–101, 2–2–104, 2–2–201, 2–3–101(F)(1), 2–3–104, 2–3–202, 2–3–501, 2–3–502, 2–3–503, 2–3–504; ''Oklahoma Hazardous Waste Management Act'', Sections 2–7–102, 2–7–104, 2–7–105 (except 2–7–105(27), 2–7–105(29) and 2–7–105(34)), 2–7–106, 2–7–107, 2–7–108(B)(2), 2–7–109, 2–7–110(A), 2–7–111(C)(2)(b) and (c), 2–7–111(C)(3), 2–7–113.1, 2–7–115, 2–7–116(A), 2–7–116(G), 2–7–116(H)(1), 2–7–117, 2–7–123, 2–7–126, 2–7–129, 2–7–130, 2–7–131, 2–7–132, and 2–7–133; ''Oklahoma Uniform Environmental Permitting Act'', Sections 2–14–101 *et seq.*

(iv) Oklahoma Open Records Act, as amended through July 1, 2011, 51 Oklahoma Statutes (O.S.), Sections 24A.1 *et seq.*

(v) Oklahoma Administrative Procedures Act, as amended through July 1, 2011, 75 Oklahoma Statutes (O.S.), Sections 250 *et seq.*

(vi) The Oklahoma Administrative Code (OAC), Title 252, Chapter 205, Hazardous Waste Management, effective July 1, 2012 (2011 Edition, as amended by 29 Ok Reg. 620; published in Oklahoma Register, May 15, 2012, Volume 29, No. 17): Subchapter 1, Sections 252:205–1–1(b), 252:205–1–3(a) and (b), 252:205–1–4(a) —(d); Subchapter 3, Sections 252:205–3–2(a) introductory paragraph, 252:205–3–2(a)(1) and 252:205–3–2(a)(3); Subchapter 11, Section 252:205–11–3.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:

(i) Oklahoma Hazardous Waste Management Act, as amended, 27A Oklahoma Statutes (O.S.) as amended through July 1, 2011, Sections 2–7–119, 2–7–120, 2–7–121, 2–7–121.1 and 2–7–134.

(ii) The Oklahoma Administrative Code (OAC), Title 252, Chapter 205, effective July 1, 2012: Subchapter 1, Sections 252:205–1–1(c)(2) and (3), 252:205–1–2 ''RRSIA''. 252:205–1–2 ''Reuse'', 252:205–1–2 ''Speculative accumulation'', 252:205–1–2 ''Transfer facility'', 252:205–1–2 ''Transfer station'', 252:205–1–4(e); Subchapter 5, Section 252:205–5–1(4), Subchapter 15; Subchapter 17; Subchapter 21; Subchapter 23; and 252:205 Appendices B, C and D.

(4) *Unauthorized State Amendments.* The State's adoption of the Federal rules listed in the following table is not approved by the EPA and are; therefore, not enforceable:

Federal requirement	**Federal Register** reference	Publication date
Toxicity Characteristics; Hydrocarbon Recovery Operations	55 *FR* 40834	10/5/90
	56 *FR* 3978	2/1/91
	56 *FR* 13406	4/2/91
Toxicity Characteristics; Chlorofluorocarbon Refrigerants	56 *FR* 5910	2/13/91
Administrative Stay for K069 Listing	56 *FR* 19951	5/1/91
Amendments to Interim Status Standards for Downgradient Ground-water Monitoring Well Locations.	56 *FR* 66365	12/23/91
Removal of Legally Obsolete Rules	60 *FR* 33912	6/29/95
Mineral Processing Secondary Materials Exclusion.—Amendments to 40 CFR	63 *FR* 28556	5/26/98
Methods Innovation: SW–846	70 FR 34538	6/14/05
	70 FR 44150	8/1/05
Expansion of RCRA Comparable Fuel Exclusion	73 *FR* 77954	12/19/08

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 6 and the State of Oklahoma, signed by the EPA Regional Administrator on May 15, 2013, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921, *et seq.*

(6) *Statement of Legal Authority.* ''Attorney General's Statement for Final Authorization'', signed by the Attorney General of Oklahoma January 20, 1984 and revisions, supplements, and addenda to that Statement dated January 14, 1988 (as amended July 20, 1989); December 22, 1988 (as amended June 7, 1989 and August 13, 1990); November 20, 1989; November 16, 1990; November 6, 1992; June 24, 1994; December 8, 1994; March 4, 1996; April 15, 1997; February 6, 1998, December 2, 1998, October 15, 1999, May 31, 2000, October 15, 2001, June 27, 2003, March 1, 2005, July 12, 2005, July 03, 2006, August 25, 2008, March 26, 2010, October 11, 2010, October 31, 2011, and July 27, 2012 are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description.* The Program Description and any other materials submitted as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

■ 3. Appendix A to part 272 is amended by revising the listing for ''Oklahoma'' to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

Oklahoma

The statutory provisions include:

Oklahoma Hazardous Waste Management Act, as amended, 27A Oklahoma Statute (O.S.) 2011 Main Volume, Sections 2–7–103, 2–7–108(A), 2–7–108(B)(1), 2–7–108(B)(3), 2–7–108(C), 2–7–110(B), 2–7–110(C), 2–7–111(A), 2–7–111(B), 2–7–111(C)(1), 2–7–111(C)(2)(a), 2–7–111(D), 2–7–111(E), 2–7–112, 2–7–116(B) through 2–7–116(F), 2–7–116(H)(2), 2–7–118, 2–7–124, 2–7–125, 2–7–127, and 2–10–301(G), as published by West Publishing Company, 610 Opperman Drive, P.O. Box 64526, St. Paul, Minnesota 55164 0526; Phone: 1- 800–328–4880; Web site: *http://west.thomson.com.*

The regulatory provisions include:

The Oklahoma Administrative Code (OAC), Title 252, Chapter 205, effective July 1, 2012 (2011 Edition, as amended by 29 Ok Reg. 620; published in Oklahoma Register, May 15, 2012, Volume 29, No. 17): Subchapter 1, Sections 252:205–1–1(a), 252:205–1–1(c) introductory paragraph, 252:205–1–1(c)(1), 252:205–1–2 introductory paragraph, 252:205–1–2 ''OHWMA'', 252:205–1–2 ''Post-closure permit'', 252:205–1–3(c); Subchapter 3, Sections 252:205–3–1, 252:205–3–2(a)(2), 252:205–3–2(b)—(n), 252:205–3–4, 252:205–3–5 and 252:205–3–6; Subchapter 5, Sections 252:205–5–1 (except 252:205–5–1(4)), 252:205–5–2 through 252:205–5–5; Subchapter 7, Sections 252:205–7–2 and 252:205–7–4 (except the phrase or in accordance with 252:205–15–1(d)); Subchapter 9, Sections 252:205–9–1 through 252:205–9–4; Subchapter 11, Sections 252:205–11–1(a) (except the word ''recycling''), 252:205–11–1(b)—(e), and 252:205–11–2; and Subchapter 13, Sections 252:205–13–1(a)—(e), as published by the State's Office of Administrative Rules, Secretary of State, P.O. Box 53390, Oklahoma City, OK 73152–3390; Phone number: 405–521–4911; Web site: *www.sos.state.ok.us/oar/oar_welcome.htm.*

* * * * *

[FR Doc. 2014–15267 Filed 6–30–14; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 79, No. 126
Tuesday, July 1, 2014

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. APHIS–2013–0021]

RIN 0579–AD77

User Fees for Agricultural Quarantine and Inspection Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We are reopening the comment period for our proposed rule to amend the user fee regulations by adding new fee categories and adjusting current fees charged for certain agricultural quarantine and inspection services that are provided in connection with certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international passengers arriving at ports in the customs territory of the United States. This action will allow interested persons additional time to prepare and submit comments.

DATES: The comment period for the proposed rule published April 25, 2014 (79 FR 22895) is reopened. We will consider all comments that we receive on or before July 24, 2014.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0021.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2013–0021, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0021* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For information concerning program operations, contact Mr. William E. Thomas, AQI Coordinator, PPQ, APHIS, 4700 River Road, Unit 131, Riverdale, MD 20737–1231; (301) 851–2306. For information concerning rate development, contact Mrs. Kris Caraher, Chief, Review and Analysis Branch, FMD, MRPBS, APHIS, 4700 River Road, Unit 55, Riverdale, MD 20737; (301) 851–2852.

SUPPLEMENTARY INFORMATION: On April 25, 2014, we published in the **Federal Register** (79 FR 22895–22908, Docket No. APHIS–2013–0021) a proposal to amend the user fee regulations by adding new fee categories and adjusting current fees charged for certain agricultural quarantine and inspection services that are provided in connection with certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international passengers arriving at ports in the customs territory of the United States. We also proposed to adjust or remove the fee caps associated with commercial trucks, commercial vessels, and commercial railcars.

Comments on the proposed rule were required to be received on or before June 24, 2014. We are reopening the comment period on Docket No. APHIS–2013–0021 for an additional 30 days. This action will allow interested persons additional time to prepare and submit comments. We will also consider all comments received between June 25, 2014 (the day after the close of the original comment period) and the date of this notice.

Authority: 7 U.S.C. 7701–7772, 7781–7786, and 8301–8317; 21 U.S.C. 136 and 136a; 49 U.S.C. 80503; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 26th day of June 2014.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–15480 Filed 6–30–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 46

[Docket ID. OCC–2014–0015]

RIN 1557–AD85

Annual Stress Test—Schedule Shift and Adjustments to Regulatory Capital Projections

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Proposed rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) proposes to adjust the timing of the annual stress testing cycle and to clarify the method used to calculate regulatory capital in the stress tests. The proposal would shift the dates of the annual stress testing cycle by approximately three months. The proposal also would provide that covered institutions will not have to calculate their regulatory capital requirements using the advanced approaches method in 12 CFR part 3, subpart E until the stress testing cycle beginning on January 1, 2016.

DATES: Comments must be received on or before September 2, 2014.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. Please use the title ''Annual Stress Test'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—''Regulations.gov'':* Go to *www.regulations.gov.* Enter ''Docket ID OCC–2014–0015'' in the Search Box and click ''Search.'' Results can be filtered using the filtering tools on the left side of the screen. Click on ''Comment Now'' to submit public comments.
- Click on the ''Help'' tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for submitting public comments.
- *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 ''Docket ID OCC–2014–0015'' in your comment. In general, the OCC will enter all comments received into the docket and publish those comments 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 review comments and other related materials that pertain to this rulemaking action by any of the following methods:

• *Viewing Comments Electronically:* Go to *www.regulations.gov.* Enter ''Docket ID OCC–2014–0015'' in the Search box and click ''Search.'' Comments can be filtered by Agency using the filtering tools on the left side of the screen.

• Click on the ''Help'' tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.

• *Viewing Comments Personally:* 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.

• *Docket:* You may also view or request available background documents and project summaries using the methods described above.

FOR FURTHER INFORMATION CONTACT: Robert Scavotto, Deputy Director, International Analysis and Banking Condition, (202) 649–5540; William Russell, National Bank Examiner, Large Bank Supervision, (202) 649–7157; Kari Falkenborg, National Bank Examiner, Midsize and Community Bank Supervision, (202) 649–6831; Ron Shimabukuro, Senior Counsel, or Henry Barkhausen, Attorney, Legislative and Regulatory Activities Division, (202) 649–5490; for persons who are deaf or hard of hearing, TTY, (202) 649–5597.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

Section 165(i) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') requires two types of stress tests. Section 165(i)(1) requires the Board of Governors of the Federal Reserve (Board) to conduct annual stress tests of holding companies with $50 billion or more in assets (''supervisory stress tests''). Section 165(i)(2) requires the federal banking agencies to issue regulations requiring financial companies with more than $10 billion in assets to conduct annual stress tests themselves (''company-run stress tests'').

In October 2012, the OCC, the Board, and the Federal Deposit Insurance Corporation issued final rules implementing the company-run stress tests required by the Dodd-Frank Act. Under these final rules, covered institutions with $50 billion or more in assets are required to conduct the company-run stress tests at the end of the calendar year, when there are often other demands on resources. Under the current OCC stress testing rule, the OCC distributes stress scenarios by November 15.[1] Covered institutions use their financial position as of September 30 (''as of date'') and must make projections that estimate their financial position under the different stress scenarios. Covered institutions with $50 billion or more in assets must submit the results of their stress tests by January 5. Covered institutions with $50 billion or more are required to publish a summary of their stress test results between March 15 and March 31. Covered institutions with between $10 and $50 billion in assets are required to submit their stress test results to the OCC by March 31 and publish a summary of their results between June 15 and June 30.

On October 11, 2013, the OCC published revisions to its regulatory capital rules implementing the Basel III international capital standards (Basel III framework).[2] The OCC is now proposing to adjust the schedule contained in its stress testing rule to relieve certain covered institutions of the burden associated with the January 5 submission deadline and to clarify the method to be used to calculate regulatory capital in the stress tests.

II. Description of the Proposed Rule

A. Shift in Stress Testing Cycle

The OCC is proposing to shift the dates of the stress testing cycle by approximately three months. This will relieve covered institutions with $50 billion or more in assets of the obligation to complete their stress testing submissions by January 5, a time of year when these institutions have other year-end obligations. The OCC believes that the annual stress test is an important risk-management tool, and covered institutions should conduct these tests at a time when they are better able to manage their resources. The stress testing cycle that, under the current rule, begins on October 1, 2015, would instead begin on January 1, 2016. The following table summarizes the proposed date changes.

TABLE 1—REVISED ANNUAL STRESS TEST TIMELINE FOR COVERED INSTITUTIONS WITH $50 BILLION OR MORE IN ASSETS

Action required	Current rule	Proposed rule
''As of'' Date for Financial Data Used by Stress Test.	September 30	December 31.
Distribution of Stress Scenarios by OCC	By November 15	By February 15.
Submission of Stress Test Results	By January 5	By April 7.
Disclosure of Results Summary	Between March 15 and March 31.	Between June 15 and July 15 *except* no earlier than Board publication of the supervisory stress test results of the bank holding company.

[1] These scenarios provided by the OCC reflect a minimum of three set of economic and financial conditions, including baseline, adverse, and severely adverse scenarios.

[2] 78 FR 62018.

TABLE 2—REVISED ANNUAL STRESS TEST TIMELINE FOR COVERED INSTITUTIONS WITH BETWEEN $10 AND $50 BILLION IN ASSETS

Action required	Current rule	Proposed rule
''As of'' Date for Financial Data Used by Stress Test.	September 30	December 31.
Distribution of Stress Scenarios by OCC	By November 15	By February 15.
Submission of Stress Test Results	By March 31	By July 31.
Disclosure of Results Summary	Between June 15 and June 30	Between October 15 and October 31.

Under the proposed rule, covered institutions with $50 billion or more in assets must make the required disclosure of stress test results between June 15 and July 15; however, within this period a covered institution that is a consolidated subsidiary of a bank holding company subject to supervisory stress tests conducted by the Board pursuant to 12 CFR part 252 may not disclose its results until the Board has published the supervisory stress test results of the covered institution's parent holding company. In addition, if the Board publishes the supervisory stress test results of the covered institution's parent holding company prior to June 15, then such covered institution may satisfy its publication requirement either through actual publication by the covered institution or through publication by the parent holding company pursuant to 12 CFR 46.8(b).

With respect to covered institutions with assets between $10 and $50 billion, it should be noted that pursuant to 12 CFR 46.3(e) a covered institution may elect to conduct its stress test under the stress test requirements applicable to a covered institution with assets of $50 billion and over. In that case we note that the covered institution also would be subject to the proposed disclosure requirements applicable to covered institutions with $50 billion or more in assets.

The proposed rule would also amend the applicability provisions in § 46.3 of the Annual Stress Test rule to reflect the changed timeline. Currently, a national bank or Federal savings association that becomes a covered institution must conduct its first annual stress test beginning in the next calendar year after the date the national bank or Federal savings association becomes a covered institution. Under the new stress testing timeline, if this applicability provision were left unchanged, if a national bank or Federal savings association became a covered institution as of September 30 of a given year, the institution would be required to conduct its first stress test in the stress testing cycle beginning the following January 1, three months after becoming a covered institution. The current Annual Stress Test rule provides a minimum of nine months between the date on which a national bank or Federal savings association becomes a covered institution and the start date of the stress testing cycle in which the covered institution must conduct it first stress test. To preserve the nine-month minimum the proposed rule would establish a March 31 cutoff date. A national bank or Federal savings association that becomes a covered institution on or before March 31 of a given year would be required to conduct its first stress test in the next calendar year. For example, a national bank or Federal savings association that becomes a covered institution on March 31, 2015 would be required to conduct its first stress test in the stress testing cycle beginning January 1, 2016. A national bank or Federal savings association that becomes a covered institution after March 31 of a given year would be required to conduct its first stress test in the second calendar year after the date the national bank or Federal savings association becomes a covered institution. For example, a national bank or Federal savings association that becomes a covered institution on June 30, 2015 would be required to conduct its first stress test in the stress testing cycle beginning January 1, 2017.

B. Clarification on the Use of Basel III Advanced Approaches

On October 11, 2013, the OCC published revised risk-based and leverage capital requirements that implement the Basel III framework.[3] In light of the issuance of the Basel III framework, the OCC is clarifying when covered institutions would be required to estimate their minimum regulatory capital ratios over the stress-test planning horizon using the Basel III advanced approaches methodology. The current OCC stress testing rule requires covered institutions to estimate the impact of stress scenarios on ''the covered institution's regulatory capital levels and ratios applicable to the covered institution under 12 CFR part 3 (for national banks) or part 167 (for Federal savings associations), as applicable, and any other capital ratios specified by the OCC.''[4] A national bank or Federal savings association that is an advanced approaches banking organization is required to use the advanced approaches to calculate its minimum regulatory capital ratios if it has conducted a satisfactory parallel run.[5] This proposal would provide that no covered institution is required to use the advanced approaches in its stress testing projections until the stress testing cycle beginning on January 1, 2016—even if an organization has previously exited parallel run.

On February 14, 2014, the OCC announced that certain national banks had completed a successful parallel run. Given the operational complexity associated with incorporating the advanced approaches into the stress testing process, the proposal would clarify that incorporating the advanced approaches into stress testing would be deferred for one stress testing cycle. The transition period will provide the OCC with sufficient time to integrate the advanced approaches into its stress testing examination processes and to provide guidance to advanced approaches banking organizations regarding supervisory expectations on the use of the advanced approaches in stress testing projections.

III. Request for Comment

The OCC requests comment on all aspects of the proposal.

IV. Regulatory Analysis

Paperwork Reduction Act

Under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501–3520), the OCC may not conduct or sponsor, and a person is not required to respond to, an information collection unless the information collection displays a valid Office of Management and Budget (OMB) control number. This notice of

[3] 78 FR 62018.

[4] 12 CFR 46.6(a)(2).

[5] A satisfactory parallel run is defined as a period of no less than four consecutive calendar quarters during which a banking organization complies with certain qualification requirements. 12 CFR 3.21(c).

proposed rulemaking amends 12 CFR part 46, which has an approved information collection under the PRA (OMB Control No. 1557–0311). The amendments proposed today do not introduce any new collections of information, nor do they amend 12 CFR part 46 in a way that modifies the collection of information that OMB has approved. Therefore, this proposal does not require a PRA submission to OMB.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.,* requires generally that, in connection with a notice of proposed rulemaking, an agency prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities. However, the regulatory flexibility analysis otherwise required under the RFA is not required if an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined in regulations promulgated by the Small Business Administration (SBA) to include banking organizations with total assets of less than or equal to $500 million) and publishes its certification and a brief explanatory statement in the **Federal Register** together with the rule.

Approximately 1,173 OCC-supervised banks are small entities based on the SBA's definition of small entities for RFA purposes (356 federal savings associations, 796 national banks, and 21 trust companies). As discussed in the **SUPPLEMENTARY INFORMATION** above, the proposed modified dates of the annual stress test cycle will only affect institutions with more than $10 billion in total assets. As such, pursuant to section 605(b) of the RFA, the OCC certifies that this proposal would not have a significant economic impact on a substantial number of small entities because no small national banks or Federal savings associations would be affected by the proposal. Accordingly, an initial regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act

The OCC has analyzed the proposed rule under the factors in the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1532). Under this analysis, the OCC considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted annually for inflation). The OCC has determined that this proposed rule will not result in expenditures by State, local, and tribal governments, or the private sector, of $100 million or more in any one year. Accordingly, this proposal is not subject to section 202 of the Unfunded Mandates Act (2 U.S.C. 1532).

Plain Language

Section 722 of the Gramm-Leach-Bliley Act requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The OCC has sought to present the proposed rule in a simple and straightforward manner, and invites comment on the use of plain language. For example:

- Has the OCC organized the material to suit your needs? If not, how could the OCC present the proposed rule more clearly?
- Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would achieve that?
- Is this section format adequate? If not, which of the sections should be changed and how?
- What other changes can the OCC incorporate to make the regulation easier to understand?

List of Subjects in 12 CFR Part 46

Banking, Banks, Capital, Disclosures, National banks, Recordkeeping, Risk, Savings associations, Stress test.

Authority and Issuance

For the reasons set forth in the preamble, the OCC proposes to amend 12 CFR part 46 as follows:

PART 46—ANNUAL STRESS TEST

■ 1. The authority citation for part 46 continues to read as follows:

Authority: 12 U.S.C. 93a; 12 U.S.C. 1463(a)(2); 12 U.S.C. 5365(i)(2); 12 U.S.C. 5412(b)(2)(B).

■ 2. Section 46.3 is amended by revising paragraph (c) to read as follows:

§ 46.3 Applicability.

* * * * *

(c) *Covered institutions that become subject to stress testing requirements after October 9, 2012.* A national bank or Federal savings association that becomes a covered institution, as defined in § 46.2 of this part, after March 31, 2014 and on or before March 31, 2015 shall conduct it first annual stress test in the stress test beginning January 1, 2016. A national bank or Federal savings association that becomes a covered institution on or before March 31 of a given year (after 2014) shall conduct its first annual stress test under this part in the next calendar year after the date the national bank or Federal savings association becomes a covered institution. A national bank or Federal savings association that becomes a covered institution after March 31 of a given year (after 2014) shall conduct its first annual stress test under this part in the second calendar year after the date the national bank or Federal savings association becomes a covered institution.

* * * * *

■ 3. Section 46.5 is amended by revising paragraphs (a) through (c) to read as follows:

§ 46.5 Annual stress test.

* * * * *

(a) *Financial data.* A covered institution must use financial data as of September 30 (for the stress test beginning October 1, 2014) or December 31 (for the stress test beginning January 1, 2016, and all stress tests thereafter) of that calendar year.

(b) *Scenarios provided by the OCC.* In conducting the stress test under this part, each covered institution must use the scenarios provided by the OCC. The scenarios provided by the OCC will reflect a minimum of three sets of economic and financial conditions, including baseline, adverse, and severely adverse scenarios. The OCC will provide a description of the scenarios required to be used by each covered institution no later than November 15 (for the stress test beginning October 1, 2014) or February 15 (for the stress test beginning January 1, 2016, and all stress tests thereafter) of that calendar year.

(c) *Significant trading activities.* The OCC may require a covered institution with significant trading activities, as determined by the OCC, to include trading and counterparty components in its adverse and severely adverse scenarios. The trading and counterparty position data to be used in this component will be as of a date between October 1 and December 1 (for the stress test beginning October 1, 2014) or between January 1 and March 1 (for the stress test beginning January 1, 2016, and all stress tests thereafter) of that calendar year that will be selected by the OCC and communicated to the covered institution no later than

December 1 (for the stress test beginning October 1, 2014) or March 1 (for the stress test beginning January 1, 2016, and all stress tests thereafter) of the calendar year.

* * * * *

■ 4. Section 46.6 is amended by revising paragraph (a)(2) to read as follows:

§ 46.6 Stress test methodologies and practices.

(a) * * *

(2) The potential impact on the covered institution's regulatory capital levels and ratios applicable to the covered institution under 12 CFR part 3 or part 167, as applicable, and any other capital ratios specified by the OCC, incorporating the effects of any capital actions over the planning horizon and maintenance by the covered institution of an allowance for loan losses appropriate for credit exposures throughout the planning horizon. Until December 31, 2015, or such other date specified by the OCC, a covered institution is not required to calculate its risk-based capital requirements using the internal ratings-based and advanced measurement approaches as set forth in 12 CFR 3, subpart E.

* * * * *

■ 5. Section 46.7 is amended by revising paragraphs (a) and (b) to read as follows:

§ 46.7 Reports to the Office of the Comptroller of the Currency and the Federal Reserve Board.

(a) *$10 to $50 billion covered institution.* A $10 to $50 billion covered institution must report to the OCC and to the Board of Governors of the Federal Reserve System, on or before March 31 (for the stress test beginning October 1, 2014) and on or before July 31 (for the stress test beginning January 1, 2016, and all stress tests thereafter), the results of the stress test in the manner and form specified by the OCC.

(b) *Over $50 billion covered institution.* An over $50 billion covered institution must report to the OCC and to the Board of Governors of the Federal Reserve System, on or before January 5 (for the stress test beginning October 1, 2014) and on or before April 7 (for the stress test beginning January 1, 2016, and all stress tests thereafter), the results of the stress test in the manner and form specified by the OCC.

* * * * *

■ 6. In § 46.8, the heading for paragraph (a) is republished for reader reference, and paragraphs (a)(1), and (2) are revised to read as follows:

§ 46.8 Publication of disclosures

(a) *Publication date*—(1) *Over $50 billion covered institution.* (i) Prior to January 1, 2016, an over $50 billion covered institution must publish a summary of the results of its annual stress test in the period starting March 15 and ending March 31 (for the stress test cycle beginning October 1, 2014).

(ii) Effective January 1, 2016, an over $50 billion covered institution must publish a summary of the results of its annual stress test in the period starting June 15 and ending July 15 (for the stress test cycle beginning January 1, 2016, and for all stress tests thereafter) provided:

(A) Unless the OCC determines otherwise, if the over $50 billion covered institution is a consolidated subsidiary of a bank holding company or savings and loan holding company subject to supervisory stress tests conducted by the Board of Governors of the Federal Reserve System pursuant to 12 CFR part 252, then within the June 15 to July 15 period such covered institution may not publish the required summary of its annual stress test earlier than the date that the Board of Governors of the Federal Reserve System publishes the supervisory stress test results of the covered bank's parent holding company.

(B) If the Board of Governors of the Federal Reserve System publishes the supervisory stress test results of the covered institution's parent holding company prior to June 15, then such covered institution may publish its stress test results prior to June 15, but no later than July 15, through actual publication by the covered institution or through publication by the parent holding company pursuant to paragraph (b) of this section.

(2) *$10 to $50 billion covered institution.* (i) Prior to January 1, 2016, a $10 to $50 billion covered institution must publish a summary of the results of its annual stress test in the period starting June 15 and ending June 30 (for the stress test cycle beginning October 1, 2014).

(ii) Effective January 1, 2016, a $10 to $50 billion covered institution must publish a summary of the results of its annual stress test in the period starting October 15 and ending October 31 (for the stress test cycle beginning January 1, 2016, and for all stress tests thereafter).

* * * * *

Dated: June 11, 2014.

Thomas J. Curry,

Comptroller of the Currency.

[FR Doc. 2014–14416 Filed 6–30–14; 8:45 am]

BILLING CODE P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064–AE18

Annual Stress Test

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule with request for public comment.

SUMMARY: The Federal Deposit Insurance Corporation (the ''Corporation'' or ''FDIC'') requests comment on this proposed rule that revises FDIC Rules and Regulations regarding the annual stress testing requirements for state non-member banks and state savings associations with total consolidated assets of more than $10 billion (''covered banks''). Our regulations, which implement section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act''), requires covered banks to conduct annual stress tests and report the results of such stress test to the Corporation and the Board of Governors of the Federal Reserve System (''Board'') and publicly disclose a summary of the results of the required stress tests. The FDIC proposes to modify the ''as-of'' dates for financial data (that covered banks will use to perform their stress tests) as well as the reporting dates and public disclosure dates of the annual stress tests for both $10 billion to $50 billion covered banks and $50 billion covered banks. The revisions to our regulations would become effective January 1, 2016.

DATES: Comments should be received on or before September 2, 2014.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Agency Web site: http://www.FDIC.gov/regulations/laws/federal/.*
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivered/Courier:* The guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.
- *E-Mail: comments@FDIC.gov.*

Instructions: Comments submitted must include ''FDIC'' and ''RIN [ ].'' Comments received will be posted without change to *http://www.FDIC.gov/*

regulations/laws/federal/, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ryan Sheller, (202) 412–4861, Section Chief, Large Bank Supervision, Division of Risk Management and Supervision; Mark G. Flanigan, Counsel, (202) 898–7426, Jason Fincke, Counsel, (202) 898–3659, or Grace Pyun, Senior Attorney, (202) 898–3609, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC, 20429.

SUPPLEMENTARY INFORMATION:

I. Background

A. Part 325 Subpart C —Annual Stress Test

Section 165(i) of the Dodd-Frank Act requires two types of stress tests. Section 165(i)(1) requires the Board to conduct annual stress tests of holding companies with $50 billion or more in total consolidated assets (''supervisory stress tests''). Section 165(i)(2) requires the federal banking agencies to issue regulations requiring financial companies with more than $10 billion in total consolidated assets to conduct annual stress testes themselves (''bank-run stress tests''). Part 325 Subpart C of the FDIC Rules and Regulations implements Section 165(i)(2) and requires FDIC-insured state non-member banks and FDIC-insured state-chartered savings associations with total consolidated assets of more than $10 billion (''covered banks'') to conduct annual stress tests. Section 165(i)(2)(C) of the Dodd-Frank Act also requires the Corporation, in coordination with the Board and the Federal Insurance Office, to issue consistent and comparable regulations to implement the requirements of this section. In October 2012, the FDIC, the Office of the Comptroller of the Currency, and the Board issued final rules implementing the company-run stress tests required by the Dodd-Frank Act.[1]

Part 325 Subpart C identifies two categories for ''covered banks'': A state nonmember bank or state savings association that has total consolidated assets from (1) $10 billion to $50 billion or (2) over $50 billion.[2] For both types of covered banks, the bank-run stress test must assess the potential impact of different scenarios [3] on the capital of the covered bank and certain related items over a forward-looking, nine-quarter planning horizon, taking into account all relevant exposures and activities.[4]

Part 325 Subpart C also provides several timeframes for the testing, reporting, and publication of the bank-run stress tests, which vary depending on the category into which the covered bank falls. Under the current rule, the stress test cycle begins October 1 of a calendar year and ends on September 30 of the following calendar year. Covered banks use financial data as of September 30 (the ''as of date'') of the preceding calendar year to make projections that estimate their financial position under the different stress scenarios and to report and publish the results of their annual stress test in the following calendar year. Covered banks with $10 billion to $50 billion in total assets must report the results of their stress tests by March 31 and publish a summary of their results between June 15 and June 30.[5] Over $50 billion covered banks are required to report the results of their annual stress test by January 5 of each calendar year and publish a summary of their results between March 15 and March 31.[6] These testing, reporting, and publication milestones are consistent across the Federal banking agencies' annual stress testing rules.

A covered bank that is a consolidated subsidiary of a bank holding company or savings and loan holding company is generally permitted to publish abbreviated disclosures of its annual stress test results with the parent holding company's summary and on the same timeline as the parent holding company.[7] The FDIC requires that specific information be included in the disclosure to reflect the changes in the covered bank's capital ratios and the reasons for those changes.

B. Overview of Proposed Rule

The FDIC is aware that the current testing and reporting dates for $10 billion to $50 billion and $50 billion covered banks occur at the beginning and end of the calendar year when there are competing regulatory and reporting deadlines that must be met. The FDIC is also aware that the testing reporting and publication cycles occur when covered banks are typically most resource-constrained. Furthermore, conducting stress testing during the first quarter of a calendar year may also make it difficult for covered banks to make timely modifications to strategic and operational plans for the following year that address any issues identified in the bank-run stress test results.

For these reasons, the FDIC is proposing to modify the dates of the stress test cycle and the corresponding reporting and publication deadlines as of January 1, 2016. The stress testing cycle that, under the current rule, begins on October 1, 2015, would instead begin on January 1, 2016. Under the proposed rule, covered banks would conduct bank-run stress tests using financial data as of December 31 of the preceding calendar year, which represents a 90-day shift from September 30 in the current rule. The FDIC would provide the economic scenarios to be used by covered banks in their bank-run stress tests no later than February 15 rather than November 15, as is provided under the existing rule. For those certain covered banks with significant amounts of trading activities that are required to include trading and counterparty components in their adverse and severely adverse scenarios, the FDIC will select an as-of date between January 1 and March 1 of that calendar year for the data used in this component. The FDIC will communicate this date to the covered banks no later than March 1.

Under the proposed rule all $10 billion to $50 billion covered banks would be required to conduct and submit the results of their bank-run stress tests to the FDIC by July 31 and publish those results during a period beginning on October 15 and ending October 31. Over $50 billion covered banks would be required to conduct and submit the results of their bank-run stress tests to the FDIC by April 7 and publish those results during a period beginning on June 15 and ending on July 15.

Furthermore, a covered bank that is a consolidated subsidiary of a bank holding company or savings and loan holding company that is required to conduct an annual company-run stress test under applicable regulations of the Board may continue to elect to conduct its stress test and report to the FDIC on the same timeline as its parent bank holding company or savings and loan

[1] 77 FR 62417 (Oct. 15, 2012) (FDIC); 77 FR 61238 (October 9, 2012) (OCC); 77 FR 62396 (October 12, 2012) (FRB).

[2] 12 CFR 325.202. A $10 billion to $50 billion covered bank is a state nonmember bank or state savings association with average total consolidated assets greater than $10 billion but less than $50 billion. A $50 billion covered bank is a state nonmember bank or state savings association with average total consolidated assets that are not less than $50 billion.

[3] On an annual basis, prior to the start of the stress testing period and no later than November 15, the FDIC provides to covered banks a minimum of three economic scenarios (baseline, adverse, and severely adverse) and additional scenarios as the FDIC determines appropriate for the covered banks to use in performing their stress tests.

[4] 12 CFR 325.203; in addition, certain covered banks with significant amounts of trading activities (as determined by the FDIC) may be required to include trading and counterparty components in their adverse and severely adverse scenarios. For these covered banks, the FDIC selects an as-of date between October 1 and December 1 of that calendar year for the data used in this component. This date is communicated to the covered banks no later than

[5] 12 CFR 325.204(a); 12 CFR 325.206(a).

[6] 12 CFR 325.204(a); 12 CFR 325.206(a).

[7] 12 CFR 325.207(b).

holding company as it had under the existing rule. Under the proposed rule, however, an over $50 billion covered bank that is a consolidated subsidiary of a banking holding company or savings and loan holding company that is subject to supervisory stress tests conducted by the Board under 12 CFR part 252 (i.e., the Comprehensive Capital Analysis and Review or ''CCAR'') may publish the required summary of its bank-run stress test no earlier than the date that the Board publishes the supervisory stress test results for the parent holding company, but no later than July 15. In addition, if the Board publishes the supervisory stress test results of the covered bank's parent holding company prior to June 15, then the covered bank may satisfy its publication requirement either through actual publication by the covered bank or through publication by the parent holding company under § 325.207.

The proposed rule would also amend the applicability provisions in § 325.203 of the Annual Stress Test rule to reflect the changed timeline. Currently, a state nonmember bank or state savings association that becomes a covered bank must conduct its first annual stress test beginning in the next calendar year after the date the state nonmember bank or state savings association becomes a covered bank. Under the new stress testing timeline, if this applicability provision were left unchanged, if a state nonmember bank or state savings association became a covered bank as of September 30 of a given year, the institution would be required to conduct its first stress test in the stress testing cycle beginning the following January 1, three months after becoming a covered bank. The current rule provides a minimum of nine months between the date on which a state nonmember bank or state savings association becomes a covered bank and the start date of the stress testing cycle in which the covered bank must conduct it first stress test. To preserve the nine-month minimum the proposed rule would establish a March 31 cutoff date. A state nonmember bank or state savings association that becomes a covered bank on or before March 31 of a given year would be required to conduct its first stress test in the next calendar year. For example, a state nonmember bank or state savings association that becomes a covered bank on March 31, 2015 would be required to conduct its first stress test in the stress testing cycle beginning January 1, 2016. A state nonmember bank or state savings association that becomes a covered bank after March 31 of a given year would be required to conduct its first stress test in the second calendar year after the date the state nonmember bank or state savings association becomes a covered bank. For example, a state nonmember bank or state savings association that becomes a covered bank on June 30, 2015 would be required to conduct its first stress test in the stress testing cycle beginning January 1, 2017.

TABLE 1—MODIFIED ANNUAL STRESS TEST TIMELINE FOR $10 BILLION–$50 BILLION COVERED BANKS

Action required	Current rule	Proposed rule
''As of Date'' for Financial Data	September 30	December 31.
Distribution of Scenarios for Annual Stress Tests by FDIC.	By November 15	By February 15.
Reporting of Annual Stress Test Results	By March 31	By July 31.
Public Disclosure of Annual Stress Test Results	Between June 15 and June 30	Between October 15 and October 31.

TABLE 2—MODIFIED ANNUAL STRESS TEST TIMELINE FOR OVER $50 BILLION COVERED BANKS

Action required	Current rule	Proposed rule
''As of Date'' for Financial Data	September 30	December 31.
Distribution of Scenarios for Annual Stress Tests by FDIC.	By November 15	By February 15.
Reporting of Annual Stress Test Results	By January 5	By April 7.
Public Disclosure of Annual Stress Test Results	Between March 15 and March 30	Between June 15 and July 15, *except no earlier than Board publication of the supervisory stress test results of the covered bank's holding company.*

II. Request for Comments

The Corporation requests comments on all aspects of the proposed rule to revise Part 325 Subpart C, in particular:

- What, if any, specific challenges exist with respect to the proposed steps and time frames?
- Please comment on the use of the proposed: ''as of date'' of December 31, the April 7 and July 31 reporting dates, and the June 15 to July 15 and October 15 to October 31 publication dates for over $50 billion covered banks and $10 billion to $50 billion covered banks, respectively.
- Should the FDIC also modify the timing of when state nonmember banks and state savings associations become covered banks under the annual stress test rule? In particular, should the FDIC adopt transition provisions with fixed cutoff dates for state nonmember banks or state savings associations that become covered under Part 325 Subpart C, where such provisions provide specific date requirements indicating when covered banks would be subject to the next applicable stress test? If so, what should the cutoff dates be?

III. Administrative Law Matters

A. Paperwork Reduction Act Analysis

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (''PRA''), the Corporation 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 information collections affected by this NPR are the FDIC's Annual Stress Test Final Rule and Reporting Templates, [ ] and [ ].[8]

The Corporation proposes to revise 12 CFR 325.202, 325.203, 325.204, 325.206, and 325.207 by modifying timelines for the testing, reporting, and disclosure of the annual stress tests for covered banks. The revisions would shift by 90 days the as-of date of the financial data

[8] Insert Dates of when it was proposed/renewed.

used to conduct bank run-stress tests for covered banks from September 30 to December 31. The proposed rule would also shift the reporting and disclosure deadlines for both $10 billion to $50 billion covered banks and over $50 billion covered banks and provide for a new transition period for those covered banks that become covered under the rule. Additionally, under the proposed rule an over $50 billion covered bank that is a consolidated subsidiary of a bank holding company or savings and loan holding company subject to supervisory stress tests conducted by the Board of Governors of the Federal Reserve System may publish the required summary of its annual stress no earlier than the date that the Board publishes the supervisory stress test results of the covered bank's parent holding company but no later than July 15. The revision of timelines in Part 325 subpart C will not involve any new collections of information pursuant to the PRA.

B. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* (''RFA''), requires that each federal agency either certify that a proposed rule would not, if adopted in final form, have a significant economic impact on a substantial number of small entities or prepare an initial regulatory flexibility analysis of the rule and publish the analysis for comment.[9] The proposed rule would apply only to state nonmember banks and state savings associations with more than $10 billion in total consolidated assets. Under regulations issued by the Small Business Administration (''SBA''), a bank or other depository institution is considered ''small'' if it has $175 million or less in assets.[10] As of December 31, 2013, there are approximately 2,363 small state nonmember banks and state savings associations. Since the proposed rule would apply only to state nonmember banks and state savings associations with more than $10 billion in total consolidated assets, the Corporation does not expect that the proposed rule will directly affect a substantial number of small entities. It is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities and therefore, a regulatory flexibility analysis under the RFA is not required.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Corporation has sought to present the proposed rule in a simple and straightforward manner and invites comment on how to make the proposed rule easier to understand. For example:

- Is the material organized to suit your needs? If not, how could the rule be more clearly presented?
- Are the requirements in the rule clearly stated? If not, how could the rule be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes would achieve that?
- Is this section format adequate? If not, which of the sections should be changed and how?
- What other changes can the Corporation incorporate to make the regulation easier to understand?

List of Subjects in 12 CFR Part 325, Subpart C

12 CFR Chapter III

Administrative practice and procedure, Banking, Disclosures, Federal Deposit Insurance Corporation, Reporting and recordkeeping requirements, State nonmember banks, State savings associations, Stress tests.

Federal Deposit Insurance Corporation

12 CFR Chapter III

Authority and Issuance

For reasons stated in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation proposes to amend subpart C to part 325 of title 12 of the Code of Federal Regulations as follows:

Part 325—CAPITAL MAINTENANCE

■ 1. The authority citation for part 325 continues to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819(Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 1828(o), 1831o, 1831p–1, 1835, 3907, 3909, 4808; Pub. L. 102–233; 105 Stat. 1761, 1789, 1790 (12 U.S.C. 1831n note); Pub. L. 102–242, 105 Stat. 2236, as amended by Pub. L. 103–325, 108 Stat. 2160, 2233 (12 U.S.C. 1828 note); Pub. L. 102–242, 105 Stat. 2236, 2386, as amended by Pub. L. 102–550, 106 Stat. 3672, 4089 (12 U.S.C. 1828 note); 12 U.S.C. 5365(i); 12 U.S.C. 5412(b)(2)(B).

■ 2. In § 325.202 add paragraph (m) to read as follows:

§ 325.202 Definitions.

* * * * *

(m) Stress test cycle means:

(i) Until October 1, 2015, the period beginning October 1 of a calendar year and ending on September 30 of the following calendar year, and

(ii) Beginning October 1, 2015, the period beginning January 1 of a calendar year and ending on December 31 of that year.

■ 3. In § 325.203 revise intro text paragraph (c) to read as follows:

§ 325.203 Applicability.

* * * * *

(c) Covered banks that become subject to stress testing requirements after October 9, 2012. A state nonmember bank or state savings association that becomes a covered bank, as defined in § 325.202 of this part, after March 31, 2014 and on or before March 31, 2015, shall conduct it first annual stress test in the stress test cycle beginning January 1, 2016. A state nonmember bank or state savings association that becomes a covered bank on or before March 31 of a given year (after 2014) shall conduct its first annual stress test under this part in the next calendar year after the date the state nonmember bank or state savings association becomes a covered bank. A state nonmember bank or state savings association that becomes a covered bank after March 31 of a given year (after 2014) shall conduct its first annual stress test under this part in the second calendar year after the date the state nonmember bank or state savings association becomes a covered bank.

* * * * *

■ 4. Revise § 325.204 to read as follows:

§ 325.204 Annual stress tests required.

(a) *General requirements.*

(1) *$10 billion to $50 billion covered bank.* Prior to January 1, 2016, a $10 billion to $50 billion covered bank must conduct a stress test on or before March 31 of each calendar year based on financial data as of September 30 of the preceding calendar year. Effective January 1, 2016, a $10 billion to $50 billion covered bank must conduct a stress test on or before July 31 of each calendar year based on financial data as of December 31 of the preceding calendar year.

(2) *Over $50 billion covered bank.* Prior to January 1, 2016, an over $50 billion covered bank must conduct a stress test on or before January 5 of each calendar year based on financial data as of September 30 of the preceding calendar year. Effective January 1, 2016, an over $50 billion covered bank must conduct a stress test on or before April 7 of each calendar year based on

[9] See 5 U.S.C. 603, 604, and 605.

[10] 13 CFR 121.201.

financial data as of December 31 of the preceding calendar year.

(b) *Scenarios provided by the Corporation.*

In conducting the stress test under this subpart, each covered bank must use the scenarios provided the Corporation. The scenarios provided by the Corporation will reflect a minimum of three sets of economic and financial conditions, including: Baseline, adverse, and severely adverse scenarios. The Corporation will provide a description of the scenarios required under this section to each covered bank no later than November 15 (for the stress tests beginning October 1, 2014) or February 15 (for the stress test beginning January 1, 2016, and all stress tests thereafter) of that calendar year.

(c) *Significant trading activities.* The Corporation may require a covered bank with significant trading activities, as determined by the Corporation, to include trading and counterparty components in its adverse and severely adverse scenarios. The trading and counterparty position data used in these components will be as of a date between October 1 and December 1 (for the stress test beginning October 1, 2014) or between January 1 and March 1 (for the stress test beginning January 1, 2016, and all stress tests thereafter) of that calendar year selected by the Corporation and communicated to the covered bank no later than December 1 (for the stress test beginning October 1, 2014) or March 1 (for the stress test beginning January 1, 2016, and all stress tests thereafter) of the calendar year.

■ 5. Revise § 325.206 paragraph (a) to read as follows:

§ 325.206 Required reports of stress test results to the FDIC and the Board of Governors of the Federal Reserve System

(a) *Report required for annual stress test results.*

(1) *$10 billion to $50 billion covered bank.* Prior to January 1, 2016, a $10 billion to $50 billion covered bank must report to the FDIC and to the Board on or before March 31 the results of the stress test in the manner and form specified by the FDIC. Effective January 1, 2016, a $10 billion to $50 billion covered bank must report to the FDIC and to the Board on or before July 31 the results of the stress test in the manner and form specified by the FDIC.

(2) *Over $50 billion covered bank.* Prior to January 1, 2016, an over $50 billion covered bank must report to the FDIC and to the Board, on or before January 5, the results of the stress test in the manner and form specified by the FDIC. Effective January 1, 2016, an over $50 billion covered bank must report to the FDIC and to the Board, on or before April 7, the results of the stress test in the manner and form specified by the FDIC.

* * * * *

■ 6. Revise § 325.207 paragraph (a) to read as follows:

§ 325.207 Publication of stress test results.

(a) *Publication date.*

(1) *$10 billion to $50 billion covered bank.* (i) Prior to January 1, 2016, a $10 billion to $50 billion covered bank must publish a summary of the results of its annual stress test in the period starting June 15 and ending June 30 (for the stress test cycle beginning October 1, 2014).

(ii) Effective January 1, 2016, a $10 billion to $50 billion covered bank must publish a summary of the results of its annual stress test in the period starting October 15 and ending October 31 (for the stress test cycle beginning January 1, 2016 and for all annual stress tests thereafter).

(2) *Over $50 billion covered bank.* (i) Prior to January 1, 2016, an over $50 billion covered bank must publish a summary of the results of its annual stress tests in the period starting March 15 and ending March 31 (for the stress test cycle beginning October 1, 2014).

(ii) Effective January 1, 2016, an over $50 billion covered bank must publish a summary of the results of its annual stress tests in the period starting June 15 and ending July 15 (for the stress test cycle beginning January 1, 2016, and for all annual stress tests thereafter) provided:

(A) Unless the FDIC determines otherwise, if the over $50 billion covered bank is a consolidated subsidiary of a bank holding company or savings and loan holding company subject to supervisory stress tests conducted by the Board of Governors of the Federal Reserve System under 12 CFR part 252, then, within the June 15 to July 15 period, such covered bank may not publish the required summary of its annual stress test earlier than the date that the Board of Governors of the Federal Reserve System publishes the supervisory stress test results of the covered bank's parent holding company.

(B) If the Board of Governors of the Federal Reserve System publishes the supervisory stress test results of the covered bank's parent holding company prior to June 15, then such covered bank may publish its stress test results prior to June 15, but no later than July 15, through actual publication by the covered bank or through publication by the parent holding company under paragraph (b) of this section.

By order of the Board of Directors.

Dated at Washington, DC, this 13th day of June 2014.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2014–14389 Filed 6–30–14; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0475; Directorate Identifier 2010–NM–199–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier proposed airworthiness directive (AD) for certain The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes. The NPRM proposed to require, for certain airplanes, installing new relays adjacent to two of the spoiler control modules. For certain other airplanes, the NPRM proposed to require torquing the bracket assembly installation nuts and ground stud nuts, and doing bond resistance tests between the bracket assemblies and the terminal lugs on the ground studs. The NPRM was prompted by numerous reports of unintended lateral oscillations during final approach, just before landing. This action revises the NPRM by adding actions that are necessary to address the identified unsafe condition. We are proposing this supplemental NPRM (SNPRM) to reduce the chance of unintended lateral oscillations near touchdown, which could result in loss of lateral control of the airplane, and consequent airplane damage or injury to flight crew and passengers. Since these actions impose an additional burden over that proposed in the NPRM, we are reopening the comment period to allow the public the chance to comment on these proposed changes.

DATES: We must receive comments on this SNPRM by August 15, 2014.

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

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

For service information identified in this AD, contact 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–2011–0475; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Marie Hogestad, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6418; fax: 425–917–6590; email: *marie.hogestad@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2011–0475; Directorate Identifier 2010–NM–199–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We issued an NPRM to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes. The NPRM published in the **Federal Register** on May 24, 2011 (76 FR 30043). The NPRM proposed to require, for certain airplanes, installing new relays adjacent to two of the spoiler control modules that would prevent the deployment of certain spoiler pairs when landing flaps are selected. For certain other airplanes, the NPRM proposed to require torquing the bracket assembly installation nuts and ground stud nuts, and doing bond resistance tests between the bracket assemblies and the terminal lugs on the ground studs.

Actions Since Previous NPRM Was Issued

Since we issued the NPRM, we have determined that additional actions are necessary to address the identified unsafe condition. The actions include installing three new relays on the opposite side of the same relay bracket assembly; and for certain airplanes, doing an additional inspection to ensure that the three new relays do not contact adjacent wire bundles, and related investigative and corrective actions if necessary.

Comments

We gave the public the opportunity to comment on the NPRM (76 FR 30043, May 24, 2011). The following presents the comments received on the NPRM (76 FR 30043, May 24, 2011) and the FAA's response to each comment.

Support for the NPRM (76 FR 30043, May 24, 2011)

The Airline Pilots Association, International (ALPA) stated that it supports the intent of the NPRM (76 FR 30043, May 24, 2011).

Request To Withdraw the NPRM (76 FR 30043, May 24, 2011)

FedEx requested that we withdraw the NPRM (76 FR 30043, May 24, 2011). FedEx stated that since implementation of AD 2006–23–15, Amendment 39–14827 (71 FR 66657, November 16, 2006), there have been no reports of lateral pilot-induced oscillation (PIO) or unintended lateral oscillations during landing from the operators of Model 757 airplanes. (AD 2006–23–15 requires, among other actions, installing a control wheel damper assembly and vortex generators (vortilons) on the leading edge of the outboard main flap.) FedEx also stated that the proposed modifications to the lateral control system are very costly, do not improve the lateral handling characteristics, and will make the airplane less responsive and less maneuverable in the landing environment, resulting in the potential for an unsafe condition.

We disagree with the request to withdraw the NPRM (76 FR 30043, May 24, 2011). AD 2006–23–15, Amendment 39–14827 (71 FR 66657, November 16, 2006), is considered interim action. The manufacturer has identified an additional modification that is needed to correct the unsafe condition identified in AD 2006–23–15. This design change was made to reduce the lateral power to take out excessive airplane roll authority during landing operations. This is done by making the airplane lateral response to control wheel inputs more linear. It should be noted that this will make Model 757 handling characteristics more consistent with those of the other Boeing airplane models during landing operations. Also, even though there have only been 12 reports of unintended lateral oscillations near touchdown, there could have been other events that have been unrecognized and/or unreported. We have determined that it is necessary to proceed with this AD action.

Request To Shorten Compliance Time

ALPA requested the compliance time be shortened from the 60 months proposed in the NPRM (76 FR 30043, May 24, 2011). ALPA stated that a shortened compliance time is justified given the serious consequences of unintended roll oscillations near the ground.

We disagree with the request to shorten the compliance time. In developing the compliance time for this AD action, we considered not only the safety implications of the identified unsafe condition, but also the average utilization rate of the affected fleet, the practical aspects of an orderly modification of the fleet, the availability of required parts, and the time necessary for the rulemaking process. The 60-month compliance time following the effective date of the final rule was

determined to be appropriate given the interim actions that have already been mandated by AD 2006–23–15, Amendment 39–14827 (71 FR 66657, November 16, 2006). We have not changed the SNPRM in this regard.

Request To Use Revised Service Bulletin

American Airlines requested that we delay release of the final rule until after release of Boeing Service Bulletin 757–27A0152, Revision 2, so it can be incorporated into the AD. American Airlines stated that the pending Revision 2 of this service bulletin was expected to address many of the concerns it had regarding the NPRM (76 FR 30043, May 24, 2011) and Boeing Alert Service Bulletin 757–27A0152, Revision 1, dated June 30, 2010. American Airlines outlined its concerns in its comments.

We have revised this SNPRM to refer to Boeing Service Bulletin 757–27A0152, Revision 3, dated October 28, 2013, as operators need to have comprehensive, clear, and concise instructions to accomplish the requirements of this AD.

Also, we reviewed Boeing Service Bulletin 757–27A0152, Revision 2, dated May 25, 2012; and Revision 3, dated October 28, 2013. Revision 2 was issued to add procedures for installing three new relays on the opposite side of the same relay bracket assembly to improve wire routing and maintenance access to the relays, and to prevent wire chafing on adjacent wire bundles. For certain airplanes, a general visual inspection was added to ensure the three new relays do not contact adjacent wire bundles and, if necessary, related investigative and corrective actions.

Boeing Service Bulletin 757–27A0152, Revision 3, dated October 28, 2013, was subsequently issued to make further improvements and corrections to illustrations.

We have changed the service information references in paragraphs (c) and (g) of this SNPRM to Boeing Service Bulletin 757–27A0152, Revision 3, dated October 28, 2013; and added new paragraph (h) to this SNPRM to provide credit for the actions required by paragraph (g) of this SNPRM, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 757–27A0152, Revision 2, dated May 25, 2012.

Request To Clarify the Terms ''Refer to'' and ''In Accordance With''

UPS asked if we agree with the terms ''refer to'' and ''in accordance with'' as defined in Boeing Alert Service Bulletin 757–27A0152, Revision 1, dated June 30, 2010.

We agree with the definition of the terms ''refer to'' and ''in accordance with'' as specified in Boeing Alert Service Bulletin 757–27A0152, Revision 1, dated June 30, 2010; Boeing Service Bulletin 757–27A0152, Revision 2, dated May 25, 2012; and Boeing Service Bulletin 757–27A0152, Revision 3, dated October 28, 2013. When the words ''refer to'' are used and the operator has an accepted alternative procedure, the accepted alternative procedure may be used. When the words ''in accordance with'' are included in the instruction, the procedure specified must be used. No change to the SNPRM is needed.

Request To Change Wording

Boeing requested that we revise the **SUMMARY** and Discussion sections and paragraph (e) of the NPRM (76 FR 30043, May 24, 2011) to change ''numerous'' to ''several'' when describing the number of reports of unintended lateral oscillations during final approach. Boeing stated that this wording change would make the wording in the NPRM consistent with that used in AD 2006–23–15, Amendment 39–14827 (71 FR 66657, November 16, 2006), which also addresses the issue of unintended lateral oscillations near touchdown for Model 757 airplanes.

We disagree to change the wording. Although the wording is not consistent with AD 2006–23–15, Amendment 39–14827 (71 FR 66657, November 16, 2006), it is accurate because there have been 12 confirmed PIO events in Model 757 history. And there were three other events for which a PIO was suspected, but without time history data, they could not be confirmed. We have not changed the SNPRM in this regard.

Request To Allow Use of New Parts

American Airlines requested that we revise the NPRM (76 FR 30043, May 24, 2011) to authorize, without mandating, installation of new parts in place of lost or damaged hardware. American Airlines stated that it finds several areas in which Boeing Alert Service Bulletin 757–27A0152, Revision 1, dated June 30, 2010, states to ''Install (Kept)'' parts. American Airlines stated that no authority is given to replace the kept parts with new parts of the same part number and that, during the course of the modification, parts may become damaged or lost, therefore rendering the kept hardware unserviceable or unavailable for installation.

We agree with the commenter's request. As stated previously, we have changed this SNPRM to refer to Boeing Service Bulletin 757–27A0152, Revision 3, dated October 28, 2013, as the appropriate source of service information. Note 11 of paragraph 3.A. (General Information) of the Accomplishment Instructions of Boeing Service Bulletin 757–27A0152, Revision 3, dated October 28, 2013, states that, where the work instructions include installation of a kept part, a new or serviceable part with the same part number can be installed as an alternative to the kept part.

Request To Evaluate Lateral Control Landing Characteristics

ALPA requested that we evaluate whether the maximum demonstrated crosswind characteristics are affected by the lateral control modifications proposed by the NPRM (76 FR 30043, May 24, 2011). FedEx stated that the current simulator data are based on the original Boeing flight test data, which will not accurately represent the lateral control characteristics if modified by the proposed AD.

We have determined that, at the most conservative crosswind case of a trim on approach in the maximum demonstrated crosswind (30 knots) with zero degree crab angle, the additional wheel required to trim is small (six degrees or less); and that the total magnitude of the lateral control required to trim is not limiting. The manufacturer has stated that it has no plans to make any updates to the airplane flight manual, nor a plan to release an updated simulator data package regarding crosswind characteristics. We have not changed the SNPRM in this regard.

Request for Clarification of Spoiler/Speedbrake Test

UPS requested clarification of the spoiler/speedbrake control system operational test. UPS stated that Boeing Alert Service Bulletin 757–27A0152, Revision 1, dated June 30, 2010, referenced in the NPRM (76 FR 30043, May 24, 2011), does not provide an aircraft maintenance manual (AMM) reference for the test.

We agree to provide clarification. No reference to the AMM is needed, because the spoiler/speedbrake control system operational test is included in the Accomplishment Instructions of Boeing Service Bulletin 757–27A0152, Revision 3, dated October 28, 2013; in a separate section titled ''Operational test of the spoiler/speedbrake control system.'' We have not changed the SNPRM in this regard.

FAA's Determination

We are proposing this SNPRM because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design. Certain changes described above expand the scope of the NPRM (76 FR 30043, May 24, 2011). As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this SNPRM.

Proposed Requirements of This SNPRM

This SNPRM would require accomplishing the actions specified in Boeing Service Bulletin 757–27A0152, Revision 3, dated October 28, 2013.

The phrase ''related investigative actions'' is used in this proposed AD. ''Related investigative actions'' are follow-on actions that (1) are related to the primary actions, and (2) further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

The phrase ''corrective actions'' is used in this proposed AD. ''Corrective actions'' correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Costs of Compliance

We estimate that this will affect 676 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Installation Group 1, Configuration 1 (48 airplanes)	36 work-hours × $85 per hour = $3,060.	$4,691	$7,751	$372,048
Installation Group 2, Configuration 1 (588 airplanes)	33 work-hours × $85 per hour = $2,805.	4,610	7,415	4,360,020
Installation Group 3, Configuration 1 (12 airplanes)	33 work-hours × 85 per hour = $2,805.	4,619	7,424	89,088
Installation Group 4, Configuration 1 (24 airplanes)	33 work-hours × $85 per hour = $2,805.	4,610	7,415	177,960
Installation Group 5, Configuration 1 (4 airplanes)	36 work-hours × $85 per hour = $3,060.	4,701	7,761	31,044
Torque Bracket Assembly and Bond Tests Groups 1–5, Configuration 2.	12 work-hours × $85 per hour = $1,020.	0	1,020	689,520
General Visual Inspection Groups 1–5, Configuration 3	7 work-hours × $85 per hour = $595	0	595	402,220

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Adjust Wire Bundle and Install Sleeve, Group 1–5, Configuration 1	1 work-hour × $85 per hour = $85	$0	$85
Inspection, Repair, and Installation Change, Group 1–5, Configuration 2	1 work-hour × $85 per hour = $85	0	85
Inspection, Repair, Installation Change, and Test, Group 1–5, Configuration 3.	5 work-hours × $85 per hour = $425	0	425

We have received no definitive data that would enable us to provide cost estimates for the on-condition parts specified in this SNPRM.

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 proposed regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2011–0475; Directorate Identifier 2010–NM–199–AD.

(a) Comments Due Date

We must receive comments by August 15, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes, certificated in any category, as identified in Boeing Service Bulletin 757–27A0152, Revision 3, dated October 28, 2013.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Unsafe Condition

This AD was prompted by numerous reports of unintended lateral oscillations during the final approach, just before landing. We are issuing this AD to reduce the chance of unintended lateral oscillations near touchdown, which could result in loss of lateral control of the airplane, and consequent airplane damage or injury to flight crew and passengers.

(f) Compliance

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

(g) Installation and Inspection

Within 60 months after the effective date of this AD, do the applicable actions specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD.

(1) For Configuration 1 airplanes as defined in Boeing Service Bulletin 757–27A0152, Revision 3, dated October 28, 2013: Install three bracket assemblies and three new relays, and make changes to the wire bundles, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–27A0152, Revision 3, dated October 28, 2013.

(2) For Configuration 2 airplanes as defined in Boeing Service Bulletin 757–27A0152, Revision 3, dated October 28, 2013: Torque the bracket assembly nuts and ground stud nuts, do bond resistance tests to verify that bonding requirements are met, do a general visual inspection to ensure that the three new relays do not touch the adjacent wire bundles, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–27A0152, Revision 3, dated October 28, 2013. Do all applicable related investigative and corrective actions before further flight.

(3) For Configuration 3 airplanes as defined in Boeing Service Bulletin 757–27A0152, Revision 3, dated October 28, 2013: Do a general visual inspection to ensure that the three new relays do not touch the adjacent wire bundles, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–27A0152, Revision 3, dated October 28, 2013. Do all applicable related investigative and corrective actions before further flight.

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Service Bulletin 757–27A0152, Revision 2, dated May 25, 2012.

(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)(2) 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

(1) For more information about this AD, contact Marie Hogestad, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6418; fax: 425–917–6590; email: *marie.hogestad@faa.gov.*

(2) For information about AMOCs for this AD, contact Jen Pei, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, Los Angeles Aircraft Certification Office (ACO), FAA, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5320; fax: 562–627–5210; email: *jen.pei@faa.gov.*

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

Issued in Renton, Washington, on June 24, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–15416 Filed 6–30–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0348; Directorate Identifier 2014–NM–033–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 777–200, 777–200LR, 777–300ER, and 777F series airplanes. This proposed AD was prompted by a report indicating that sealant may not have been applied in production to the wing skin panel gaps above certain underwing fittings. This proposed AD would require an inspection for missing sealant, and applicable other specified, related investigative, and corrective actions. We are proposing this AD to detect and correct missing sealant from the wing skin panel gaps above the underwing fittings, which could result in corrosion and fatigue cracking in the wing skin panel, and consequent loss of limit load capability of the wing skin and potential subsequent structural failure of the wings.

DATES: We must receive comments on this proposed AD by August 15, 2014.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–

30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact 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, 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–2014–0348; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Haytham Alaidy, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–6573; phone: 425–917–6422; fax: 425–917–6590; email: *haytham.alaidy@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0348; Directorate Identifier 2014–NM–033–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We received a report that sealant may not have been applied in production to the wing skin panel gaps above certain underwing fittings, as required by type design before their installation. Affected in-production airplanes have been inspected for proper sealant application, and Boeing has addressed production installation procedures for this sealant. Missing sealant from the wing skin panel gaps above the underwing fittings could result in corrosion and fatigue cracking in the wing skin panel, and consequent loss of limit load capability of the wing skin and potential subsequent structural failure of the wings.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin 777–57A0097, dated January 10, 2014. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2014–0348.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require accomplishing an inspection for missing sealant, and applicable other specified, related investigative, and corrective actions, specified in the service information described previously, except as discussed under ''Difference Between this Proposed AD and the Service Information.''

The phrase ''related investigative actions'' is used in this proposed AD. ''Related investigative actions'' are follow-on actions that (1) are related to the primary actions, and (2) further investigate the nature of any condition found. Related investigative actions in an AD could include, for example, inspections.

The phrase ''corrective actions'' is used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

The phrase ''other specified actions'' is used in this proposed AD. Other specified actions in this proposed AD include restoring sealant.

Explanation of ''RC'' Steps in Service Information

The FAA worked in conjunction with industry, under the Airworthiness Directives Implementation Aviation Rulemaking Committee, to enhance the AD system. One enhancement was a new process for annotating which steps in the service information are required for compliance with an AD. Differentiating these steps from other tasks in the service information is expected to improve an owner's/operator's understanding of crucial AD requirements and help provide consistent judgment in AD compliance. The actions specified in the service information described previously include steps that are labeled as RC (required for compliance) because these steps have a direct effect on detecting, preventing, resolving, or eliminating an identified unsafe condition.

As noted in the specified service information, steps labeled as RC must be done to comply with the proposed AD. However, steps that are not labeled as RC are recommended. Those steps that are not labeled as RC may be deviated from, done as part of other actions, or done using accepted methods different from those identified in the service information without obtaining approval of an AMOC, provided the steps labeled as RC can be done and the airplane can be put back in a serviceable condition. Any substitutions or changes to steps labeled as RC will require approval of an alternative method of compliance.

Difference Between This Proposed AD and the Service Information

Boeing Alert Service Bulletin 777–57A0097, dated January 10, 2014, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

• In accordance with a method that we approve; or

• Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 6 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	Up to 104 work-hours × $85 per hour = $8,840	$0	Up to $8,840	Up to $53,040.

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Sealant restoration	1 work-hour × $85 per hour = $85	$0	$85.
Corrosion inspection	2 work-hours × $85 per hour = $170	0	$170 per side.

We have received no definitive data that would enable us to provide cost estimates for the on-condition corrosion repair specified in this proposed AD.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2014–0348; Directorate Identifier 2014–NM–033–AD.

(a) Comments Due Date

We must receive comments by August 15, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 777–200, 777–200LR, 777–300ER, and 777F series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 777–57A0097, dated January 10, 2014.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report indicating that sealant may not have been applied in production to the wing skin panel gaps above certain underwing fittings. We are issuing this AD to detect and correct missing sealant from the wing skin panel gaps above the underwing fittings, which could result in corrosion and fatigue cracking in the wing skin panel, and consequent loss of limit load capability of the wing skin and potential subsequent structural failure of the wings.

(f) Compliance

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

(g) Inspection

At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 777–57A0097, dated January 10, 2014, except as required by paragraph (h)(1) of this AD: Do a detailed inspection for missing sealant in the wing skin panel gaps above the underwing fittings, and do all applicable other specified, related investigative, and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 777–57A0097, dated January 10, 2014, except as required by paragraph (h)(2) of this AD. Do all applicable other specified, related investigative, and corrective actions before further flight.

(h) Exceptions to Service Information Specifications

(1) Where Boeing Alert Service Bulletin 777–57A0097, dated January 10, 2014, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Boeing Alert Service Bulletin 777–57A0097, dated January 10, 2014,

specifies to contact Boeing for appropriate action: Repair before further flight using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle 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)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-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, Seattle 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.

(4) If the service information contains steps that are labeled as RC (Required for Compliance), those steps must be done to comply with this AD; any steps that are not labeled as RC are recommended. Those steps that are not labeled as RC may be deviated from, done as part of other actions, or done using accepted methods different from those identified in the specified service information without obtaining approval of an AMOC, provided the steps labeled as RC can be done and the airplane can be put back in a serviceable condition. Any substitutions or changes to steps labeled as RC require approval of an AMOC.

(j) Related Information

(1) For more information about this AD, contact Haytham Alaidy, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: 425–917–6422; fax: 425–917–6573; email: *haytham.alaidy@faa.gov*.

(2) 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.

Issued in Renton, Washington, on June 24, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–15369 Filed 6–30–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0424; Directorate Identifier 2014–NM–003–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Bombardier, Inc. Model BD–700–1A10 and BD–700–1A11 airplanes. This proposed AD was prompted by reports of an incorrectly assembled check tee fitting used in fire extinguishing (FIREEX) distribution lines. This proposed AD would require inspecting to determine the part number and for all affected check tee fittings measuring for correct depth, and replacing if necessary. We are proposing this AD to detect and correct faulty check tee fittings, which will reduce fire extinguishing protection.

DATES: We must receive comments on this proposed AD by August 15, 2014.

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

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

For service information identified in this proposed AD, contact—Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.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–2014–0424; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7318; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0424; Directorate Identifier 2014–NM–003–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

Transport Canada Civil Aviation, which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2013–41, dated December 30, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

A check tee fitting used in the aeroplane fire extinguishing (FIREEX) distribution lines, was discovered by another airframe manufacturer as being incorrectly assembled. A properly assembled check tee fitting normally contains one check ball, however the affected fitting contained two check balls. The FIREEX manufacturer advised Bombardier that this condition may be present on aeroplane models BD–700–1A10 and BD–700–1A11.

Testing has verified that incorrect installation of the additional check ball in the fitting reduces the flow rate of the extinguishing agent. There are three check tee fittings installed on the BD–700–1A10 and BD–700–1A11 aeroplanes, one for each engine and one for the auxiliary power unit. Faulty fittings will reduce fire extinguishing protection at the affected locations.

Bombardier has issued several Alert Service Bulletins (ASBs) to identify, inspect and replace if required, all affected fittings. This [Canadian] AD mandates incorporation of the applicable Bombardier ASBs to rectify this problem.

Required actions include inspecting to determine the part number and for all affected check tee fittings measuring for correct depth, and replacing if necessary. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0424.

Relevant Service Information

Bombardier, Inc. has issued the following service bulletins. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

- Bombardier Alert Service Bulletin A700–1A11–26–003, dated April 18, 2013 (for Model BD–700–1A11 (BD–700) airplanes having S/Ns 9127 through 9383 inclusive; 9389 through 9400 inclusive, 9404 through 9431 inclusive, and 9998).
- Bombardier Alert Service Bulletin A700–26–010, dated April 18, 2013 (for Model BD–700–1A10 (BD–700) airplanes having S/Ns 9002 through 9312 inclusive, 9314 through 9380 inclusive, and 9384 through 9429 inclusive).
- Bombardier Alert Service Bulletin A700–26–5002, dated April 18, 2013 (for Model BD–700–1A11 (BD–700) airplanes having S/Ns 9386, 9401, and 9445 through 9498 inclusive).
- Bombardier Alert Service Bulletin A700–26–6002, dated April 18, 2013 (for Model BD–700–1A10 (BD–700) airplanes having S/Ns 9313, 9381, and 9432 through 9500 inclusive).

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

We estimate that this proposed AD affects 57 airplanes of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $4,845, or $85 per product.

In addition, we estimate that any necessary follow-on actions would take about 1 work-hour, for a cost of $85 per tee fitting. We have no way of determining the number of aircraft that might need this action.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc.: Docket No. FAA–2014–0424; Directorate Identifier 2014–NM–003–AD.

(a) Comments Due Date

We must receive comments by August 15, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model BD–700–1A10 and BD–700–1A11 airplanes, certificated in any category, serial numbers 9002 through 9500 inclusive, and 9998.

(d) Subject

Air Transport Association (ATA) of America Code 26, Fire Protection.

(e) Reason

This AD was prompted by reports of an incorrectly assembled check tee fitting used in fire extinguishing (FIREEX) distribution lines. We are issuing this AD to detect and correct faulty check tee fittings, which will reduce fire extinguishing protection.

(f) Compliance

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

(g) Part Number Identification

Within 100 flight hours or 180 days, whichever occurs first after the effective date of this AD, inspect to determine the part number (P/N) of the fire extinguishing (FIREEX) check tee fitting, in accordance with the Accomplishment Instructions of the applicable service bulletin identified in paragraph (g)(1), (g)(2), (g)(3), or (g)(4) of this AD.

(1) Bombardier Alert Service Bulletin A700–1A11–26–003, dated April 18, 2013 (for Model BD–700–1A11 (BD–700) airplanes having S/Ns 9127 through 9383 inclusive; 9389 through 9400 inclusive, 9404 through 9431 inclusive, and 9998).

(2) Bombardier Alert Service Bulletin A700–26–010, dated April 18, 2013 (for Model BD–700–1A10 (BD–700) airplanes having S/Ns 9002 through 9312 inclusive, 9314 through 9380 inclusive, and 9384 through 9429 inclusive).

(3) Bombardier Alert Service Bulletin A700–26–5002, dated April 18, 2013 (for Model BD–700–1A11 (BD–700) airplanes having S/Ns 9386, 9401, and 9445 through 9498 inclusive).

(4) Bombardier Alert Service Bulletin A700–26–6002, dated April 18, 2013 (for Model BD–700–1A10 (BD–700) airplanes having S/Ns 9313, 9381, and 9432 through 9500 inclusive).

(h) Measurement and Replacement

If any inspection specified in paragraph (g) of this AD reveals any check tee fitting having P/N 446651 and S/N 062 through 070 inclusive, 117 through 133 inclusive, 3728 through 3731 inclusive, 3733 through 3760 inclusive, or 3762 through 3776 inclusive: Within 100 flight hours or 180 days, whichever occurs first after the effective date of this AD, measure the depth of the inlet fitting of the check tee, in accordance with the Accomplishment Instructions of the applicable service bulletin identified in paragraph (g)(1), (g)(2), (g)(3), or (g)(4) of this AD. If the check tee depth is less than 1.70 inches (4.32 cm), before further flight, replace the check tee in accordance with the Accomplishment Instructions of the applicable service bulletin identified in paragraph (g)(1), (g)(2), (g)(3), or (g)(4) of this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or the DAH with a State of Design Authority's design organization approval, as applicable). You are required to ensure the product is airworthy before it is returned to service.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2013–41, dated December 30, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0424.

(2) For Bombardier service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on June 19, 2014.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–15378 Filed 6–30–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0427; Directorate Identifier 2013–NM–218–AD]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2011–09–04, which applies to all Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 382, 382B, 382E, 382F, and 382G airplanes. AD 2011–09–04 currently requires repetitive inspections for any damage of the lower surface of the center wing box, and corrective actions if necessary. Since we issued AD 2011–09–04, an evaluation by the design approval holder (DAH) indicated that the center wing box is subject to widespread fatigue damage (WFD). This proposed AD would also require replacement of the center wing box, which would terminate the repetitive inspections. This proposed AD would also add a concurrent related investigative action. We are proposing this AD to detect and correct fatigue cracking of the lower surface of the center wing box, which could result in structural failure of the wings.

DATES: We must receive comments on this proposed AD by August 15, 2014.

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

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

For service information identified in this proposed AD, contact Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, Airworthiness Office, Dept. 6A0M, Zone 0252, Column P–58, 86 S. Cobb Drive, Marietta, GA 30063; telephone 770–494–5444; fax 770–494–5445; email *ams.portal@lmco.com;* Internet *http://www.lockheedmartin.com/ams/tools/TechPubs.html.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The

street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Carl Gray, Aerospace Engineer, Airframe Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office, 1701 Columbia Avenue, College Park, GA 30337; telephone 404–474–5554; fax 404–474–5605; email: *carl.w.gray@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0427; Directorate Identifier 2013–NM–218–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

Structural fatigue damage is progressive. It begins as minute cracks, and those cracks grow under the action of repeated stresses. This can happen because of normal operational conditions and design attributes, or because of isolated situations or incidents such as material defects, poor fabrication quality, or corrosion pits, dings, or scratches. Fatigue damage can occur locally, in small areas or structural design details, or globally. Global fatigue damage is general degradation of large areas of structure with similar structural details and stress levels. Multiple-site damage is global damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Global damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site-damage and multiple-element-damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane, in a condition known as widespread fatigue damage (WFD). As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that DAHs establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

On April 12, 2011, we issued AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011), for all Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 382, 382B, 382E, 382F, and 382G airplanes. AD 2011–09–04 requires repetitive inspections for any damage of the lower surface of the center wing box, and corrective actions if necessary. AD 2011–09–04 resulted from reports of fatigue cracks of the lower surface of the center wing box. We issued AD 2011–09–04 to detect and correct such cracks, which could result in the structural failure of the wings.

Actions Since AD 2011–09–04 Was Issued

Since we issued AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011), the DAH completed an evaluation that indicated removal of a recurring inspection, establishment of a terminating action, and reference to certain center wing box replacement service information is necessary to safeguard the airplane against WFD up to the LOV of the airplane.

Relevant Service Information

We reviewed Lockheed Service Bulletin 382–57–85 (82–790), Revision 3, dated July 8, 2013, including Appendix A, dated July 8, 2013, and Appendixes B, C, D, E, F, and G, all Revision 1, all dated March 8, 2007. This service information is essentially the same as Lockheed Service Bulletin 382–57–85 (82–790), Revision 2, dated August 23, 2007, including Appendixes A, B, C, D, E, F, and G, all Revision 1, all dated March 8, 2007, which is referred to as the appropriate source of service information in AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011). Revision 3 adds a concurrent related investigative action, which involves a bolt hole eddy current inspection for cracking at additional fastener locations.

We also reviewed Lockheed Service Bulletin 382–57–94, dated December 3, 2013, which describes procedures for replacement of the center wing box. Accomplishing the replacement eliminates the need for repetitive inspections.

Other Relevant Rulemaking

Accomplishing the replacement of the center wing box specified in paragraph (k) of this proposed AD affects the requirements of the following ADs:

- AD 2011–09–03, Amendment 39–16665 (77 FR 22311, April 21, 2011), which requires repetitive eddy current inspections to detect cracks in the center wing upper and lower rainbow fittings, and corrective actions if necessary; and repetitive replacements of rainbow fittings, which would extend the repetitive interval for the next inspection. We issued this AD to detect and correct fatigue cracks, which could grow large and lead to the failure of the fitting and a catastrophic failure of the center wing.
- AD 2011–15–02, Amendment 39–16749 (76 FR 41647, July 15, 2011), which superseded AD 2008–20–01, Amendment 39–15680 (73 FR 56464, September 29, 2008). AD 2011–15–02 continues to require revising the maintenance program by incorporating

new airworthiness limitations for fuel tank systems to satisfy the requirements of Special Federal Aviation Regulation (SFAR) No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83), which is part of a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). AD 2011–15–02 also continues to require accomplishing certain fuel system modifications, initial inspections of certain repetitive fuel system limitations to phase in those inspections, and repair if necessary. AD 2011–15–02 corrects certain part number references, adds an additional inspection area and, for certain airplanes, requires certain actions to be re-accomplished according to revised service information. AD 2011–15–02 was issued to prevent the potential for ignition sources inside fuel tanks caused by latent failures, alterations, repairs, or maintenance actions, which, in combination with flammable fuel vapors, could result in a fuel tank explosion and consequent loss of the airplane.

• AD 2012–06–09, Amendment 39–16990 (77 FR 21404, April 10, 2012), which requires revising the maintenance/inspection program to include inspections that will give no less than the required damage tolerance analysis for each principal structural element (PSE), doing repetitive inspections to detect cracks of all PSEs, and repairing cracked structure. We issued this AD to maintain the continued structural integrity of the fleet.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would retain all of the requirements of AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011). This proposed AD would also require replacement of the center wing box, which would terminate the repetitive inspections. This proposed AD would add a concurrent related investigative action, which involves a bolt hole eddy current inspection for cracking at additional fastener locations.

We revised the phrase ''accomplishment of the service bulletin'' in paragraph (g)(3) of AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011), to specify ''accomplishment of the inspection specified in paragraph (g) of this AD.''

We also have removed Note 1 of AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011). The text in Note 1 is informational and is not a requirement of this proposed AD.

Differences Between This Proposed AD and the Service Information

Although the service information specifies that operators may contact the manufacturer for using adjusted thresholds and intervals, using alternative repetitive inspection intervals, and using alternative inspection methods, this proposed AD would require operators to obtain approval of any alternative thresholds, intervals, or inspection methods from the FAA.

Explanation of Compliance Time

The compliance time for the replacement specified in this proposed AD for addressing WFD was established to ensure that discrepant structure is replaced before WFD develops in the affected airplanes. Standard inspection techniques cannot be relied on to detect WFD before it becomes a hazard to flight. We will not grant any extensions of the compliance time to complete any AD-mandated service information related to WFD without extensive new data that would substantiate and clearly warrant such an extension.

Costs of Compliance

We estimate that this proposed AD affects 15 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection [retained action from AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011)].	2,000 work-hours × $85 per hour = $170,000.	N/A	$170,000	$2,550,000 per inspection cycle.
Replacement [new proposed action]	4,800 work-hours × $85 per hour = $408,000.	$5,000,000	5,408,000	$81,120,000.

We estimate the following costs to do any necessary repair that would be required. We have no way of determining the number of aircraft that might need this repair:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair [retained from AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011)].	1,000 to 3,000 work-hours × $85 per hour = $85,000 to $255,000.	$30,000	$115,000 to $285,000.

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011), and adding the following new AD:

Lockheed Martin Corporation/Lockheed Martin Aeronautics Company: Docket No. FAA–2014–0427; Directorate Identifier 2013–NM–218–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by August 15, 2014.

(b) Affected ADs

This AD supersedes AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011).

(c) Applicability

This AD applies to all Lockheed Martin Corporation/Lockheed Martin Aeronautics Company Model 382, 382B, 382E, 382F, and 382G airplanes; certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) that indicated the center wing box is subject to widespread fatigue damage (WFD). We are issuing this AD to detect and correct fatigue cracking of the lower surface of the center wing box, which could result in structural failure of the wings.

(f) Compliance

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

(g) Retained Inspection With Revised Service Information

This paragraph restates the actions required by paragraph (g) of AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011), with revised service information. At the time specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD, whichever occurs latest: Do a nondestructive inspection of the lower surface of the center wing box for any damage, in accordance with Lockheed Service Bulletin 382–57–85 (82–790), Revision 2, dated August 23, 2007, including Appendixes A, B, C, D, E, F, and G, all Revision 1, all dated March 8, 2007; or Revision 3, dated July 8, 2013, including Appendix A, dated July 8, 2013, and Appendixes B, C, D, E, F, and G, all Revision 1, all dated March 8, 2007. Repeat the inspections thereafter at intervals not to exceed 10,000 flight hours. As of the effective date of this AD, use only Lockheed Service Bulletin 382–57–85 (82–790), Revision 3, dated July 8, 2013, including Appendix A, dated July 8, 2013, and Appendixes B, C, D, E, F, and G, all Revision 1, all dated March 8, 2007, for the actions required by this paragraph.

(1) Prior to the accumulation of 40,000 total flight hours on the center wing.

(2) Within 365 days after June 22, 2011 (the effective date of AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011).

(3) Within 10,000 flight hours on the center wing box after the accomplishment of the inspection specified in paragraph (g) of this AD, if done before June 22, 2011 (the effective date of AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011).

(h) Retained Corrective Action With No Changes

This paragraph restates the actions required by paragraph (h) of AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011), with no changes. If any damage is found during any inspection required by paragraph (g) of this AD: Before further flight, repair any damage, using a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA. For a repair method to be approved by the Manager, Atlanta ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

(i) Retained Exceptions to Lockheed Service Bulletin 382–57–85 (82–790), Revision 2, Dated August 23, 2007, Including Appendixes A, B, C, D, E, F, and G, All Revision 1, All Dated March 8, 2007, With No Changes

(1) This paragraph restates the exception in paragraph (i) of AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011), with no changes. Lockheed Service Bulletin 382–57–85 (82–790), Revision 2, dated August 23, 2007, including Appendixes A, B, C, D, E, F, and G, all Revision 1, all dated March 8, 2007, specifies that operators may adjust thresholds and intervals, use alternative repetitive inspection intervals, and use alternative inspection methods, if applicable. However, this AD requires that any alternative methods or intervals be approved by the Manager, Atlanta ACO. For any alternative methods or intervals to be approved by the Manager, Atlanta ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

(2) This paragraph restates the exception in paragraph (j) of AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011), with no changes. Where Lockheed Service Bulletin 382–57–85 (82–790), Revision 2, dated August 23, 2007, including Appendixes A, B, C, D, E, F, and G, all Revision 1, all dated March 8, 2007, specifies that alternative repetitive inspection intervals may be used for cold-worked holes, this AD does not allow the longer interval. This AD requires that all cold-worked and non-cold-worked holes be re-inspected at 10,000-flight-hour intervals.

(3) This paragraph restates the exception in paragraph (k) of AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011), with no changes. Where Lockheed Service Bulletin 382–57–85 (82–790), Revision 2, dated August 23, 2007, including Appendixes A, B, C, D, E, F, and G, all Revision 1, all dated March 8, 2007, describes procedures for submitting a report of any damages, this AD does not require such action.

(j) New Inspection and Corrective Action

As of the effective date of this AD, concurrently with accomplishing the inspection required by paragraph (g) of this AD: Do all applicable related investigative actions, in accordance with Appendix A of Lockheed Service Bulletin 382–57–85 (82–790), Revision 3, dated July 8, 2013. If any cracking or damage is found during any related investigative action: Before further flight, repair all cracking and damage, using a method approved by the Manager, Atlanta ACO, FAA. For a repair method to be approved by the Manager, Atlanta ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

(k) New Replacement (Terminating Action)

Before the accumulation of 50,000 total flight hours, or within 24 months after the effective date of this AD, whichever occurs later: Replace the center wing box, in accordance with the Accomplishment Instructions of Lockheed Service Bulletin 382–57–94, dated December 3, 2013. Accomplishing the replacement terminates the inspections required by this AD.

Note 1 to paragraph (k) of this AD: A note in the Accomplishment Instructions of Lockheed Service Bulletin 382–57–94, dated December 3, 2013, instructs operators to contact Lockheed if any assistance is needed in accomplishing the service bulletin. However, any deviation from the instructions provided in the service information must be approved as an alternative method of compliance (AMOC) as specified in paragraph (n) of this AD.

(l) New Exceptions to Lockheed Service Bulletin 382–57–85 (82–790), Revision 3, Dated July 8, 2013, Including Appendix A, Dated July 8, 2013, and Appendixes B, C, D, E, and G, all Revision 1, All Dated March 8, 2007

(1) Lockheed Service Bulletin 382–57–85 (82–790), Revision 3, dated July 8, 2013, including Appendix A, dated July 8, 2013, and Appendixes B, C, D, E, F, and G, all Revision 1, all dated March 8, 2007, specifies that operators may adjust thresholds and intervals, use alternative repetitive inspection intervals, and use alternative inspection methods. However, this AD requires that any alternative thresholds, intervals, or inspection methods be approved by the Manager, Atlanta ACO. For any alternative thresholds, intervals, or inspection methods to be approved by the Manager, Atlanta ACO, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

(2) Where Lockheed Service Bulletin 382–57–85 (82–790), Revision 3, dated July 8, 2013, including Appendix A, dated July 8, 2013, and Appendixes B, C, D, E, F, and G, all Revision 1, all dated March 8, 2007, describes procedures for submitting a report of any damages, this AD does not require such action.

(m) Credit for Previous Actions

(1) This paragraph restates the credit provided in paragraph (l) of AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011). This paragraph provides credit for the actions required by paragraph (g) of AD, if those actions were performed before June 22, 2011 (the effective date of AD 2011–09–04), using Lockheed Service Bulletin 382–57–85 (82–790), Revision 1, dated March 8, 2007, which is not incorporated by reference in this AD.

(2) This paragraph restates the credit provided in paragraph (m) of AD 2011–09–04, Amendment 39–16666 (76 FR 28626, May 18, 2011). This paragraph provides credit for the actions required by paragraph (g) of AD, if those actions were performed before June 22, 2011 (the effective date of AD 2011–09–04), using Lockheed Service Bulletin 382–57–85 (82–790), dated August 4, 2005, which is not incorporated by reference in this AD.

(3) This paragraph provides credit for the replacement required by paragraph (k) of AD, if the replacement was performed before the effective date of this AD using Lockheed Service Bulletin 382–57–90, dated November 5, 2010, which is not incorporated by reference in this AD.

(n) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Atlanta ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (o)(1) of this AD.

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

(o) Related Information

(1) For more information about this AD, contact Carl Gray, Aerospace Engineer, Airframe Branch, ACE–117A, FAA, Atlanta Aircraft Certification Office, 1701 Columbia Avenue, College Park, GA 30337; telephone 404–474–5554; fax 404–474–5605; email: *carl.w.gray@faa.gov.*

(2) For service information identified in this AD, contact Lockheed Martin Corporation/Lockheed Martin Aeronautics Company, Airworthiness Office, Dept. 6A0M, Zone 0252, Column P–58, 86 S. Cobb Drive, Marietta, GA 30063; telephone 770–494–5444; fax 770–494–5445; email *ams.portal@lmco.com;* Internet *http://www.lockheedmartin.com/ams/tools/TechPubs.html.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on June 19, 2014.

Michael J. Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–15381 Filed 6–30–14; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1204

[Docket No: NASA–2014–0007]

RIN 2700–AE10

NASA Protective Services Enforcement

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule.

SUMMARY: NASA is proposing to amend its regulations by adding a subpart to establish traffic enforcement regulations, authorities, and procedures at all NASA Centers and component facilities. The revisions to this rule are part of NASA's retrospective plan under EO 13563 completed in August 2011.

DATES: Submit comments on or before July 31, 2014.

ADDRESSES: Comments must be identified with RIN 2700–AE10 and may be sent to NASA via the *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Charles Lombard, *charles.e.lombard@nasa.gov.*

SUPPLEMENTARY INFORMATON:

Background

Part 1204 describes the legal basis and other applicable NASA regulations related to the NASA's security and law enforcement services implementation requirements, of which was promulgated March 28, 1972 [38 FR 8056]. Changes are being made to align this part with NASA objectives in the protection of its people and property.

It is the policy of the National Aeronautics and Space Administration that an effective, standardized, and comprehensive traffic safety program be established and maintained at NASA Headquarters, NASA Centers, including Component and Technical Service Support Centers. A traffic safety program is essential for the protection and security of NASA bases, stations, facilities, laboratories, and of its aircraft, spacecraft, missiles and similar vehicles and of its real and personal property, including property in the custody of NASA contractors and subcontractors. Further, at this time, NASA does not have a regulation to enforce (including criminalizing) such requirements such as speeding, improper or unsafe parking, unsafe operation of motor vehicles, and similar minor and/or petty traffic infractions. As a result, currently, the Agency can only issue administrative traffic citations that are written warnings, with insufficient consequences, and accordingly, that have very limited positive impact on safety and security at or on its many facilities. Currently, as a non-Federal administrative infraction, minor traffic offenses cannot be assimilated using Title 18, Section 13, Assimilative Crimes Act. Therefore, currently NASA Protective Services (including contractor Security Officers) are unable to issue District Court Violation Notices (DCVN) for such obvious safety-related, traffic offenses such as speeding. Traffic infractions remain a constant safety

problem, and security vulnerability. To resolve this problem, NASA is proposing a new rule to be incorporated into 14 CFR part 1204 as Subpart 11, NASA Traffic Safety. The new rule will apply to all persons who operate or control a motor vehicle or otherwise use the streets, roadways, parking areas, etc. of a NASA facility even where the facility is outside of fence lines and/or non-contiguous with other NASA assets. With this change, NASA Security Forces can fully participate in the Federal Magistrate programs, and may be authorized to issue viable and actionable District Court Violation Notices for offenses up to and including offenses at the level of driving under the influence infractions, utilizing the Central Violations Bureau of the Administrative Office of the U.S. Courts. NASA has internal requirements (listed below) pertaining to these rules, which are not duplicative, but are necessary to ensure that implementation of subpart 11 of part 1204 is consistent, uniform, and standardized. These internal requirements can be accessed at *http://nodis3.gsfc.nasa.gov.*

- NPR 1600.1, NASA Security Program Procedural Requirements
- NPD 1600.2, NASA Security Policy,
- NPR 8715.3, NASA General Safety Program Requirements. NASA's full plan can be accessed on the Agency's open government Web site at *http://www.nasa.gov/open/.*

Statutory Authority

Part 1204 is established under the National Aeronautics and Space Act (Space Act), in accordance with Title 51 U.S.C., the National and Commercial Space Programs, Title 5, U.S. Code section 301, and Title 18 U.S.C. 799.

Sections 20132 and 20133 of the Space Act authorize the NASA Administrator to establish security rules and procedures to safeguard NASA's employees, facilities, and proprietary information and technologies. Section 301 of Title 5, U.S. Code (2014) provide that: ''The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public.''

Title 18, section 799 provides that ''[w]hoever shall violate, attempt to violate, or conspire to violate any regulation or order promulgated by the Administrator of the National Aeronautics and Space Administration'' for protection of its real property, flight and space vehicles, or other equipment ''shall be fined as provided under this title, or imprisoned not more than one year, or both.''

These statutes authorize further regulations to comply with the Agency's objectives in the protection of its people, property, systems, and information. Regulations as set forth herein will enhance safety and security by permitting citations for and enforcement of, traffic infractions in appropriate venues.

Regulatory Analysis

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

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

Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement does not apply if the agency ''certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities'' (5 U.S.C. 603). This rule updates section of the CFR to align with Federal guidelines and does not have a significant economic impact on a substantial number of small entities.

Review Under the Paperwork Reduction Act

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

Review Under Executive Order of 13132

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

List of Subjects in 14 CFR Part 1204

Federal buildings and facilities, Security measures.

Accordingly, under the authority of the National Aeronautics and Space Act, as amended, (51 U.S.C. 20113), 5 U.S.C. 301, and 18 U.S.C. 799, NASA is proposing to amend part 1204 as follows:

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

■ 1. Add subpart 11 to read as follows:

Subpart 11—Enforcing Traffic Laws at NASA Centers and Component Facilities

Sec.
1204.1100 Scope of subpart.
1204.1101 Policy.
1204.1102 Responsibilities.
1204.1103 Procedures.
1204.1104 Violations.

Subpart 11—Enforcing Traffic Laws at NASA Centers and Component Facilities

Authority: The National and Commercial Space Program 51 U.S.C. 20132 and 20133 et seq; Title 5, U.S.C. 301, and Title 18 U.S.C. 799 (2014).

§ 1204.1100 Scope of subpart.

This subpart establishes policies pursuant to the requirements of National and Commercial Space Programs (51 U.S.C. 20132) authorizing the NASA Administrator to establish such security requirements, restrictions and safeguards as he deems necessary in the interest of national security, under 5 U.S.C. 301, ''Housekeeping statute,'' and 18 U.S.C. 799, making it criminal to violate published NASA regulations. The provisions of this subpart apply to all NASA installations, including NASA Headquarters, NASA Centers, and component facilities. NASA installations refers to all NASA-owned, controlled, or leased property, with exclusive or concurrent Federal jurisdiction, including non-contiguous or unfenced areas and including areas otherwise open to the public at large. These provisions are also applicable to all persons who operate or control a motor vehicle, or otherwise use the streets of a NASA installation, over which the United States exercises

exclusive or concurrent legislative jurisdiction.

§ 1204.1101 Policy.

(a) It is NASA policy that an effective, standardized, and comprehensive traffic safety program be established and maintained at all NASA Centers, and component facilities, as prescribed in NASA Procedural Requirement (NPR) 8715.C, NASA General Safety Program Requirements. A traffic safety program is essential for the protection and security of NASA laboratories, stations, base, or other facilities, and for the protection of any of its aircraft, missiles, spacecraft, or similar vehicles, or part thereof, and/or of any property or equipment in the custody of any contractor, subcontractor, or the Administration.

(b) To ensure a safe and secure workplace and to provide better for preservation of life and property, all persons on a NASA Center or component facility shall comply with the vehicular and pedestrian traffic requirements of the installation per this Subpart, and the laws of the state in which the installation is located.

(c) *Vehicular and pedestrian traffic.* (1) Drivers of all vehicles in or on NASA-owned, controlled or leased property shall be in possession of a current and valid state or territory issued driver's license and vehicle registration, and the vehicle shall display all current and valid tags and licenses required by the jurisdiction in which it is registered.

(2) Drivers who have had their privilege or license to drive suspended or revoked by any state or territory shall not drive any vehicle in or on property during such period of suspension or revocation.

(3) Drivers of all vehicles in or on property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of security force personnel, other authorized individuals, and all posted traffic signs, including speed limits.

(4) The blocking of entrances, driveways, walks, loading platforms, or fire hydrants in or on property is prohibited.

(5) Parking without authority, parking in unauthorized locations or in locations reserved for other persons, parking continuously in excess of 18 hours without permission, or contrary to the direction of posted signs is prohibited. This section may be supplemented by the Center Director or installation officer in charge from time to time by the issuance and posting of specific traffic directives. When so issued and posted, such directives shall have the same force and effect as if made a part hereof.

(d) Center Directors are hereby delegated authority to determine if their respective Centers require the authority and ability to issue traffic and parking citations, which if implemented, must be in accordance with this Subpart. Should no traffic and parking citation authority and ability be necessary, the Center Director concerned will make a report of same to the Administrator via Associate Administrator for Protective Services. Prior to the effective date of Centers implementing, Centers and Headquarters Operations should transmit their proposed regulations to NASA Office of Protective Services for review and concurrence.

(e) Consistent with arrangements with Federal authorities as each Center and Headquarters may make, violators of such regulations may be issued a District Court Violation Notices for offenses by security officers, including contractor guards. In accordance with this regulation, Centers are authorized to make liaison and such arrangements for appropriate enforcement programs with the cognizant Office(s) of the United States Attorney. Additional information on processing violation notices and liaison necessary is available at: *http://www.cvb.uscourts.gov/.*

(f) A copy of this subpart shall be posted in an appropriate place at each NASA Center or component facility.

§ 1204.1102 Responsibilities.

The Center Directors of NASA installations and the Executive Director for Headquarters Operations over which the United States has exclusive or concurrent legislative jurisdiction, and consistent with the foregoing, are delegated the authority to establish additional vehicular and pedestrian traffic rules and regulations for their installations.

All persons on a NASA Center or component facility are responsible for compliance with locally established vehicular and pedestrian traffic rules and regulations.

§ 1204.1103 Procedures.

The Center Directors and the Executive Director for Headquarters Operations shall issue local policies and procedural requirements, subject to prior NASA Office of Protective Services approval, which will implement this regulation for their respective NASA Centers and component facilities.

§ 1204.1104 Violations.

A person found in violation, on a NASA installation, of any vehicular or pedestrian traffic law, or local installation vehicular or pedestrian traffic rule or regulation made applicable to the installation under the provisions of this subpart, is subject to punishment as provided for by 18 U.S.C. 799 (violation of regulations of NASA).

Cheryl E. Parker,

NASA Federal Register Liaison Officer.

[FR Doc. 2014–15156 Filed 6–30–14; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 151

[Docket ID: BIA 2014–0002; K00103 12/13 A3A10; 134D0102DR–DS5A300000–DR.5A311.IA000113]

RIN 1076–AF23

Land Acquisitions in the State of Alaska

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Bureau of Indian Affairs (BIA) is extending the comment period on the proposed rule for land acquisitions in Alaska, which was published in the **Federal Register** on May 1, 2014. The original comment period would end June 30, 2014; however, the BIA has received several requests for extension. BIA has reviewed these requests and determined that a 30-day extension is appropriate.

DATES: Comments on this rule must be received by the extended due date of July 31, 2014.

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

—*Federal rulemaking portal: http://www.regulations.gov.* The rule is listed under the agency name ''Bureau of Indian Affairs.'' The rule has been assigned Docket ID: BIA–2014–0002.

—*Email: consultation@bia.gov.* Include the number 1076–AF23 in the subject line of the message.

—*Mail:* Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action, U.S. Department of the Interior, 1849 C Street NW., Washington, DC 20240. Include the number 1076–AF23 in the submission.

—*Hand delivery:* Elizabeth Appel, Office of Regulatory Affairs &

Collaborative Action, U.S. Department of the Interior, 1849 C Street NW., Washington, DC 20240. Include the number 1076–AF23 in the submission.

We cannot ensure that comments received after the close of the comment period (see **DATES**) will be included in the docket for this rulemaking and considered. Comments sent to an address other than those listed above will not be included in the docket for this rulemaking.

Comments on the information collections contained in this proposed regulation are separate from those on the substance of the rule. Send comments on the information collection burden to OMB by facsimile to (202) 395–5806 or email to the OMB Desk Officer for the Department of the Interior at *OIRA_Submission@omb.eop.gov.* Please send a copy of your comments to the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action, (202) 273–4680; *elizabeth.appel@bia.gov*.

SUPPLEMENTARY INFORMATION: BIA published a proposed rule on land acquisitions in Alaska on May 1, 2014 (79 FR 24648). This proposed rule would delete a provision in the Department of the Interior's land-into-trust regulations that excludes from the scope of the regulations, with one exception, land acquisitions in trust in the State of Alaska. Since publication of the proposed rule, BIA has received several requests to extend the comment period. Accordingly, to provide additional time for review and comment on the proposed rule, BIA is extending its original 60-day comment period by an additional 30 days.

Dated: June 24, 2014.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2014–15312 Filed 6–30–14; 8:45 am]

BILLING CODE 4310–6W–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2013–0746; FRL–9912–95–Region 4]

Approval and Promulgation of Implementation Plans; Florida: Removal of Sulfur Storage and Handling Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Environmental Protection Agency (EPA) is proposing to approve a revision to the Florida State Implementation Plan (SIP), submitted by the Florida Department of Environmental Protection (FDEP), on April 5, 2012. The revision modifies Florida's SIP to remove two state rules relating to new and existing sulfur storage and handling facilities because they are no longer necessary. EPA has preliminarily determined that Florida's April 5, 2012, SIP revision regarding sulfur storage and handling facilities is approvable because it is consistent with the Clean Air Act (CAA or Act).

DATES: Written comments must be received on or before July 31, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2013–0746, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2013–0746''—Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Lynorae Benjamin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2013–0746. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

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

FOR FURTHER INFORMATION CONTACT: Joel Huey, Regulatory Development Section, Air Planning Branch, Air, Pesticides and

Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9104. Mr. Huey can also be reached via electronic mail at *huey.joel@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The proposed revision requests that EPA remove two state rules—Rule 62–212.600, F.A.C., ''Sulfur Storage and Handling Facilities'' and Rule 62–296.411, F.A.C., ''Sulfur Storage and Handling Facilities''—from Florida's SIP. Florida repealed these rules on February 16, 2012.

The requirements of Rule 62–212.600, F.A.C., apply to proposed new or modified sulfur storage and handling facilities. The rule states that the owner or operator of any proposed new or modified sulfur storage and handling facility that is to be located within five kilometers of either a particulate matter (PM) air quality maintenance area or a prevention of significant deterioration (PSD) Class I area shall provide FDEP with an analysis of the probable particulate matter ambient air quality impacts that could result from the operation of the facility. Additionally, the owner or operator shall provide FDEP with an analysis of the probable annual and maximum monthly sulfur deposition rates that could occur as a result of the operation of the facility. The owner or operator shall conduct post-construction air quality and deposition monitoring of sulfur particulate emissions from the facility for two years from the date of issuance of the initial air operation permit for the facility, and, through the permitting process, shall determine the period of time, if any, such monitoring must be continued. The data collected would then be provided to FDEP as specified in the permit. Florida states that the ''General Preconstruction Review Requirements'' and ''Prevention of Significant Deterioration (PSD)'' provisions of the Rules 62–212.300 and 62–212.400, F.A.C., respectively, can be used instead of Rule 62–212.600, F.A.C to prevent PM emissions that would interfere with attainment and maintenance of national ambient air quality standards (NAAQS), prevention of significant deterioration of air quality, or protection of visibility.

Rule 62–296.411, F.A.C., states that no person shall cause, suffer, or allow elemental sulfur to be stored, handled, or transported within the State in crushed bulk or slate form or in any form other than standard sulfur pellets or in molten form, except that sulfur may be transferred within the boundaries of a single facility in other forms. Facilities using standard sulfur pellets or molten sulfur, or sulfur vatting facilities, may be permitted only in conformance with the practices identified in the rule. Florida states that the ''General Pollutant Emission Limiting Standards'' of Rule 62–296.320, F.A.C., can be applied instead of Rule 62–296.411, F.A.C. to adequately control PM emissions from dry material handling operations such as those associated with sulfur storage and handling facilities.

With removal of the above two rules from the SIP, Florida's PM requirements under the SIP for new and existing sulfur storage and handling facilities would align with the PM requirements for other, similar dry material handling sources in the State. At the time that Florida promulgated its sulfur storage and handling rules, the State was concerned that total suspended particulate matter levels in Florida would be negatively impacted by increased sulfur handling and storage operations to such an extent as to warrant additional facility-specific work practices and monitoring. However, the anticipated increase in sulfur handling and storage operations did not occur, and only 11 facilities are subject to Rule 62–212.300, F.A.C. and Rule 62–212.400, F.A.C. EPA approved these two state rules into the SIP on December 24, 1985, at 50 FR 52460.[1]

II. Analysis of the State's Submittal

EPA's primary consideration for determining the approvability of Florida's request to remove the existing sulfur storage and handling facilities rules, 62–212.600, F.A.C. and 62–296.411, F.A.C., from the SIP is whether these requested actions comply with section 110(l) of the CAA. Under Section 110(l), EPA cannot approve a SIP revision if that revision would interfere with any applicable requirement regarding attainment, reasonable further progress (RFP), or any other applicable requirement established in the CAA. EPA will approve a SIP revision that removes or modifies control measures in the SIP only after the state makes a ''noninterference'' demonstration that such a removal or modification will not interfere with RFP, attainment or maintenance of any NAAQS, or any other CAA requirement. As such, Florida must make a demonstration of noninterference in order to remove the sulfur storage and handling facilities requirements from its SIP.

Because actual emissions are not expected to change, there will be no impact on PSD increments, RFP, visibility, attainment or maintenance of any NAAQS, or any other applicable CAA requirement. Particulate matter, in the form of coarse (PM_{10}) and fine ($PM_{2.5}$) PM, is the pollutant related to the SIP revision. On January 15, 2013 (78 FR 3086), EPA established an annual primary $PM_{2.5}$ NAAQS at 12.0 micrograms per cubic meter (μg/m³) based on a 3-year average of annual mean $PM_{2.5}$ concentrations. At that time, EPA retained the 2006 24-hour $PM_{2.5}$ NAAQS at 35 μg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations.

All areas in the State are currently designated as attainment for the PM_{10} and $PM_{2.5}$ NAAQS. For example, Table 1 identifies the $PM_{2.5}$ annual and 24-hour design values for the counties where facilities subject to the repealed sulfur storage and handling rules are located and demonstrates that these design values are well below the respective NAAQS.

TABLE 1—$PM_{2.5}$ DESIGN VALUES

County	2008–2010	2009–2011	2010–2012	2011–2013
Annual Design Value				
Hillsborough	8.0	7.8	7.6	7.1
Polk	7.7	7.5	7.4	7.0

[1] EPA's December 24, 1985, action incorporated the state sulfur storage and handling rules at 17–2.540, F.A.C. and 17–2.600, F.A.C. into Florida's SIP. Florida later reorganized its administrative code and renumbered these rules as 62–212.600, F.A.C. and 62–296.411, F.A.C., respectively. EPA updated the Florida SIP on June 16, 1999 (64 FR 32346), to make it consistent with the revised numbering system.

TABLE 1—$PM_{2.5}$ DESIGN VALUES—Continued

County	2008–2010	2009–2011	2010–2012	2011–2013
24-hour Design Value				
Hillsborough	16	17	16	16
Polk	15	15	16	15

There are no emissions reductions of carbon monoxide (CO), lead, nitrogen oxides, ozone, or sulfur dioxide (SO_2) attributable to the sulfur storage and handling facilities requirements. As a result, the removal of these requirements will not interfere with attainment of these NAAQS.

A comparison of PM emissions from sulfur handling and storage emission units at each subject facility with PM emissions from the entire facility demonstrates that sulfur PM emissions from the subject units account for approximately zero to nine percent of total PM emissions at most facilities. Of the four facilities at which all facility PM emissions are entirely due to sulfur PM emissions from sulfur handling and storage emissions units, the amount of sulfur PM emitted ranges from approximately one to six tons per year per facility. *See* Table 2.

TABLE 2—COMPARISON OF PM EMISSIONS FROM SULFUR HANDLING AND STORAGE EMISSION UNITS (EU) AT EACH FACILITY VERSUS PM EMISSIONS FROM THE ENTIRE FACILITY [2]

Facility	Facility ID	Sulfur EU PM (tons/year)	All facility EU PM (tons/year)	Sulfur EU PM % of all facility EU PM	Potential (P) or 2010 actual (A) PM emissions
WHITE SPRS AG CHEM—SR/SC CMPLX	470002	5.6	2084.8	0.3	P
CF INDUSTRIES—PLANT CITY PHOSP COMPLEX	570005	0.6	59.4	1.0	A
MOSAIC FERTILIZER—RIVERVIEW FACILITY	570008	0.6	27.9	2.2	A
GULF SULPHUR SERVICES, HOOKER'S PT SITE	570082	1.0	1.0	100.0	P
GULF SULPHUR SERVICES, PORT SUTTON SITE	570100	6.0	6.0	100.0	P
PASCO TERMINALS, INC	570455	4.5	4.5	100.0	P
MARTIN GAS SALES, INC	570477	1.5	1.5	100.0	P
MOSAIC FERTILIZER, LLC—BARTOW FACILITY	1050046	4.4	57.0	7.7	A
MOSAIC FERTILIZER—SOUTH PIERCE FACILITY	1050055	0.4	99.6	0.4	P
MOSAIC FERTILIZER—NEW WALES FACILITY	1050059	12.0	141.3	8.5	A
QUANTUM ST REGIS TREATING & JAY GAS	1130005	0.0	14.7	0.0	A
Total		36.6	2497.7	1.5	

Of the 11 facilities that are subject to the sulfur handling and storage emission rules, four will experience a relaxation in the opacity limit from 10 or 15 percent to 20 percent if 62–212.600, F.A.C. and 62–296.411, F.A.C. are removed from the SIP, but emissions are not expected to increase because the underlying work practices will remain unchanged. The sulfur particulate emitting emissions units at these four facilities are approximately less than one ton per year, and a majority of the visible emissions tests conducted in 2010–11 for sulfur storage and handling units showed no visible emissions (i.e., zero percent opacity).

Furthermore, several existing state rules incorporated into Florida's SIP can be applied in lieu of Rules 62–212.600, F.A.C. and 62–296.411, F.A.C. to address sulfur PM emissions from sulfur storage and handling emissions units at these facilities. Rules 62–212.300 and 62–212.400, F.A.C., respectively, can be applied instead of the sulfur-specific requirements of paragraph 62–212.600(2)(a), F.A.C., to evaluate potential particulate matter ambient air quality impacts. The sulfur deposition analysis required by paragraph 62–212.600(2)(b), F.A.C., is unnecessary because there is no standard to compare the results with to demonstrate compliance. Rule 62–296.411, F.A.C., the ''General Pollutant Emission Limiting Standards'' of Rule 62–296.320, F.A.C., and, for some emissions units, the PM Reasonably Available Control Technology requirements of Rule 62–296.711, F.A.C., can be applied to control the sulfur PM emissions from sulfur storage and handling emissions units at these facilities. Rule 62–296.711, F.A.C. generally imposes a five percent opacity limit for existing sulfur handling, sizing, screening, crushing, and grinding operations in former total suspended particulate non-attainment areas or within 50 kilometers of such former areas except where an emissions unit has received a Best Available Retrofit Technology (BACT) determination or the emissions are insignificant enough to be exempted under Rule 62–296.700(2), F.A.C. The control techniques and work practice standards found in Rule 62–296.411, F.A.C., to control unconfined emissions of particulate matter can also be required by paragraph 62–296.320(4)(c), F.A.C., which prohibits the emission of unconfined particulate matter without taking reasonable precautions to prevent such emissions.

For the reasons discussed above, EPA has determined that removal of the sulfur storage and handling facilities rules will not interfere with attainment or maintenance of the NAAQS in surrounding states or interfere with any other requirement identified in section 110(l).

III. Proposed Action

EPA is proposing to approve Florida's April 5, 2012, SIP revision to remove state Rule 62–212.600, F.A.C. and Rule 62–296.411, F.A.C., related to sulfur

[2] These data can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2013–0746.

storage and handling facilities, from the Florida SIP because the Agency has preliminarily determined that this revision is consistent with section 110(l) of the CAA.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves State law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 16, 2014.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2014–15399 Filed 6–30–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2014–0336 FRL–9912–65–Region 9]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern basic enforcement authorities under the Clean Air Act (CAA or the Act).

DATES: Any comments on this proposal must arrive by July 31, 2014.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0336, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
2. *Email: steckel.andrew@epa.gov.*
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. 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: Generally, documents in the docket for this action are available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901. While all documents in the docket are listed at *www.regulations.gov*, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Vanessa Graham, EPA Region IX, (415) 947–4120, *graham.vanessa@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: Rule 1040 Enforcement, Rule 1050 Order of Abatement, Rule 1070 Inspections, and Rule 1090 Penalty. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is

planned. For further information, please see the direct final action.

Dated: May 23, 2014.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2014–15261 Filed 6–30–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2009–0734; FRL–9913–22–OAR]

RIN 2060–AP93

Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces, and New Residential Masonry Heaters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; Notice of Data Availability.

SUMMARY: The Environmental Protection Agency (EPA) is issuing this Notice of Data Availability (NODA) in support of the proposed rule titled, ''Standards of Performance for New Residential Wood Heaters, New Residential Hydronic Heaters and Forced-Air Furnaces, and New Residential Masonry Heaters'' that was published on February 3, 2014. Through this NODA, the EPA is making available to the public, and soliciting comment on, the specific additional information on residential wood heater testing and certification that has been added to the docket for the proposed rule. This comment period is limited to comments on the specific data added and issues that relate to this data; it is not an additional period to comment on other aspects of this proposed rule.

DATES: Comments must be received on or before July 31, 2014.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2009–0734, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov,* Attention Docket ID No. EPA–HQ–OAR–2009–0734.
- *Fax:* (202) 566–9744, Attention Docket ID No. EPA–HQ–OAR–2009–0734.
- *Mail:* United States (U.S.) Postal Service, send comments to EPA Docket Center, WJC West Building (Air Docket), Attention Docket ID Number EPA–HQ–OAR–2009–0734, U.S. Environmental Protection Agency, Mailcode: 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20004. Please include a total of two copies.
- *Hand Delivery:* EPA Docket Center, WJC West Building (Air Docket), Room 3334, 1301 Constitution Avenue NW, Washington, DC, Attention Docket ID Number EPA–HQ–OAR–2009–0734. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: All submissions must include the agency name and docket ID number (EPA–HQ–OAR–2009–0734). The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through *www.regulations.gov* or email. Instead, clearly mark the portions of the information that you claim to be CBI and send or deliver only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID Number EPA–HQ–OAR–2009–0734. For CBI information on a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that you claim as CBI. In addition to one complete version of the comment that includes information claimed as CBI, you must submit a copy of the comment that does not contain the portions of the information claimed as CBI for inclusion in the public docket. If you submit a disk or CD–ROM that does not contain CBI, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. The portions of the information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

The EPA requests that you also submit a separate copy of your comments to the contact person identified below (see **FOR FURTHER INFORMATION CONTACT**). You should send to this person only a copy of the comment that does not contain the portions of information claimed as CBI or otherwise protected.

The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: The EPA has established a docket for this rulemaking under Docket ID Number EPA–HQ–OAR–2009–0734. 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 form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *www.epa.gov/epahome/dockets.htm.*

FOR FURTHER INFORMATION CONTACT: Mr. Gil Wood, Office of Air Quality Planning and Standards, Outreach and Information Division, Community and Tribal Programs Group (C304–03), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5272; fax number: (919) 541–0242; email address: *wood.gil@epa.gov.*

SUPPLEMENTARY INFORMATION: The information in this NODA is organized as follows:

I. Does this action apply to me?

II. What are the background and purpose of this NODA?

I. Does this action apply to me?

The entities that are potentially affected by this NODA are listed in Table 1 below. This table is not intended to be exhaustive, but to provide a guide for readers regarding entities likely to be affected by this NODA.

TABLE 1—POTENTIALLY REGULATED ENTITIES

Category	NAICS [a] Code	Examples of regulated entities
Residential Wood Heating ...	333414—Heating Equipment (except Warm Air Furnaces) Manufacturing.	Manufacturers, owners and operators of wood heaters, pellet heaters/stoves, hydronic heaters, and masonry heaters.
	333415—Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.	Manufacturers, owners and operators of forced-air furnaces.
	238140—Masonry Contractors	Manufacturers, owners, operators and testers of masonry heaters.
Testing Laboratories	541380—Testing Laboratories (except Medical, Veterinary).	Testers of wood heaters, pellet heaters/stoves, hydronic heaters and masonry heaters.

[a] North American Industry Classification System.

II. What are the background and purpose of this NODA?

On February 3, 2014, at 79 FR 6330, the EPA proposed to amend standards of performance for New Residential Wood Heaters and to add two new subparts: Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces and Standards of Performance for New Residential Masonry Heaters. The EPA is issuing this NODA in support of the proposed standards. Through this NODA, the EPA is making available to the public, and soliciting comment on, additional information on residential wood heater testing and certification that has been added to the docket for the proposed rule. Specifically, we are making available the following: (1) Additional details of certification testing (using crib wood) of wood stoves and pellet stoves certified by the EPA between January 1, 2010, and May 30, 2014; (2) details of cord wood testing by two manufacturers of their EPA-certified catalytic wood stoves; and (3) details of cord wood testing by Brookhaven National Laboratory (BNL), under contract to the EPA, of an EPA-certified noncatalytic wood stove.

1. Additional Details of Certification Testing (using crib wood) of Wood Stoves and Pellet Stoves Certified by EPA between January 1, 2010 and May 30, 2014. All EPA-certified wood heaters that are offered or advertised for sale in the United States are subject to the current (1988) New Source Performance Standard (NSPS) for New Residential Wood Heaters under the Clean Air Act (40 CFR part 60, subpart AAA). These EPA-certified appliances are required to meet the particulate emissions limit of 7.5 grams per hour (g/hr) for non-catalytic wood heaters and 4.1 g/hr for catalytic wood heaters.[1] The model line certifications are based primarily on testing of representative stoves by EPA-accredited test laboratories according to EPA Method 28. Method 28 and the NSPS require testing for each of four burn rate categories. Category 4 is the maximum burn rate. Category 1 is the minimum burn rate. Categories 2 and 3 are in between. In the EPA's February 3, 2014, proposal, we proposed to update and strengthen the existing emission limits for these wood heaters over a 5-year period. One of the aspects of the proposal included requiring compliance for each of the individual burn rates rather than just the weighted average. These additional data supplement the previous data in the docket, which are for wood stoves certified prior to January 1, 2010.

As of May 30, 2014, the EPA has certified approximately 1,000 wood and pellet stove model lines that comply with the current NSPS. Summary information, including weighted emission averages, for these stoves is located at: *http://www.epa.gov/Compliance/resources/publications/monitoring/caa/woodstoves/certifiedwood.pdf.*

From February 1988 to December 31, 2009, the EPA certified over 900 wood stove model lines. Particulate matter emissions by burn rate for most of the stoves in production on December 31, 2009, were summarized by the Hearth, Patio and Barbecue Association (HPBA) in a database for the EPA and the EPA included it in the docket prior to the February 3, 2014, proposal.

Since December 31, 2009, the EPA has certified over 100 wood stove model lines that comply with the current NSPS. The EPA is announcing the availability of detailed emissions data for each of these model lines certified since December 31, 2009. Manufacturers and laboratories previously used all-encompassing CBI claims to restrict public access to these emission data. The EPA has gone through the official CBI process to release the emission data.

The following data, for each model line certified since December 31, 2009, are available in the docket for the proposed rule (*http://www.regulations.gov/#!docketDetail;D=EPA-HQ-OAR-2009-0734*):

- Year of certification;
- Average weighted emission rate;
- Device type (i.e., catalytic stove, non-catalytic stove, or pellet stove);
- EPA test method used (e.g., 5G or 5H); and
- Emission results for individual burn categories for all burn rates—Categories 1, 2, 3 and 4. In some cases, there are multiple test runs for some burn rate categories.

The EPA asks for comments on these data and how they may influence the final rule.

2. Details of Cord Wood Testing by Two Manufacturers of Their EPA-certified Catalytic Wood Stoves. The EPA has received emissions test data from two catalytic wood stove manufacturers that show their EPA-certified wood stoves tested using cord wood—and making no design changes to adjust for crib wood versus cord wood in the tests—have similar emissions as stoves tested using crib wood. That is, the test data for an EPA-

[1] Under state law, wood stoves offered for sale in the state of Washington must meet a particulate emissions limit of 4.5 g/hr for non-catalytic wood stoves and 2.5 g/hr for catalytic wood stoves.

certified Woodstock Soapstone stove and two EPA-certified stoves produced by another manufacturer show particulate emission rates (g/hr) using cord wood that are equal to or less than the corresponding test data using crib wood for all burn rates. The EPA asks for comments on these data and how they may influence the final rule.

3. Details of Cord Wood Testing by Brookhaven National Laboratory (BNL), under Contract to the EPA, of an EPA-certified Noncatalytic Wood Stove. Numerous comments on the February 3, 2014, proposal suggest that manufacturers tune their stoves to the EPA crib wood certification test method and that they would need to re-tune their stoves for the proposed Step 2 cord wood certification test method. We believe this is true and that manufacturers will soon adjust the combustion air flows, directions and proportions to better match the change in hydrocarbon volatilization rate due to the difference in surface area to volume ratio for crib wood versus cord wood. However, numerous non-catalytic stove manufacturers have indicated that they are waiting for the proposed NSPS revisions to become final before they undergo the expense of such testing. At this time, no manufacturer has submitted particulate matter emissions test data for non-catalytic wood stoves tuned to burn cord wood during tests similar to the EPA certification tests or the ASTM (formerly known as the American Society for Testing and Materials) draft cord wood test method.

In June 2014, BNL (under an EPA contract) conducted new emissions testing of a popular non-catalytic EPA-certified wood stove using cord wood. Existing EPA certification test data for crib wood based on the current EPA Test Method 5G (*http://www.epa.gov/ttnemc01/promgate/m-05g.pdf*) were compared to the new test data for using cord wood (with no stove design changes). Use of existing crib wood data were used for the comparison in order to minimize the cost of the additional testing. We note that this raises the question whether new crib wood testing would have produced similar results as the previous crib wood testing. Also, we note that the new cord wood testing was conducted with Method 5H, whereas the previous certification testing was conducted with Method 5G. The results of the test show:

a. For a popular, current model non-catalytic stove that was not adjusted by the manufacturer for burning cord wood instead of crib wood during the certification test, the emission test results can be significantly higher than the crib emission test results. As discussed above, the proposed Step 2 reasonably anticipates that the manufacturers would adjust the combustion air flows, directions and proportions to better match the change in hydrocarbon volatilization rate due to the difference in surface area to volume ratio for cribs versus cord wood. However, that was not done for this new test series.

b. Repeatability of cord wood test method results can sometimes be very good. For example, the results for three replicate tests for burn rate Category 4 (the maximum burn rate) were within 15 percent of each other.

c. Higher moisture content of the fuel can increase particulate matter emissions.

The complete BNL test report and summary have been added to the docket for the proposed rule at*: http://www.regulations.gov/#!docketDetail;D=EPA-HQ-OAR-2009-0734.* The EPA asks for comments on these data and how they may influence the final rule.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Hazardous substances, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 24, 2014.

Mary E. Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2014–15469 Filed 6–30–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[EPA–R06–RCRA–2013–0461; FRL 9911–75–Region 6]

Oklahoma: Incorporation by Reference of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to codify in the regulations entitled ''Approved State Hazardous Waste Management Programs'', Oklahoma's authorized hazardous waste program. The EPA will incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State regulations that are authorized and that the EPA will enforce under the Solid Waste Disposal Act, commonly referred to as the Resource Conversation and Recovery Act (RCRA).

DATES: Send written comments by July 31, 2014.

ADDRESSES: Send written comments to Alima Patterson, Region 6 Regional Authorization Coordinator, or Julia Banks Codification Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, Phone number: (214) 665–8533 or (214) 665–8178. You may also submit comments electronically or through hand delivery/courier; please follow the detailed instructions in the **ADDRESSES** section of the immediate final rule which is located in the Rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, (214) 665–8533.

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of this **Federal Register** (FR), the EPA is codifying and incorporating by reference the State's hazardous waste program as direct final rule. The EPA did not make a proposal prior to the direct final rule because we believe these actions are not controversial and do not expect comments that oppose them. We have explained the reasons for this codification and incorporation by reference in the preamble to the direct final rule. Therefore, the purpose of this FR document is to codify Oklahoma's base hazardous waste management program and its program revisions through RCRA Cluster XXI (see 78 FR 32161) May 29, 2013. The EPA provided notices and opportunity for comments on the Agency's decisions to authorize the Oklahoma program, and the EPA is not now reopening the decisions, nor requesting comments, on the Oklahoma authorizations as published in the FR notices specified in Section B of the direct final rule FR document.

This document incorporates by reference Oklahoma's hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and federally enforceable program. By codifying Oklahoma's authorized program and by amending the Code of Federal Regulations, the public will be more easily able to discern the status of federally approved requirements of the Oklahoma hazardous waste management program.

Dated: May 22, 2014.

Ron Curry,

Regional Administrator, EPA Region 6.

[FR Doc. 2014–15268 Filed 6–30–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Parts 155 and 156

[CMS–9941–P]

RIN 0938–AS32

Patient Protection and Affordable Care Act; Annual Eligibility Redeterminations for Exchange Participation and Insurance Affordability Programs; Health Insurance Issuer Standards Under the Affordable Care Act, Including Standards Related to Exchanges

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would specify additional options for annual eligibility redeterminations and renewal and re-enrollment notice requirements for qualified health plans offered through the Exchange, beginning with annual redeterminations for coverage for plan year 2015. In particular, this proposed rule would provide additional flexibility for Marketplaces, including the ability for Marketplaces to propose unique approaches that meet the specific needs of their State, while streamlining the consumer experience.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on July 28, 2014.

ADDRESSES: In commenting, please refer to file code CMS–9941–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9941–P, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–9941–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments only to the following addresses prior to the close of the comment period:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786–7195 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Benjamin Walker, (301) 492–4430.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

Electronic Access

This **Federal Register** document is also available from the **Federal Register** online database through *Federal Digital System (FDsys),* a service of the U.S. Government Printing Office. This database can be accessed via the internet at *http://www.gpo.gov/fdsys.*

Table of Contents

I. Background
- A. Legislative Overview
- B. Stakeholder Consultation and Input
- C. Structure of the Proposed Rule

II. Provisions of the Proposed Rule
- A. Part 155—Exchange Establishment Standards and Other Related Standards Under the Affordable Care Act; Subpart D—Exchange Functions in the Individual Market: Eligibility Determinations for Exchange Participation and Insurance Affordability Programs
- B. Part 156—Health Insurance Issuer Standards Under the Affordable Care Act, Including Standards Related to Exchanges; Subpart M—Qualified Health Plan Issuer Responsibilities

III. Response to Comments

IV. Collection of Information Requirements

V. Regulatory Impact Statement

I. Background

A. Legislative Overview

The Patient Protection and Affordable Care Act (Pub. L. 111–148) was enacted on March 23, 2010. The Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152), which amended and revised several provisions of the Patient Protection and Affordable Care Act, was enacted on March 30, 2010. In this proposed rule, we refer to the two statutes collectively as the ''Affordable Care Act.'' Subtitles A and C of Title I of the Affordable Care Act reorganized, amended, and added to the provisions of part A of Title XXVII of the Public Health Service Act (PHS Act) relating to group health plans and health insurance issuers in the group and individual markets.

Starting on October 1, 2013 for coverage starting as soon as January 1, 2014, qualified individuals and qualified employers have been able to purchase qualified health plans (QHPs)—private health insurance that has been certified as meeting certain standards—through competitive

marketplaces called Exchanges or Health Insurance Marketplaces. The word ''Exchanges'' refers to both State Exchanges, also called State-based Exchanges, and Federally-facilitated Exchanges (FFEs). In this proposed rule, we use the terms ''State Exchange'' or ''FFE'' when we are referring to a particular type of Exchange. When we refer to ''FFEs,'' we are also referring to State Partnership Exchanges, which are a form of FFE.

Section 1411(f)(1)(B) of the Affordable Care Act directs the Secretary of Health and Human Services (the Secretary) to establish procedures to redetermine the eligibility of individuals on a periodic basis in appropriate circumstances. Section 1321(a) of the Affordable Care Act provides authority for the Secretary to establish standards and regulations to implement the statutory requirements related to Exchanges, QHPs and other components of title I of the Affordable Care Act. Under section 2703 of the PHS Act, as added by the Affordable Care Act, health insurance issuers in the group and individual markets must guarantee the renewability of coverage unless an exception applies.

B. Stakeholder Consultation and Input

HHS has consulted with stakeholders on a number of polices related to the operation of Exchanges, including eligibility redetermination. HHS has held a number of listening sessions with consumers, providers, employers, health plans, and State representatives to gather public input. HHS consulted with stakeholders through regular meetings with the National Association of Insurance Commissioners (NAIC), regular contact with States through the Exchange grant process, and meetings with tribal leaders and representatives, health insurance issuers, trade groups, consumer advocates, employers, and other interested parties. We considered all of the public input as we developed the policies in this proposed rule.

C. Structure of the Proposed Rule

The regulations outlined in this proposed rule would be codified in 45 CFR parts 155 and 156. Part 155 specifies standards relative to the establishment, operation, and minimum functionality of Exchanges, including annual eligibility redeterminations. Part 156 specifies standards for health insurance issuers with respect to participation in an Exchange.

II. Provisions of the Proposed Regulations

A. Part 155—Exchange Establishment Standards and Other Related Standards Under the Affordable Care Act; Subpart D—Exchange Functions in the Individual Market: Eligibility Determinations for Exchange Participation and Insurance Affordability Programs

Section 1411(f)(1)(B) of the Affordable Care Act directs the Secretary to establish procedures to redetermine the eligibility of individuals on a periodic basis in appropriate circumstances. Section 1321(a) of the Affordable Care Act provides authority for the Secretary to establish standards and regulations to implement the statutory requirements related to Exchanges, QHPs and other components of title I of the Affordable Care Act.

On March 27, 2012, we published a final rule entitled Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers (77 FR 18310). The final rule added 45 CFR 155.335, which, together with the provisions in 45 CFR 155.330 on eligibility redeterminations during a benefit year, implements section 1411(f)(1)(B) of the Affordable Care Act. On July 15, 2013, we amended § 155.335 in a final rule entitled Medicaid and Children's Health Insurance Programs: Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeal Processes, and Premiums and Cost Sharing; Exchanges: Eligibility and Enrollment (78 FR 42160, 42319).

Under the process currently defined in § 155.335, the Exchange will provide a notice to all individuals who have been determined eligible for enrollment in a QHP through the Exchange (qualified individuals) in advance of the annual open enrollment period, consistent with § 155.335(c). For 2015, current regulations in § 155.335(d)(1) specify that this notice and the annual open enrollment period notice described in § 155.410(d) be provided as a single, coordinated notice. For an individual who requested an eligibility determination for insurance affordability programs and who authorized the Exchange to obtain the most recent tax return information available from the Secretary of the Treasury for the purposes of annual redetermination, this notice will include a projected eligibility determination for insurance affordability programs for the following year that is computed based on the updated income and family size information, all other eligibility information currently on file with the Exchange, and plan premiums for the following year. Specifically, if advance payments of the premium tax credit (APTC) are being paid on such an enrollee's behalf and the tax filer authorized the Exchange to obtain updated tax data for the purposes of annual redetermination, the Exchange will recalculate advance payments of the premium tax credit and cost-sharing reductions (CSR) for the upcoming year in accordance with updated income and family size information and premium data for the applicable benchmark plan, as defined in 26 CFR 1.36B–3(f), calculated using premiums for the upcoming year. Consistent with § 155.335(e), the Exchange will require qualified individuals to report changes. The process currently established in regulation allows an individual who is enrolled in a QHP through the Exchange and whose QHP remains available to renew coverage for the following year without reapplying or having to take other actions. This is a key element of the redetermination process, since it enables a streamlined renewal process for enrollees and also reduces administrative costs for States and the Federal government.

Based on the authority in sections 1411(f)(1)(B) and 1321(a) of the Affordable Care Act, we propose to modify § 155.335(a) to allow for an Exchange to choose one of three methods for conducting annual redeterminations. To accommodate proposed new paragraph (a)(2), we propose to renumber existing paragraph (a) as paragraph (a)(1). Then, in proposed paragraph (a)(2), we propose that the Exchange must conduct annual redeterminations using one of the sets of procedures described in proposed paragraphs (a)(2)(i), (a)(2)(ii), or (a)(2)(iii). First, in proposed paragraph (a)(2)(i), we propose that the Exchange may utilize the existing procedures described in § 155.335(b) through (m). Second, in paragraph (a)(2)(ii), we propose that the Exchange may utilize alternative procedures specified by the Secretary for the applicable plan year. We note that, contemporaneously with this proposed rule, the Secretary is providing guidance describing alternative procedures that would be available to Exchanges under paragraph (a)(2)(ii) for annual redeterminations for coverage for plan year 2015 if this proposal is finalized. We are providing this guidance at the same time as this proposed rule given the limited amount of time available for Exchanges and issuers to develop and test the systems and processes that will be needed to

implement the annual redetermination process. If this proposal is finalized, Federally-facilitated Exchanges will adopt the alternative procedures specified in this guidance for plan year 2015. Also, if this proposal is finalized, we expect that updated guidance under paragraph (a)(2)(ii) may be provided on an annual basis. Third, in proposed paragraph (a)(2)(iii), we propose that the Exchange may utilize alternative procedures approved by the Secretary based on a showing by the Exchange that the alternative procedures would facilitate continued enrollment in coverage for which the enrollee remains eligible, provide clear information about the process to the qualified individual or enrollee (including any action by the qualified individual or enrollee necessary to obtain the most accurate redetermination of eligibility), and provide adequate program integrity protections. We note that paragraph (a)(2)(iii) is designed to enable Exchanges to propose annual redetermination procedures that would deliver on the key goals of the annual redetermination process, including those specified in this paragraph. We solicit comment regarding standards for approving alternative procedures, and on other elements of the annual redetermination process, as well as how it affects renewal for individuals who are enrolled in a QHP through the Exchange. We also note that special procedures may be needed for an Exchange that is transitioning the eligibility and enrollment functions from Federal to State operation, or vice versa. We will work closely with affected States to facilitate these transitions.

In addition to the proposal to allow Exchanges to choose one of three options for performing annual redeterminations, we propose to make three amendments to the detailed procedures described in § 155.335 and one corresponding amendment to § 155.330, which governs eligibility redetermination during a benefit year. First, in § 155.335(e), we propose to revise the language regarding change reporting to generally align with the standards in § 155.330(b), so that § 155.335(e) would specify that, except as specified in proposed paragraph (e), the Exchange must require a qualified individual to report any change with respect to the eligibility standards specified in § 155.305 within 30 days of any such change. Under proposed paragraph (e)(1), the Exchange would not be permitted to require a qualified individual who did not request an eligibility determination for insurance affordability programs to report changes that affect eligibility for insurance affordability programs. Unlike § 155.330, we do not propose to allow the Exchange to establish a reasonable threshold for changes in income, such that a qualified individual who experiences a change in income that is below the threshold would not be required to report such change, since we believe that reporting of all income changes is important at the time of annual redetermination. With this exception, the proposed standards are identical to those currently established in 45 CFR § 155.330(b). We propose these changes to paragraph (e) because the existing text refers to reporting changes with respect to the information included in the annual redetermination notice, which is not required to include a summary of the qualified individual's application information on file, although an Exchange may opt to include this information. These proposed changes would align reporting requirements with the notice and ensure that Exchanges require relevant changes to be reported in a timely manner, consistently throughout the year.

Second, in proposed § 155.335(e)(2), we propose to amend the existing provision which specifies that the Exchange must allow a qualified individual, or an application filer, on behalf of the qualified individual, to report changes via the channels available for submission of an application, as described in § 155.405(c)(2). We propose that this requirement would continue to apply, except that the Exchange would no longer be required to allow a qualified individual, or an application filer, on behalf of the qualified individual, to report changes via mail. We also propose the same change to § 155.330(b)(4), which addresses the reporting of changes in the context of eligibility redetermination during a benefit year. Accepting changes via mail would frequently require follow-up telephone contact with individuals attempting to report changes in order to obtain answers to questions that may be triggered by the reported changes. We propose this because of the dynamic nature of the eligibility process, under which, for example, the Exchange should only ask questions about an individual's access to qualifying coverage in an eligible employer-sponsored plan for an individual who has a level of income for his or her family size that would qualify him or her for advance payments of the premium tax credit or cost-sharing reductions, if he or she is otherwise eligible. With a paper process, under this example, it frequently would not be possible to know in advance whether information about an individual's access to qualifying coverage in an eligible employer-sponsored plan would need to be collected based on a reported change in income or family size. Since change reporting via mail would frequently trigger subsequent telephone contact, we believe it would promote administrative efficiency to eliminate the requirement to accept change reporting via mail while encouraging use of the telephone option, during which a call center representative can use the dynamic application to ask the qualified individual any follow-up questions that may arise from the change report. We note that our proposed policy would continue to require that an Exchange must permit change reporting online, via telephone, and in person with the assistance of Navigators, certified application counselors, and other in-person assistance personnel, and that an Exchange could choose to permit change reporting via mail. If this proposal is finalized, we anticipate that the Federally-facilitated Exchange would not accept changes reported via mail for the foreseeable future. We also note that this rule does not propose to modify 42 CFR 435.916(a)(3)(B) or (c), which specify that a Medicaid agency must allow an individual to respond to an annual redetermination or report changes via mail.

Third, we propose to modify the standards for re-enrollment in coverage in paragraph (j). First, in paragraph (j)(1), we propose that if an enrollee remains eligible for enrollment in a QHP through the Exchange upon annual redetermination, and the product under which the QHP in which he or she was enrolled remains available for renewal, consistent with 45 CFR 147.106, such enrollee will have his or her enrollment in a QHP under the product renewed unless he or she terminates coverage, including termination of coverage in connection with voluntarily selecting a different QHP, in accordance with § 155.430. In this situation, we propose that the QHP in which the enrollee will be renewed will be selected according to the following order of priority: First, in the same plan as the enrollee's current QHP, unless the current QHP is not available; second, if the enrollee's current QHP is not available, the enrollee's coverage will be renewed in a plan at the same metal level as the enrollee's current QHP; third, if the enrollee's current QHP is not available and the enrollee's product no longer

includes a plan at the same metal level as the enrollee's current QHP, the enrollee's coverage will be renewed in a plan that is one metal level higher or lower than the enrollee's current QHP; and fourth, if the enrollee's current QHP is not available and the enrollee's product no longer includes a plan that is at the same metal level as, or one metal level higher or lower than the enrollee's current QHP, the enrollee's coverage will be renewed in any other plan offered under the product in which the enrollee's current QHP is offered in which the enrollee is eligible to enroll.

In paragraph (j)(2), we propose standards to address re-enrollment in situations in which the product under which an enrollee's QHP is offered is not available through the Exchange for renewal, consistent with 45 CFR 147.106. In this situation, the QHP issuer may still re-enroll the enrollee in a different product offered by the same QHP issuer, to the extent permitted by applicable State law, unless the enrollee terminates coverage. To the extent that an issuer is re-enrolling such an enrollee, we propose that the plan in which the enrollee will be renewed will be selected according to the following order of priority: First, in a plan through the Exchange at the same metal level as the enrollee's current QHP in the product offered by the issuer that is the most similar to the enrollee's current product; second, if the issuer does not offer another plan through the Exchange at the same metal level as the enrollee's current QHP, the enrollee will be re-enrolled in a plan through the Exchange that is one metal level higher or lower than the enrollee's current QHP in the product offered by the issuer through the Exchange that is the most similar to the enrollee's current product; third, if the issuer does not offer another plan through the Exchange at the same metal level as, or one metal level higher or lower than the enrollee's current QHP, the enrollee will be re-enrolled in any other plan offered through the Exchange by the QHP issuer in which the enrollee is eligible to enroll; and fourth, if the issuer does not offer any plan through the Exchange in which the enrollee is eligible to enroll, the enrollee may be re-enrolled in a plan offered outside the Exchange by the QHP issuer under the product that is the most similar to the enrollee's current product, in which the enrollee is eligible to enroll. We note that the Exchange would not send an enrollment transaction for an enrollment outside the Exchange, and that premium tax credits and cost-sharing reductions are not available for enrollment that is not through the Exchange.

The proposed changes to this provision include minor changes to improve clarity, amendments to reflect that renewal of coverage in a QHP through the Exchange intersects with § 147.106, which provides market-wide standards for guaranteed renewability of coverage offered both through and outside the Exchange, and a specific order of priority to ensure that renewal of and re-enrollment in coverage in a plan through the Exchange occurs through the Exchange, and is in products that are as similar to the enrollee's existing product as possible, in order to minimize disruption, enable consumers to continue with advance payments of the premium tax credit and cost-sharing reductions (which are only available for enrollment through the Exchange) and limit consumer confusion. Further, the current text of paragraph (j), if read separately from § 147.106, could give the incorrect impression that a QHP enrollee would have his or her coverage in a QHP renewed even if the product under which the QHP was offered was no longer available for renewal, consistent with § 147.106. Accordingly, the proposed language is designed to clarify the dependency of renewal of coverage in a QHP through the Exchange on the continuing availability of the product under which the QHP is offered in accordance with market-wide standards. We solicit comments on these proposed standards and on the proposed order in which plans would be selected for renewal of and re-enrollment in coverage. In particular, we solicit comment regarding whether paragraphs (j)(1)(iii) and (j)(2)(ii) should only prioritize a plan with a lower metal level, and whether in general, priority should be placed on plans that have a premium that is closest to the plan in which an enrollee is currently enrolled.

B. Part 156—Health Insurance Issuer Standards Under the Affordable Care Act, Including Standards Related to Exchanges; Subpart M—Qualified Health Plan Issuer Responsibilities

In 45 CFR 147.106(f)(1) of the final rule entitled, ''Patient Protection and Affordable Care Act; Exchange and Insurance Market Standards for 2015 and Beyond,'' published on May 27, 2014 (79 FR 30240) (Market Standards Rule), we specified that health insurance issuers of non-grandfathered plans in the individual market will provide written notice of renewals before the first day of the next annual open enrollment period in a form and manner specified by the Secretary. Under 45 CFR 147.106(c)(1), health insurance issuers of non-grandfathered plans in the individual market also will provide written notices of product discontinuances.

We propose adding to subpart M a new § 156.1255, which would require a health insurance issuer in the individual market that is renewing an enrollment group's coverage in a qualified health plan offered through the Exchange (including a renewal with modifications), or that is discontinuing a product that includes plans offered through the Exchange and automatically enrolling an enrollee in a QHP under a different product offered by the same QHP issuer through the Exchange, to include certain information in the renewal or discontinuation notices, as applicable. We propose that the additional information include the following: (1) Premium and premium tax credit information sufficient to notify the enrollment group of its expected monthly premium payment under the renewed coverage, in a form and manner specified by the Exchange, provided that if the Exchange does not provide this information to enrollees and does not require issuers to provide this information to enrollees, consistent with this section, such information must be provided in a form and manner specified by HHS; (2) an explanation of the requirement to report changes to the Exchange, the timeframe and channels through which changes can be reported, and the implications of not reporting changes; (3) for an enrollment group that includes an enrollee on whose behalf advance payments of the premium tax credit are being provided, a description of the reconciliation process for advance payments of the premium tax credit; and (4) for an enrollment group that includes an enrollee whose coverage includes cost-sharing reductions, if the enrollment group's coverage is being renewed in a QHP at a different (non-silver) metal level, an explanation that, unless the enrollment group changes its enrollment to select a new silver-level plan, cost-sharing reductions will not be provided for the upcoming year. In accordance with § 147.106(f)(1), renewal notices would need to be provided no later than the first day of the open enrollment period for the upcoming plan year. An issuer also may provide this notice along with the applicable summary of benefits and coverage notice that is provided at renewal in accordance with 45 CFR 147.200. We seek comment on this proposal.

Contemporaneously with the issuance of this proposed rule, we are specifying the form and manner of the notices

described in 45 CFR 146.152, 147.106, and 148.122 by providing standard notices for issuers to use when discontinuing or renewing coverage. These notices take into account the feedback we received on the draft notices issued contemporaneously with the proposed Market Standards Rule.[1] We believe that adding the information that would be specified pursuant to § 156.1255 to the renewal notices required under § 147.106 would best assure that qualified individuals receive, in a single notice, the relevant information that they need to make informed decisions about whether to keep their current plan or examine other QHP options. Further, this approach potentially would reduce burden on health insurance issuers. As noted above, the Market Standards Rule requires that notices be provided in a form and manner specified by the Secretary. The guidance accompanying the standard notices that we are releasing for public comment contemporaneously with this proposed rule specifies that the form and manner may consist of standard notices developed by States that are enforcing the requirements of the Affordable Care Act, provided the State-developed notices are at least as protective as the standard Federal notices.

We recognize that the current notice requirements do not cover every situation in which an issuer may non-renew or discontinue coverage, consistent with the guaranteed renewability statute and regulations. For example, an issuer whose product no longer covers the service area of enrollees may non-renew those enrollees' coverage under that product. But, as long as the issuer's product continues to cover a majority of the same service area, the service area reduction would not trigger a product discontinuation and corresponding notice to affected enrollees under the current regulations. We also propose establishing a notice requirement that would apply to all plans subject to the guaranteed renewability requirements that non-renew coverage based on continued coverage not being available in the enrollee's service area as a result of changes that do not result in product discontinuances. These notices would be provided in a form and manner specified by HHS. We solicit comments on this proposal, including the appropriate timeframe for providing the notice.

[1] CMS Insurance Standards Bulletin, Draft Notices When Discontinuing or Renewing a Product in the Group or Individual Market (March 14, 2014), *http://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/draft-discontinuance-renewal-notices-03-14-14.pdf.*

III. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

IV. Collection of Information Requirements

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing a summary of this proposed information collection for public comment. Interested persons are invited to send comments regarding this collection's proposed burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have also submitted to the Office of Management and Budget (OMB) the proposed information collection for their emergency review. While the collection is necessary to ensure compliance with an initiative of the Administration, we are requesting emergency review under 5 CFR 1320(a)(2)(i) because public harm is reasonably likely to result if the regular clearance procedures are followed. The approval of this data collection process is essential to ensuring that renewal notices associated with the 2015 plan year are provided to consumers in a timely manner prior to the 2015 open enrollment period. Consumers will need the information in these notices in order to make decisions regarding their coverage for the 2015 plan year.

ICRs Regarding Renewal and Re-Enrollment Notice Requirements (§ 156.1255)

Proposed § 156.1255 would require that a health insurance issuer in the individual market that is renewing an enrollment group's coverage in a qualified health plan offered through the Exchange (including a renewal with modifications), or that is discontinuing a product offered through the Exchange and automatically enrolling an enrollee in a QHP under a different product offered by the same QHP issuer through the Exchange include certain information in the written notice specified in § 147.106(c)(1) or (f)(1).

Since there are existing requirements for issuers to send renewal and discontinuance notices, we only estimate the burden for QHP issuers to revise current notices to comply with the proposed provisions of this proposed rule. We estimate that there are 575 QHP issuers and assume that they would all revise their existing notices to comply with the requirements in this proposed rule.

For renewal notices, we estimate that, for each issuer, it would require three hours of clerical labor (at a cost of $33.67 per hour) to prepare the notice and one hour for a senior manager (at a cost of $75.34 per hour) to review it. We also estimate that it would take a computer programmer 20 hours (at a cost of $52.53 per hour) to write and test a program to automate the notices. The total burden for each issuer to prepare the notice would be 24 hours with an equivalent cost of approximately $1,277. For all 575 QHP issuers, the total burden would be 13,800 hours with an equivalent cost of approximately $705,479.

For re-enrollment (or discontinuance) notices, which could also be used in cases of other terminations or non-renewals, we estimate that, for each issuer, it would require three hours of clerical labor (at a cost of $33.67 per hour) to prepare the notice and one hour for a senior manager (at a cost of $75.34 per hour) to review the notice. We also estimate that it would take a computer programmer 9 hours (at a cost of $52.53 per hour) to write and test a program to automate the notices. The total annual burden for each issuer to prepare the notice would be 13 hours with an equivalent cost of approximately $649. For all 575 QHP issuers, the total annual burden would be 7,475 hours with an equivalent cost of approximately $373,237.

States that are enforcing the Affordable Care Act may develop their own standard notices. However, we

anticipate that fewer than 10 States would opt for this alternative. Under 5 CFR 1320.3(c)(4), this requirement is not subject to the PRA as it would affect fewer than 10 entities in a 12-month period.

We are requesting emergency OMB review with a 180-day approval period. Written comments and recommendations for this emergency request only will be considered from the public if received by the date and address noted below.

The proposed information collection requirement at § 156.1255 is but one component of a broader information collection request. We are also soliciting comments for the aforementioned information collection request in a notice published elsewhere in this issue of the **Federal Register**. The notice provides the public with 30 days to submit comments. Copies of the supporting statement for this information collection request and any related forms can be found at: *http://www.cms.hhs.gov/PaperworkReductionActof1995* or can be obtained by emailing your request, including your address, phone number, OMB number, and CMS document identifier, to: *Paperwork@cms.hhs.gov,* or by calling the Reports Clearance Office at: 410–786–1326.

When commenting on this proposed information collection, please reference the CMS document identifier and the OMB control number. To be assured consideration, comments and recommendations must be received in one of the following ways by July 28, 2014:

1. *Electronically.* You may submit your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address:

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier (CMS–10527), Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850;

and,

OMB Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, New Executive Office Building, Room 10235, Washington, DC 20503, Fax Number: 202–395–6974.

V. Regulatory Impact Statement

A. Summary

We are publishing this proposed rule to implement the protections intended by the Congress in the most economically efficient manner possible. We have examined the effects of this rule as required by Executive Order 13563 (76 FR 3821, January 21, 2011), Executive Order 12866 (58 FR 51735, September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), Executive Order 13132 on Federalism, and the Congressional Review Act (5 U.S.C. 804(2)).

B. Executive Orders 12866 and 13563

Executive Order 12866 (58 FR 51735) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). Executive Order 13563 (76 FR 3821, January 21, 2011) is supplemental to and reaffirms the principles, structures, and definitions governing regulatory review as established in Executive Order 12866.

Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action that is likely to result in a proposed rule—(1) having an annual effect on the economy of $100 million or more in any one year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

A regulatory impact analysis (RIA) must be prepared for rules with economically significant effects (for example, $100 million or more in any 1 year), and a ''significant'' regulatory action is subject to review by the OMB. We have concluded that this proposed rule is not likely to have economic impacts of $100 million or more in any one year, and therefore does not meet the definition of ''economically significant rule'' under Executive Order 12866.

1. Need for Regulatory Action

This proposed rule specifies additional options for annual eligibility redeterminations and renewal and re-enrollment notice requirements for QHPs in the Exchange beginning with annual redeterminations for coverage for plan year 2015.

2. Summary of Impacts

It is expected that Exchanges will adopt an alternative method for annual eligibility redeterminations only if the related costs are no more than those associated with the process currently defined in § 155.335. Therefore, we do not expect that there would be additional costs related to these provisions.

QHP issuers would incur costs to prepare and send renewal notices to comply with the proposed provisions, as detailed in section IV. States that choose to develop their own renewal notices would incur costs to do so. Providing consumers with information such as benefit changes and premium amounts will enable them to make decisions regarding their coverage for the next plan year.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires agencies that issue a regulation to analyze options for regulatory relief of small businesses if a rule has a significant impact on a substantial number of small entities. The RFA generally defines a ''small entity'' as: (1) A proprietary firm meeting the size standards of the Small Business Administration (SBA); (2) a nonprofit organization that is not dominant in its field; or (3) a small government jurisdiction with a population of less than 50,000 (States and individuals are not included in the definition of ''small entity''). HHS uses as its measure of significant economic impact on a substantial number of small entities a change in revenues of more than 3 to 5 percent. We do not believe that this threshold will be reached by the provisions of this proposed rule.

D. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule that includes a federal mandate that could result in expenditure in any one year by State, local or tribal governments, in the aggregate, or by the

private sector, of $100 million in 1995 dollars, updated annually for inflation. In 2014, that threshold level is approximately $141 million.

UMRA does not address the total cost of a rule. Rather, it focuses on certain categories of cost, mainly those ''Federal mandate'' costs resulting from: (1) Imposing enforceable duties on State, local, or tribal governments, or on the private sector; or (2) increasing the stringency of conditions in, or decreasing the funding of, State, local, or tribal governments under entitlement programs.

This proposed rule would allow States to choose one of three methods for conducting annual redeterminations. We assume that States would choose an alternative method only if it is less costly than the current method. It would also require QHP issuers to include specific information in renewal and re-enrollment notices sent to enrollees and issuers would incur costs to comply with this requirement. States that choose to develop their own notices would incur costs to do so. Consistent with policy embodied in UMRA, this proposed rule has been designed to be the least burdensome alternative for State, local and tribal governments, and the private sector while achieving the objectives of the Affordable Care Act.

E. Federalism

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications.

States are the primary regulators of health insurance coverage, and State laws will continue to apply to health insurance coverage and the business of insurance. However, if any State law or requirement prevents the application of a Federal standard, then that particular State law or requirement would be preempted. State requirements that are more stringent than the Federal requirements would not be preempted by this proposed rule. Accordingly, States have significant latitude to impose requirements with respect to health insurance coverage that are more restrictive than the Federal law.

F. Congressional Review Act

This proposed rule is subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801, et seq.), which specifies that before a rule can take effect, the federal agency promulgating the rule shall submit to each House of the Congress and to the Comptroller General a report containing a copy of the rule along with other specified information, and has been transmitted to Congress and the Comptroller General for review.

List of Subjects

45 CFR Part 155

Administrative practice and procedure, Health care access, Health insurance, Reporting and recordkeeping requirements, State and local governments, Cost-sharing reductions, Advance payments of premium tax credit, Administration and calculation of advance payments of the premium tax credit

45 CFR Part 156

Administrative practice and procedure, Health care, Health insurance, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department of Health and Human Services proposes to amend 45 CFR parts 155 and 156 as set forth below:

PART 155—EXCHANGE ESTABLISHMENT STANDARDS AND OTHER RELATED STANDARDS UNDER THE AFFORDABLE CARE ACT

■ 1. The authority citation for part 155 continues to read as follows:

Authority: Title I of the Affordable Care Act, sections 1301, 1302, 1303, 1304, 1311, 1312, 1313, 1321, 1322, 1331, 1332, 1334, 1402, 1411, 1412, 1413, Pub. L. 111–148, 124 Stat. 119 (42 U.S.C. 18021–18024, 18031–18033, 18041–18042, 18051, 18054, 18071, and 18081–18083).

■ 2. Amend § 155.330 to revise paragraph (b)(4) as follows:

§ 155.330 Eligibility redetermination during a benefit year.

* * * * *

(b) * * *

(4) The Exchange must allow an enrollee, or an application filer on behalf of the enrollee, to report changes via the channels available for the submission of an application, as described in § 155.405(c)(2), except that the Exchange is permitted but not required to allow an enrollee, or an application filer, on behalf of the enrollee, to report changes via mail.

* * * * *

■ 3. Amend § 155.335 to revise paragraphs (a), (e), and (j) as follows:

§ 155.335 Annual eligibility redetermination.

(a) *General requirement.* (1) Except as specified in paragraphs (l) and (m) of this section, the Exchange must redetermine the eligibility of a qualified individual on an annual basis.

(2) The Exchange must conduct annual redeterminations required under paragraph (a)(1) of this section using one of the following:

(i) The procedures described in paragraphs (b) through (m) of this section;

(ii) Alternative procedures specified by the Secretary for the applicable plan year; or

(iii) Alternative procedures approved by the Secretary based on a showing by the Exchange that the alternative procedures would facilitate continued enrollment in coverage for which the enrollee remains eligible, provide clear information about the process to the qualified individual or enrollee (including regarding any action by the qualified individual or enrollee necessary to obtain the most accurate redetermination of eligibility), and provide adequate program integrity protections.

* * * * *

(e) *Changes reported by qualified individuals.* Except as specified in paragraph (e)(1) of this section, the Exchange must require a qualified individual to report any change with respect to the eligibility standards specified in § 155.305 within 30 days of such change.

(1) The Exchange must not require a qualified individual who did not request an eligibility determination for insurance affordability programs to report changes that affect eligibility for insurance affordability programs.

(2) The Exchange must allow a qualified individual, or an application filer, on behalf of the qualified individual, to report changes via the channels available for the submission of an application, as described in § 155.405(c)(2), except that the Exchange is permitted but not required to allow a qualified individual, or an application filer, on behalf of the qualified individual, to report changes via mail.

* * * * *

(j) *Re-enrollment.* If an enrollee remains eligible for enrollment in a QHP through the Exchange upon annual redetermination—

(1) And the product under which the QHP in which he or she is enrolled remains available through the Exchange for renewal, consistent with § 147.106 of this subchapter, such enrollee will have his or her enrollment through the Exchange in a QHP under that product renewed, unless he or she terminates coverage, including termination of coverage in connection with voluntarily

selecting a different QHP, in accordance with § 155.430. The Exchange will ensure that re-enrollment in coverage under this paragraph (j)(1) occurs under the same product in which the enrollee was enrolled, as follows:

(i) The enrollee's coverage will be renewed in the same plan as the enrollee's current QHP, unless the current QHP is not available.

(ii) If the enrollee's current QHP is not available, the enrollee's coverage will be renewed in a plan at the same metal level as the enrollee's current QHP;

(iii) If the enrollee's current QHP is not available and the enrollee's product no longer includes a plan at the same metal level as the enrollee's current QHP, the enrollee's coverage will be renewed in a plan that is one metal level higher or lower than the enrollee's current QHP; or

(iv) If the enrollee's current QHP is not available and the enrollee's product no longer includes a plan that is at the same metal level as, or one metal level higher or lower than the enrollee's current QHP, the enrollee's coverage will be renewed in any other plan offered under the product in which the enrollee's current QHP is offered in which the enrollee is eligible to enroll.

(2) And the product under which the QHP in which he or she is enrolled is not available through the Exchange for renewal, consistent with § 147.106 of this subchapter, such enrollee may be enrolled in a plan under a different product offered by the same QHP issuer, to the extent permitted by applicable State law, unless he or she terminates coverage, including termination of coverage in connection with voluntarily selecting a different QHP, in accordance with § 155.430. The Exchange will ensure that re-enrollment in coverage under this paragraph (j)(2) occurs as follows:

(i) The enrollee will be re-enrolled in a plan through the Exchange at the same metal level as the enrollee's current QHP in the product offered by the issuer that is the most similar to the enrollee's current product;

(ii) If the issuer does not offer another plan through the Exchange at the same metal level as the enrollee's current QHP, the enrollee will be re-enrolled in a plan through the Exchange that is one metal level higher or lower than the enrollee's current QHP in the product offered by the issuer through the Exchange that is the most similar to the enrollee's current product;

(iii) If the issuer does not offer another plan through the Exchange at the same metal level as, or one metal level higher or lower than the enrollee's current QHP, the enrollee will be re-enrolled in any other plan offered through the Exchange by the QHP issuer in which the enrollee is eligible to enroll.

(iv) If the issuer does not offer any plan through the Exchange in which the enrollee is eligible to enroll, the enrollee will be re-enrolled in a plan offered outside the Exchange by the QHP issuer under the product that is the most similar to the enrollee's current product, in which the enrollee is eligible to enroll.

* * * * *

PART 156—HEALTH INSURANCE ISSUER STANDARDS UNDER THE AFFORDABLE CARE ACT, INCLUDING STANDARDS RELATED TO EXCHANGES

■ 4. The authority citation for part 156 continues to read as follows:

Authority: Title I of the Affordable Care Act, sections 1301–1304, 1311–1313, 1321–1322, 1324, 1334, 1342–1343, 1401–1402, Pub. L. 111–148, 124 Stat. 119 (42 U.S.C. 18021–18024, 18031–18032, 18041–18042, 18044, 18054, 18061, 18063, 18071, 18082, 26 U.S.C. 36B, and 31 U.S.C. 9701).

■ 5. Add § 156.1255 to read as follows:

§ 156.1255 Renewal and re-enrollment notices.

A health insurance issuer that is renewing an enrollment group's coverage in an individual market QHP offered through the Exchange (including a renewal with modifications) in accordance with § 147.106 of this subchapter, or that is discontinuing a product offered through the Exchange and automatically enrolling an enrollee in a QHP under a different product offered by the same QHP issuer through the Exchange in accordance with § 155.335 of this subchapter, must include the following information in the applicable notice described in § 147.106(c)(1) or (f)(1) of this subchapter:

(a) Premium and premium tax credit information sufficient to notify the enrollment group of its expected monthly premium payment under the renewed coverage, in a form and manner specified by the Exchange, provided that if the Exchange does not provide this information to enrollees and does not require issuers to provide this information to enrollees, consistent with this section, such information must be provided in a form and manner specified by HHS;

(b) An explanation of the requirement to report changes to the Exchange, as specified in § 155.335(e) of this subchapter, the timeframe and channels through which changes can be reported, and the implications of not reporting changes;

(c) For an enrollment group that includes an enrollee on whose behalf advance payments of the premium tax credit are being provided, an explanation of the reconciliation process for advance payments of the premium tax credit established in accordance with 26 CFR 1.36B–4; and

(d) For an enrollment group that includes an enrollee with cost-sharing reductions, but for whom no QHP under the product remains available for renewal at the silver level, an explanation that unless the enrollment group selects a silver-level QHP through the Exchange, no cost-sharing reductions will be provided.

Dated: June 19, 2014.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

Approved: June 24, 2014.

Sylvia M. Burwell,

Secretary.

[FR Doc. 2014–15362 Filed 6–26–14; 4:15 pm]

BILLING CODE 4120–28–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–BD81

Fisheries of the Caribbean, Gulf of Mexico and South Atlantic; Amendment 8 to the Fishery Management Plan for Coral, Coral Reefs, and Live/Hardbottom Habitats of the South Atlantic Region; Correction

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

ACTION: Notice of availability; correction.

SUMMARY: NMFS published a notice of availability (NOA) for Amendment 8 to the Fishery Management Plan for Coral, Coral Reefs, and Live/Hardbottom Habitats of the South Atlantic Region (FMP) (Amendment 8) on May 20, 2014. Amendment 8, in part, would expand portions of the northern and western boundaries of the Oculina Bank habitat area of particular concern (HAPC) (Oculina Bank HAPC). The NOA stated ''Amendment 8 would increase the size of the Oculina Bank HAPC by 405.42 square miles (1,050 square km), for a total area of 694.42 square miles

(1,798.5 square km)''. However, this is incorrect. Amendment 8 would actually increase the size of the Oculina Bank HAPC by 343.42 square miles (889.5 square km), for a total area of 632.42 square miles (1,638 square km). This notification corrects these two values published in the NOA.

DATES: The public comment period for the NOA that published at 79 FR 28880, May 20, 2014, ends on July 21, 2014.

FOR FURTHER INFORMATION CONTACT: Anne Marie Eich, 727–824–5305; email: *annemarie.eich@noaa.gov.*

SUPPLEMENTARY INFORMATION: On May 20, 2014, NMFS published a NOA in the **Federal Register** (79 FR 28880) for Amendment 8 that would expand portions of the northern and western boundaries of the Oculina Bank HAPC and allow transit through the Oculina Bank HAPC by fishing vessels with rock shrimp onboard; modify vessel monitoring systems requirements for rock shrimp fishermen transiting through the Oculina Bank HAPC; expand a portion of the western boundary of the Stetson Reefs, Savannah and East Florida Lithotherms, and Miami Terrace Deepwater Coral HAPC, including modifications to the shrimp fishery access area 1; and expand a portion of the northern boundary of the Cape Lookout Lophelia Banks Deepwater CHAPC. The purpose of Amendment 8 is to increase protection for deepwater coral based on new information for deepwater coral resources in the South Atlantic. The public comment period for the NOA ends on July 21, 2014.

Need for Correction

During the comment period on the NOA, a member from the public identified to NMFS that the increase of the size of the Oculina Bank HAPC included in the preamble of the NOA was incorrect. NMFS agrees and publishes this notification to correct that mistake.

Correction

In the **Federal Register** of May 20, 2014, in FR Doc. 2014–11622, on page 28881, in the first column, last paragraph, the fifth sentence is corrected to read as follows:

''If implemented, Amendment 8 would increase the size of the Oculina HAPC by 343.42 square miles (889.5 square km), for a total area of 632.42 square miles (1,638 square km) and would extend these prohibitions to the larger area (except for a limited transit provision described below) and increase the protection of coral.''

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

Dated: June 25, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–15417 Filed 6–30–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 140214145–4145–01]

RIN 0648–BD81

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coral, Coral Reefs, and Live/Hard Bottom Habitats of the South Atlantic Region; Amendment 8; Correction

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

ACTION: Proposed rule; correction.

SUMMARY: NMFS published a proposed rule on June 3, 2014, to, in part, implement provisions that would expand portions of the northern and western boundaries of the Oculina Bank habitat area of particular concern (HAPC) (Oculina Bank HAPC). The proposed rule stated ''the proposed rule would increase the size of the Oculina Bank HAPC by 405.42 square miles (1,050 square km), for a total area of 694.42 square miles (1,798.5 square km)''. However, this is incorrect. The proposed rule would actually increase the size of the Oculina Bank HAPC by 343.42 square miles (889.5 square km), for a total area of 632.42 square miles (1,638 square km). This notification corrects these two values published in the proposed rule.

DATES: The public comment period for the proposed rule that published at 79 FR 31907, June 3, 2014, ends on July 3, 2014.

FOR FURTHER INFORMATION CONTACT: Anne Marie Eich, 727–824–5305; email: *annemarie.eich@noaa.gov.*

SUPPLEMENTARY INFORMATION: On June 3, 2014, NMFS published a proposed rule in the **Federal Register** (79 FR 31907) to implement provisions that would expand portions of the northern and western boundaries of the Oculina Bank HAPC and allow transit through the Oculina Bank HAPC by fishing vessels with rock shrimp onboard; modify vessel monitoring systems (VMS) requirements for rock shrimp fishermen transiting through the Oculina Bank HAPC; expand a portion of the western boundary of the Stetson Reefs, Savannah and East Florida Lithotherms, and Miami Terrace Deepwater Coral HAPC (CHAPC) (Stetson-Miami Terrace CHAPC), including modifications to the shrimp access area A, which is proposed to be renamed ''shrimp access area 1''; and expand a portion of the northern boundary of the Cape Lookout Lophelia Banks Deepwater CHAPC (Cape Lookout CHAPC). In addition, this proposed rule makes a minor administrative change to the names of the shrimp fishery access areas. The purpose of the proposed rule is to increase protection for deepwater coral based on new information for deepwater coral resources in the South Atlantic. The public comment period for the proposed rule ends on July 3, 2014.

Need for Correction

During the comment period on the proposed rule, a member from the public identified to NMFS that the increase of the size of the Oculina Bank HAPC included in the preamble of the proposed rule was incorrect. NMFS agrees and publishes this notification to correct that mistake.

Correction

In the **Federal Register** of June 3, 2014, in FR Doc. 2014–12655, on page 31908, in the second column, second paragraph, the fifth sentence is corrected to read as follows:

''If implemented, this proposed rule would increase the size of the Oculina Bank HAPC by 343.42 square miles (889.5 square km), for a total area of 632.42 square miles (1,638 square km) and, except for a limited transit provision described below, would extend these prohibitions to the larger area, and increase protection of coral.''

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

Dated: June 25, 2014.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 2014–15414 Filed 6–26–14; 4:15 pm]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 79, No. 126

Tuesday, July 1, 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

Submission for OMB Review; Comment Request

June 25, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by July 31, 2014 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: Customer Data Worksheet Request for SCIMS Record Change.

OMB Control Number: 0560–0265.

Summary of Collection: Core Customer Data is required in order to identify USDA program participants and ensure that benefits are directed to the correct customer and respective Tax Identification Numbers. There is no public law regarding the use or collection of Core Customer Data. The option to document and track Core Customer Data changes is necessary to ensure the integrity of the data and to provide the Farm Service Agency (FSA), Natural Resources and Conservation Service and Rural Development a method of verifying the validity of the information, and provide a necessary basis for pursuing legal remedies when needed.

Need and Use of the Information: Core Customer Data is necessary to input customer information for identity purposes and to provide a point of contact for the respective customer and a valid Tax Identification Number to direct program benefits to. The AD–2047 will be used to document Corel Customer Data changes and also to provide a method to identify who made applicable changes and when this was done. Failure to collect and timely maintain the data collected will result in erroneous/out dated point of contact information, which could result in program information and benefits being directed to incorrect recipients.

Description of Respondents: Individuals or households.

Number of Respondents: 51,750.

Frequency of Responses: Reporting: Other (when necessary).

Total Burden Hours: 8,798.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–15341 Filed 6–30–14; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 25, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Office of the Assistant Secretary for Civil Rights

Title: USDA Race, Ethnicity and Gender Data Collection.

OMB Control Number: 0503–0019.

Summary of Collection: Section 14006 and 14007 of the Food, Conservation,

and Energy Act of 2008, 7 U.S.C. 8701 (referred to as the 2008 Farm Bill) establishes a requirement for the Department of Agriculture (USDA) to annually compile application and participation rate data regarding socially disadvantaged farmers or ranchers by computing for each program of the USDA that serves agriculture producers and landowners (a) raw numbers of applicants and participants by race, ethnicity, and gender, subject to appropriate privacy protection, as determined by the Secretary; and (b) the application and participation rate, by race, ethnicity and gender as a percentage of the total participation rate of all agricultural producers and landowners for each county and State in the United States.

Need and Use of the Information: Data will be collected on a voluntary basis through a questionnaire to determine the race, ethnicity and gender of farmers and ranchers who apply for and who participate in USDA programs and services. The data will enable the Secretary and the Office of Advocacy and Outreach and the agencies' outreach offices in reaching current and prospective socially disadvantaged farmers or ranchers in a linguistically appropriate manner to focus resources in a particular county or region where low participation is indicated by the data to improve the participation of those farmers and ranchers in USDA programs. The data is intended to be used as one indicator in targeting and designing outreach activities and in assessing compliance with civil rights laws in program delivery. The data may also be used as an indicator in directing compliance reviews to geographic areas where there are indications of low participation in USDA programs by minorities and women, thus serving as an ''early warning system'' that warrants further investigations. Failure to collect this information will have a negative impact on USDA's outreach activities and could result in an inability of the agencies to equitably deliver programs and services to applicant and producers.

Description of Respondents: Individuals or households.

Number of Respondents: 3,200,000.

Frequency of Responses: Reporting: Other (once).

Total Burden Hours: 106,667.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–15343 Filed 6–30–14; 8:45 am]

BILLING CODE 3410–9R–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 25, 2014,

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725 17th Street NW., Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by July 31, 2014. Copies of the submission(s) may be obtained by calling (202) 720–8681.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Agricultural Marketing Service

Title: USDA Web Based Supply Chain Management System (WBSCM).

OMB Control Number: 0581–0273.

Summary of Collection: Section 32 of the Act of August 24, 1935, as amended (Section 32 Pub. L. 74–320; 7 U.S.C. 612c); Sections 6(a) and (e), 13, and 17 of the National School Lunch Act, as amended, (42 U.S.C. sections 1751, 1761, and 1766) in addition to several other acts authorize the Agricultural Marketing Service (AMS) Procurement Branches to prepare and issue announcements for the purchase and sale of perishable agricultural commodities. AMS purchases agricultural commodities for the Section 32 and 6a & e National School Lunch Program/Child & Adult Care Food Program; Nutrition Service Incentive Program; Food Distribution Program on Indian Reservations; Commodity Supplemental Food Program; The Emergency Food Assistance Program and Disaster Feeding in addition to providing support for commodity markets with surplus inventory.

Need and Use of the Information: AMS issues solicitation for offers in order to solicit bids for commodities for delivery to domestic nutrition assistance programs. Vendors respond by making electronic offers using the secure Web Based Supply Chain Management System (WBSCM). Vendors must be registered, and have an ID and password, in order to submit bids electronically through WBSCM via the Internet. The information will change in response to the needs of the domestic feeding programs and each solicitation. Information collected has been consolidated into three processes—a New Vendor Application, Bid Solicitation and Contract Delivery, Invoice Submission and Inspection Results. The data collected from vendors assists AMS with making a determination whether a business is viable and capable of supplying product to the Federal government.

Description of Respondents: Business or other for profit; Farms.

Number of Respondents: 73.

Frequency of Responses: Reporting: On occasion; Weekly; Monthly; Quarterly.

Total Burden Hours: 47,698.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–15342 Filed 6–30–14; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 25, 2014.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the

Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by July 31, 2014 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal Plant and Health Inspection Service

Title: Importation of Hass Avocado from Michoacán Mexico.

OMB Control Number: 0579–0129.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701—*et seq.*), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of plants and plant pests, to prevent the introduction of plant pests into the United States or their dissemination within the United States. The Animal and Plant Health Inspection Service (APHIS) regulations allow fresh Hass Avocados grown in approved orchards in Michoacan, Mexico to be imported into the United States under certain conditions.

Need and Use of the Information: APHIS will collect information using form PPQ 587 ''Application for Permit to Import Plants or Plant Products,'' to ensure that fresh Hass Avocados from Mexico do not harbor insect pests (including Avocado stem weevils, seed weevils, and seed moths). The information collected will ensure that fresh Hass Avocados from Mexico do not harbor exotic insect pests that, if introduced into the United States, could inflict severe damage upon U.S. agriculture.

Description of Respondents: Business or other for profit; Federal Government.

Number of Respondents: 2,205.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 105,558.

Animal and Plant Health Inspection Service

Title: South American Cactus Moth; Quarantine and Regulations.

OMB Control Number: 0579–0337.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701—et seq.), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of plants and plant pests to prevent the introduction of plant pests into the United States or their dissemination within the United States. The Animal and Plant Health Inspection Service (APHIS) regulations subpart, ''Subpart-South American Cactus Moth'' (7 CFR part 301.55 through 301.55–9), restrict the interstate movement of regulated articles from quarantined areas into or through non-quarantined areas within the United States.

Need and Use of the Information: APHIS will collect information using Limited Permit (PPQ Form 530), Certificate (PPQ Form 540) and Compliance Agreement (PPQ Form 519). The limited permits are used to authorize movement of regulated articles that are not certifiable to specified destination for processing, treatment, or utilization. The certificate is used for domestic movement of treated articles relating to quarantines. Certificates are issued for regulated articles when an inspector or other person authorized to issue certificates finds that the articles have met the conditions of the regulations and may be safely moved interstate without further restrictions. The Compliance agreements are provided for the convenience of persons who are involved in the growing, handling, or moving of regulated articles from quarantined areas. Without this information, APHIS could not provide an effective domestic quarantine program to prevent the artificial spread of the South American cactus moth within the United States.

Description of Respondents: Business or other for-profit; Federal Government.

Number of Respondents: 7.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 11.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–15340 Filed 6–30–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Trellis Growing Systems LLC of Fort Wayne, Indiana, an exclusive license to U.S. Patent Application Serial No. 14/267,141, ''METHOD AND APPARATUS FOR PRIMOCANE MANAGEMENT'', filed on May 1, 2014.

DATES: Comments must be received on or before July 31, 2014.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Rm. 4–1174, Beltsville, Maryland 20705–5131.

FOR FURTHER INFORMATION CONTACT: Mojdeh Bahar of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights in this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Trellis Growing Systems LLC of Fort Wayne, Indiana, has submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within thirty (30) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the

requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Mojdeh Bahar,

Assistant Administrator.

[FR Doc. 2014–15344 Filed 6–30–14; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Funding Availability of Applications (NOFA) for Section 514 Farm Labor Housing Loans and Section 516 Farm Labor Housing Grants for Off-Farm Housing for Fiscal Year (FY) 2014

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces the timeframe to submit pre-applications for Section 514 Farm Labor Housing (FLH) loans and Section 516 FLH grants for the construction of new off-farm FLH units and related facilities for domestic farm laborers and for the purchase and substantial rehabilitation of an existing non-FLH property. The intended purpose of these loans and grants is to increase the number of available housing units for domestic farm laborers. This Notice describes the method used to distribute funds, the application process, and submission requirements.

DATESTHE DEADLINE FOR RECEIPT OF ALL APPLICATIONS IN RESPONSE TO THIS NOTICE IS 5:00 P.M., LOCAL TIME TO THE APPROPRIATE RURAL DEVELOPMENT STATE OFFICE ON SEPTEMBER 2, 2014. RURAL DEVELOPMENT WILL NOT CONSIDER ANY APPLICATION THAT IS RECEIVED AFTER THE DEADLINE UNLESS THE DATE AND TIME IS EXTENDED BY ANOTHER NOTICE PUBLISHED IN THE Federal Register. Applicants intending to mail applications must provide sufficient time to permit delivery on or before the deadline. Acceptance by a post office or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

ADDRESSES: Applicants wishing to submit an application in response to this Notice must contact the Rural Development State Office serving the State of the proposed off-farm labor housing project in order to receive further information and copies of the application package. You may find the addresses and contact information for each State office following this web link, *http://www.rurdev.usda.gov/StateOfficeAddresses.html*. Rural Development will date and time stamp incoming applications to evidence timely receipt and, upon request, will provide the applicant with a written acknowledgment of receipt.

FOR FURTHER INFORMATION CONTACT: Mirna Reyes-Bible, Finance and Loan Analyst, Multi-Family Housing Preservation and Direct Loan Division, STOP 0781 (Room 1243–S), USDA Rural Development, 1400 Independence Avenue SW., Washington, DC 20250–0781, telephone: (202) 720–1753 (this is not a toll free number), or via email: *mirna.reyesbible@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Housing Service.

Funding Opportunity Title: Section 514 Farm Labor Housing Loans and Section 516 Farm Labor Housing Grants for Off-Farm Housing.

Announcement Type: Initial funding request.

Catalog of Federal Domestic Assistance Number: 10.405 and 10.427.

Date: The deadline for receipt of all applications in response to this Notice is 5:00 p.m., local time to the appropriate Rural Development State Office on September 2, 2014. Rural Development will not consider any application that is received after the deadline unless the date and time is extended by another Notice published in the **Federal Register**.

Applicants intending to mail applications must provide sufficient time to permit delivery on or before the deadline. Acceptance by a post office or private mailer does not constitute delivery. Facsimile (FAX) and postage due applications will not be accepted.

I. Federal Award Description

The funds available for FY 2014 for Off-Farm Labor Housing are as follows: for Section 514 Loans $23,854,913.53, for Section 516 grants $8,336,000 and for FLH Rental Assistance $1,500,000.

Applications will only be accepted through the date and time listed in this Notice. All awards are subject to availability of funding. Individual requests may not exceed $3 million (total loan and grant).

No State may receive more than 30 percent of available FLH funding available in FY 2014. If there are insufficient applications from around the country to exhaust Sections 514 and 516 funds available, the Agency may then exceed the 30 percent cap per State. Section 516 off-farm FLH grants may not exceed 90 percent of the total development cost (TDC) of the housing as defined in 7 CFR 3560.11.

If leveraged funds are going to be used and are in the form of tax credits, the applicant must include in its pre-application written evidence that a tax credit application has been submitted and accepted by the Housing Finance Agency (HFA). All applications that will receive any leveraged funds must have firm commitments in place within 12 months of the issuance of a ''Notice of Pre-application Review Action,'' Handbook Letter 103 (3560). Applicants without written evidence that a tax credit application has been submitted and accepted by the HFA must certify in writing they will apply for tax credits to the HFA and obtain a firm commitment within 12 months of the issuance of a ''Notice of Pre-application Review Action.''

Rental Assistance (RA) and operating assistance will be available for new construction in FY 2014. Operating assistance is explained at 7 CFR 3560.574 and may be used in lieu of tenant-specific RA in off-farm labor housing projects that serve migrant farm workers as defined in 7 CFR 3560.11, that are financed under Section 514 or section 516 (h) of the Housing Act of 1949, as amended (42 U.S.C. 1484 and 1486(h) respectively), and otherwise meet the requirements of 7 CFR 3560.574.

II. Eligibility Information

1. Eligibility

Housing Eligibility—Housing that is constructed with FLH loans and/or grants must meet Rural Development's design and construction standards contained in 7 CFR part 1924, subparts A and C. Once constructed, off-farm FLH must be managed in accordance with 7 CFR part 3560. In addition, off-farm FLH must be operated on a non-profit basis and tenancy must be open to all qualified domestic farm laborers, regardless at which farm they work. Section 514(f) (3) of the Housing Act of 1949, as amended (42 U.S.C. 1484(f) (3)) defines domestic farm laborers to include any person regardless of the person's source of employment, who receives a substantial portion of his or her income from the primary production of agricultural or aqua cultural commodities in the unprocessed or processed stage, and also includes the person's family.

Tenant Eligibility—Tenant eligibility is limited to persons who meet the definition of a ''disabled domestic farm laborer,'' or ''a domestic farm laborer,'' or ''retired domestic farm laborer,'' as defined in 7 CFR 3560.11. Farm workers who are admitted to this country on a temporary basis under the Temporary

Agricultural Workers (H–2A Visa) program are not eligible to occupy Sections 514/516 off-farm FLH.

Applicant Eligibility—

a. To be eligible to receive a Section 516 grant for off-farm FLH, the applicant must be a broad-based non-profit organization, including community and faith-based organizations, a non-profit organization of farm workers, a federally recognized Indian tribe, an agency or political subdivision of a State or local government, or a public agency (such as a housing authority). The applicant must be able to contribute at least one-tenth of the TDC from non-Rural Development resources which can include leveraged funds.

b. To be eligible to receive a Section 514 loan for off-farm FLH, the applicant must be a broad-based non-profit organization, including community and faith-based organizations, a non-profit organization of farm workers, a federally recognized Indian tribe, an agency or political subdivision of a State or local government, a public agency (such as a housing authority), or a limited partnership which has a non-profit entity as its general partner, and

i. Be unable to provide the necessary housing from its own resources;

ii. Except for State or local public agencies and Indian tribes, be unable to obtain similar credit elsewhere at rates that would allow for rents within the payment ability of eligible residents.

iii. Broad-based non-profit organizations must have a membership that reflects a variety of interests in the area where the housing will be located.

2. Cost Sharing or Matching—Section 516 grants for off-farm FLH may not exceed 90 percent of the TDC as provided in 7 CFR 3560.562(c)(1).

3. Other Requirements—The following requirements apply to loans and grants made in response to this Notice:

a. 7 CFR part 1901, subpart E, regarding equal opportunity requirements;

b. For grants only, 7 CFR part 3015, 3016, or 3019 (as applicable) and 7 CFR 3052, which establishes the uniform administrative and audit requirements for grants and cooperative agreements to State and local governments and to non-profit organizations;

c. 7 CFR part 1901, subpart F, regarding historical and archaeological properties;

d. 7 CFR part 1940, subpart G, regarding environmental assessments;

e. 7 CFR part 3560, subpart L, regarding the loan and grant authorities of the off-farm FLH program;

f. 7 CFR part 1924, subpart A, regarding planning and performing construction and other development;

g. 7 CFR part 1924, subpart C, regarding the planning and performing of site development work;

h. For construction financed with a Section 516 grant, the provisions of the Davis-Bacon Act (40 U.S.C. 276(a)–276(a)–5) and implementing regulations published at 29 CFR parts 1, 3, and 5;

i. All other requirements contained in 7 CFR part 3560, regarding the Sections 514/516 off-farm FLH program; and

j. Please note that grant applicants must obtain a Dun and Bradstreet Data Universal Numbering System (DUNS) number and maintain registration in the Central Contractor Registration Central Contractor Registration (CCR) prior to submitting a pre-application pursuant to 2 CFR 25.200(b). In addition, an entity applicant must maintain registration in the CCR database at all times during which it has an active Federal award or an application or plan under construction by the Agency. Similarly, all recipients of Federal financial assistance are required to report information about first-tier sub-awards and executive compensation in accordance with 2 CFR part 170. So long as an entity applicant does not have an exception under 2 CFR 170.110(b), the applicant must have the necessary processes and systems in place to comply with the reporting requirements should the applicant receive funding. See 2 CFR 170.200(b).

III. Application and Submission Information

1. Pre-Application Submission

The application process will be in two phases: The initial pre-application (or proposal) and the submission of a final application. Only those pre-applications or proposals that are selected for further processing will be invited to submit final applications. In the event that a proposal is selected for further processing and the applicant declines, the next highest ranked unfunded pre-application may be selected for further processing. All pre-applications for Sections 514 and 516 funds must be filed with the appropriate Rural Development State Office and must meet the requirements of this Notice. Incomplete pre-applications will not be reviewed and will be returned to the applicant. No pre-application will be accepted after the deadline unless date and time are extended by another Notice published in the **Federal Register**.

Pre-applications can be submitted either electronically using the FLH Pre-application form found at: [*http://www.rurdev.usda.gov/HAD-Farm_Labor_Grants.html*] or in hard copy obtained from and submitted to the appropriate Rural Development Office where the project will be located. Follow the link for the Rural Development Office address for requesting and submitting pre-application at: *http://www.rurdev.usda.gov/Stateoffice Addresses.html*. Applicants are strongly encouraged, but not required, to submit the pre-application electronically. The electronic form contains a button labeled ''Send Form.'' By clicking on the button, the applicant will see an email message window with an attachment that includes the electronic form the applicant filled out as a data file with a PDF extension. In addition, an auto-reply acknowledgement will be sent to the applicant when the electronic Loan Proposal form is received by the Agency unless the sender has software that will block the receipt of the auto-reply email. The State Office will record pre-applications received electronically by the actual date and time when all attachments are received at the State Office.

Submission of the electronic Section 514 Loan Proposal form *does not* constitute submission of the entire proposal package which requires additional forms and supporting documentation as listed within this Notice. You may use one of the following three options for submitting the entire proposal package comprising of all required forms and documents. On the Loan Proposal form you can indicate the option you will be using to submit each required form and document.

a. Electronic Media Option. Submit all forms and documents as read-only Adobe Acrobat files on electronic media such as CDs, DVDs, or USB drives. For each electronic device submitted, the applicant should include a Table of Contents of all documents and forms on that device. The electronic media should be submitted to the Rural Development State Office listed in this Notice where the property is located. Any forms and documents that are not sent electronically, including the check for credit reports, must be mailed to the Rural Development State Office.

b. Email Option. On the Loan Proposal form you will be asked for a Submission Email Address. This email address will be used to establish a folder on the USDA server with your unique email address. Once the Loan Proposal form is processed, you will receive an additional email notifying you of the email address that you can use to email your forms and documents. **Please Note:** All forms and documents must be

emailed from the same Submission Email Address. This will ensure that all forms and documents that you send will be stored in the folder assigned to that email address. Any forms and documents that are not sent in via the email option must be submitted on an electronic media or in hard copy form to the Rural Development State Office.

c. Hard Copy Submission to the Rural Development State Office. If you are unable to send the proposal package electronically using either of the options listed above, you may send a hard copy of all forms and documents to the USDA Rural Development State Office where the property is located. Hard copy pre-applications received on or before the deadline date will receive the close of business time of the day received as the receipt time. Hard copy pre-applications must be received by the submission deadline and no later than 5:00 p.m., local time, September 2, 2014. Assistance for filing electronic and hard copy pre-applications can be obtained from any Rural Development State Office.

For electronic submissions, there is a time delay between the time it is sent and the time it is received depending on network traffic. As a result, last-minute submissions sent before the deadline date and time could well be received after the deadline date and time because of the increased network traffic. Applicants are reminded that all submissions received after the deadline date and time will be rejected, regardless of when they were sent.

If a pre-application is accepted for further processing, the applicant must submit a complete, final application, acceptable to Rural Development prior to the obligation of Rural Development funds. If the pre-application is not accepted for further processing the applicant will be notified of appeal rights under 7 CFR part 11.

2. Pre-Application Requirements

a. The pre-application must contain the following:

i. A summary page listing the following items. This information should be double-spaced between items and not be in narrative form.

(a) Applicant's name.

(b) Applicant's Taxpayer Identification Number.

(c) Applicant's address.

(d) Applicant's telephone number.

(e) Name of applicant's contact person, telephone number, and address.

(f) Amount of loan and grant requested.

(g) For grants of federal financial assistance (including loans and grants, cooperative agreements, etc.), the applicant's Dun and Bradstreet Data Universal Numbering System (DUNS) number and registration in the CCR database in accordance with 2 CFR part 25. As required by the Office of Management and Budget (OMB), all grant applicants must provide a DUNS number when applying for Federal grants, on or after October 1, 2003. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free number at (866) 705–5711 or via Internet at *http://www.dnb.com/*. Additional information concerning this requirement can be obtained on the Grants.gov Web site at *www.grants.gov*. Similarly, applicants may register for the CCR at: *https://www.uscontractorregistration.com/* or by calling (877) 252–2700.

ii. A narrative verifying the applicant's ability to meet the eligibility requirements stated earlier in this Notice. If an applicant is selected for further processing, Rural Development will require additional documentation as set forth in a Conditional Commitment in order to verify the entity has the legal and financial capability to carry out the obligation of the loan.

iii. Standard Form 424, ''Application for Federal Assistance,'' can be obtained at: *http://www.grants.gov* or from any Rural Development State Office listed in Section VII of this Notice.

iv. For loan pre-applications, current (within 6 months of pre-application date) financial statements with the following paragraph certified by the applicant's designated and legally authorized signer:

> ''I/we certify the above is a true and accurate reflection of our financial condition as of the date stated herein. This statement is given for the purpose of inducing the United States of America to make a loan or to enable the United States of America to make a determination of continued eligibility of the applicant for a loan as requested in the loan application of which this statement is a part.''

v. For loan pre-applications, a check for $40 from applicants made out to United States Department of Agriculture. This will be used to pay for credit reports obtained by Rural Development.

vi. Evidence that the applicant is unable to obtain credit from other sources. Letters from credit institutions which normally provide real estate loans in the area should be obtained and these letters should indicate the rates and terms upon which a loan might be provided. (**Note:** Not required from State or local public agencies or Indian tribes.)

vii. If a FLH grant is desired, a statement concerning the need for a FLH grant. The statement should include preliminary estimates of the rents required with and without a grant.

viii. A statement of the applicant's experience in operating labor housing or other rental housing. If the applicant's experience is limited, additional information should be provided to indicate how the applicant plans to compensate for this limited experience (*i.e.,* obtaining assistance and advice of a management firm, non-profit group, public agency, or other organization which is experienced in rental management and will be available on a continuous basis).

ix. A brief statement explaining the applicant's proposed method of operation and management (*i.e.,* on-site manager, contract for management services, etc.). As stated earlier in this Notice, the housing must be managed in accordance with the program's management regulation, 7 CFR part 3560 and tenancy is limited to ''disabled domestic farm laborers,'' ''domestic farm laborers,'' and ''retired domestic farm laborers,'' as defined in 7 CFR 3560.11.

x. Applicants must also provide:

(a) A copy of, or an accurate citation to, the special provisions of State law under which they are organized, a copy of the applicant's charter, Articles of Incorporation, and by-laws;

(b) The names, occupations, and addresses of the applicant's members, directors, and officers; and

(c) If a member or subsidiary of another organization, the organization's name, address, and nature of business.

xi. A preliminary market survey or market study to identify the supply and demand for labor housing in the market area. The market area must be clearly identified and may include only the area from which tenants can reasonably be drawn for the proposed project. Documentation must be provided to justify a need within the intended market area for the housing of ''domestic farm laborers,'' as defined in 7 CFR 3560.11. The documentation must take into account disabled and retired farm workers. The preliminary survey should address or include the following items:

(a) The annual income level of farmworker families in the area and the probable income of the farm workers who will likely occupy the proposed housing;

(b) A realistic estimate of the number of farm workers who remain in the area where they harvest and the number of farm workers who normally migrate into the area. Information on migratory

workers should indicate the average number of months the migrants reside in the area and an indication of what type of family groups are represented by the migrants *(i.e.,* single individuals as opposed to families);

(c) General information concerning the type of labor intensive crops grown in the area and prospects for continued demand for farm laborers;

(d) The overall occupancy rate for comparable rental units in the area and the rents charged and customary rental practices for these units (*i.e.,* will they rent to large families, do they require annual leases, etc.);

(e) The number, condition, adequacy, rental rates and ownership of units currently used or available to farm workers;

(f) A description of the units proposed, including the number, type, size, rental rates, amenities such as carpets and drapes, related facilities such as a laundry room or community room and other facilities providing supportive services in connection with the housing and the needs of the prospective tenants such as a health clinic or day care facility, estimated development timeline, estimated total development cost, and applicant contribution; and

(g) The applicant must also identify all other sources of funds, including the dollar amount, source, and commitment status. (**Note:** A Section 516 grant may not exceed 90 percent of the total development cost of the housing.)

xii. The applicant must submit a checklist, certification, and signed affidavit by the project architect or engineer, as applicable, for any energy programs listed in Section IV the applicant intends to participate in.

xiii. The following forms are required:

(a) A completed Form RD 1940–20, ''*Request for Environmental Information,''* and a description of anticipated environmental issues or concerns. The form can be found at *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD1940-20.PDF*.

(b) A prepared HUD Form 935.2A, ''Affirmative Fair Housing Marketing Plan (AFHM) Multi-family Housing,'' in accordance with 7 CFR 1901.203(c). The plan will reflect that occupancy is open to all qualified ''domestic farm laborers,'' regardless of which farming operation they work, and that they will not discriminate on the basis of race, color, sex, age, disability, marital or familial status or National origin in regard to the occupancy or use of the units. The form can be found at: *http://portal.hud.gov/hudportal/documents/huddoc?id=935-2a.PDF*.

(c) A proposed operating budget utilizing Form RD 3560–7, ''*Multiple Family Housing Project Budget/Utility Allowance*,'' can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-7.PDF*.

(d) An estimate of development cost utilizing Form RD 1924–13, ''*Estimate and Certificate of Actual Cost,''* can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/-RD1924-13.PDF*.

(e) Form RD 3560–30, ''*Certification of no Identity of Interest (IOI),''* can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-30.PDF* and Form RD 3560–31, ''*Identity of Interest Disclosure/Qualification Certification,*'' can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-31.PDFRD3560-31.PDF*.

(f) Form HUD 2530, ''*Previous Participation Certification,''* can be found at: *http://www.hud.gov/offices/adm/hudclips/forms/files/2530.pdf*.

(g) If requesting Rental Assistance (RA) or Operating Assistance, Form RD 3560–25, ''*Initial Request for Rental Assistance or Operating Assistance,''* can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD3560-25.PDF*.

(h) Form RD 400–4, ''*Assurance Agreement,''* can be found at: *http://forms.sc.egov.usda.gov/efcommon/eFileServices/eForms/RD400-4.PDF*.

Applicants for revitalization, repair, and rehabilitation funding are to apply through the Multi-Family Housing Revitalization Demonstration Program (MPR).

(i) Evidence of compliance with Executive Order 12372. The applicant must send a copy of Form SF–424, ''Application for Federal Assistance,'' to the applicant's State clearinghouse for intergovernmental review. If the applicant is located in a State that does not have a clearinghouse, the applicant is not required to submit the form. Applications from federally recognized Indian tribes are not subject to this requirement.

xiv. Evidence of site control, such as an option contract or sales contract. In addition, a map and description of the proposed site, including the availability of water, sewer, and utilities and the proximity to community facilities and services such as shopping, schools, transportation, doctors, dentists, and hospitals.

xv. Preliminary plans and specifications, including plot plans, building layouts, and type of construction and materials. The housing must meet Rural Development's design and construction standards contained in 7 CFR part 1924, subparts A and C and must also meet all applicable Federal, State, and local accessibility standards.

xvi. A supportive services plan, which describes services that will be provided on-site or made available to tenants through cooperative agreements with service providers in the community, such as a health clinic or day care facility. Off-site services must be accessible and affordable to farm workers and their families. Letters of intent from service providers are acceptable documentation at the pre-application stage.

xvii. A sources and uses statement which shows all sources of funding included in the proposed project. The terms and schedules of all sources included in the project should be included in the sources and uses statement.

xviii. A separate one-page information sheet listing each of the ''Pre-Application Scoring Criteria,'' contained in this Notice, followed by a reference to the page numbers of all relevant material and documentation that is contained in the proposal that supports the criteria.

xix. Applicants are encouraged, but not required, to include a checklist of all of the pre-application requirements and to have their pre-application indexed and tabbed to facilitate the review process;

xx. Evidence of compliance with the requirements of the applicable State Housing Preservation Office (SHPO), and/or Tribal Historic Preservation Officer (THPO). A letter from the SHPO and/or THPO where the off-farm labor housing project is located, signed by their designee will serve as evidence of compliance.

IV. Pre-Application Review Information

Selection Criteria. Section 514 loan funds and Section 516 grant funds will be distributed to States based on a national competition, as follows:

Rural Development State Office will accept, review, and score pre-applications in accordance with this Notice. The scoring factors are:

1. The presence of construction cost savings, including donated land and construction leverage assistance, for the units that will serve program-eligible tenants. The savings will be calculated as a percentage of the Rural Development TDC. The percentage calculation excludes any costs prohibited by Rural Development as loan expenses, such as a developer's fee. Construction cost savings includes, but is not limited to, funds for hard construction costs, and State or Federal

funds which are applicable to construction costs. A minimum of 10 percent cost savings is required to earn points; however, if the total percentage of cost savings is less than 10 percent and the proposal includes donated land, two points will be awarded for the donated land. To count as cost savings for purposes of the selection criteria, the applicant must submit written evidence from the third-party funder that an application for those funds has been submitted and accepted points will be awarded in accordance with the following table using rounding to the nearest whole number.

Percentage	Points
75 or more	20
60–74	18
50–59	16
40–49	12
30–39	10
20–29	8
10–19	5
0–9	0

2. The presence of operational cost savings, such as tax abatements, non-Rural Development tenant subsidies or donated services are calculated on a per-unit cost savings for the sum of the savings. Savings must be available for at least 5 years and documentation must be provided with the application demonstrating the availability of savings for 5 years. To calculate the savings, take the total amount of savings and divide it by the number of units in the project that will benefit from the savings to obtain the per unit cost savings. For non-Rural Development tenant subsidy, if the value changes during the 5 year calculation, the applicant must use the lower of the non-Rural Development tenant subsidy to calculate per unit cost savings. For example, a 10 unit property with 100 percent designated farm labor housing units receiving $20,000 per year non-Rural Development subsidy yields a cost savings of $100,000 ($20,000 × 5 years); resulting to a $10,000 per-unit cost savings ($100,000/10 units).

Use the following table to apply points:

Per-unit cost savings	Points
Above $15,000	50
$10,001–$15,000	35
$7,501–$10,000	20
$5,001–$7,500	15
$3,501–$5,000	10
$2,001–$3,500	5
$1,000–$2,000	2

3. Percent of units for seasonal, temporary, migrant housing. (10 points for up to and including 50 percent of the units; 20 points for 51 percent or more units used for seasonal, temporary, or migrant housing.)

4. Additional 10 points will be awarded to projects in persistent poverty counties. A persistent poverty county is a classification for counties in the United States that have had a relatively high rate of poverty over a long period. The Economic Research Service (ERS) (*http://ers.usda.gov/*) is the main source of economic information and research from the U.S. Department of Agriculture and a principal agency of the U.S. Federal Statistical System Located in Washington, DC

ERS of the U.S. Department of Agriculture has defined counties as being persistently poor if 20 percent or more of their populations were living in poverty over the last 30 years (measured by the 1980, 1990, and 2000 decennial censuses and 2007–2011 American Community Survey 5-year estimates).

5. Presence of tenant services.

a. Up to 25 points will be awarded based on the presence of and extent to which a tenant services plan exists that clearly outlines services that will be provided to the residents of the proposed project. These services may include, but are not limited to, transportation related services, on-site English as a Second Language (ESL) classes, move-in funds, emergency assistance funds, homeownership counseling, food pantries, after school tutoring, and computer learning centers.

b. Two points will be awarded for each resident service included in the tenant services plan up to a maximum of 10 points. Plans must detail how the services are to be administered, who will administer them, and where they will be administered. All tenant service plans must include letters of intent that clearly state the service that will be provided at the project for the benefit of the residents from any party administering each service, including the applicant.

6. Energy Initiative Properties.

a. *Energy Initiatives: Properties may receive a total maximum of 67 points for energy initiatives in the categories of energy conservation, energy generation, and green property management. Depending on the scope of work, properties may earn ''energy initiative'' points in one of two categories: (1) New Construction or (2) Purchase and Rehabilitation of an Existing Non-Farm Labor Housing Building. Projects will be eligible for one category of the two, but not both. The project architect's affidavit should specify which category is applicable.*

Energy programs including LEED for Homes, Green Communities, etc., will each have an initial checklist indicating prerequisites for participation in its energy program. The applicable energy program checklist will establish whether prerequisites for the energy program's participation will be met. All checklists must be accompanied by a signed affidavit by the project architect or engineer stating that the goals are achievable. In addition, projects that apply for points under the energy generation category must include calculations of savings of energy. Compare property energy usage of three scenarios: (1) Property built to required code of state with no renewables, (2) property as-designed with commitments to stated energy conservation programs without the use of renewables, and (3) property as-designed with commitments to stated energy conservation programs and the use of proposed renewables. Use local average metrics for weather and utility costs and detail savings in kWh and dollars. Provide payback calculations. These calculations must be done by a licensed engineer or credentialed renewable energy provider. Include with application, the provider/engineer's credentials including qualifications, recommendations, and proof of previous work. The checklist, affidavit, calculations and qualifications of engineer/energy provider must be submitted together with the loan application.

i. Energy Conservation for New Construction or Purchase and Rehabilitation of an Existing Non-Farm Labor Housing Building (maximum 55 points). Projects may be eligible for up to 55 points when the pre-application includes a written certification by the applicant to participate in the following energy efficiency programs.

The points will be allocated as follows:

- *Participation in the EPA's Energy Star for Homes V3 program. (20 points) http://www.energystar.gov/index.cfm?c=bldrs_lenders_raters.pt_bldr*

OR

- *Participation in the Green Communities program by the Enterprise Community Partners. (30 points) http://www.enterprisecommunity.com/solutions-and-innovation/enterprise-green-communities*

OR

- *Participation in one of the following two programs will be awarded points for certification.*

Note: *Each program has four levels of certification. State the level of certification that the applicant plans will achieve in their certification:*

• *LEED for Homes program by the United States Green Building Council (USGBC): http://www.usgbc.org.*

—Certified Level (30 points), OR
—Silver Level (35 points), OR
—Gold Level (40 points), OR
—Platinum Level (45 points),

Applicant must state the level of certification that the applicant's plans will achieve in their certification in its pre-application.

OR

• *Home Innovation's and The National Association of Home Builders (NAHB) ICC 700 National Green Building Standard TM: http://www.nahb.orgwww.homeinnovation.com/Green.*

—Bronze Level (30 points), OR
—Silver Level (35 points), OR
—Gold Level (40 points), OR
—Emerald Level (45 points).

Applicant must state the level of certification that the applicant's plans will achieve in their certification in its pre-application.

AND

• *Participation in the Department of Energy's Builder's Challenge program. (8 points) http://www.eere.energy.gov/buildings/challenge/*

AND

• *Participation in local green/energy efficient building standards; Applicants who participate in a city, county, or municipality program, will receive an additional 2 points.*

ii. Energy Conservation for Rehabilitation (maximum 55 points). Pre-applications for the purchase and rehabilitation of non-program MFH and related facilities in rural areas may be eligible to receive 55 points when the pre-application includes a written certification by the applicant to participate in one of the following energy efficiency programs. Again, the certification must be accompanied by a signed affidavit by the project architect or engineer stating that the goals are achievable. Points will be award as follows:

• *Participation in the Green Communities program by the Enterprise Community Partners. (53 points) http://www.enterprisecommunity.com/solutions-and-innovation/enterprise-green-communities. At least 30 percent of the points needed to qualify for the Green Communities program must be earned under the Energy Efficiency section of Green Communities.*

AND

• *Participation in local green/energy efficient building standards; Applicants who participate in a city, county or municipality program, will receive an additional 2 points. The applicant should be aware of and look for additional requirements that are sometimes embedded in the third-party program's rating and verification systems. (2 points)*

iii. Energy Generation (maximum 7 points). Pre-applications for new construction or purchase and rehabilitation of non-program multi-family projects which participate in the above-mentioned programs and receive at least 20 points in the point allocations above are eligible to earn additional points for installation of on-site renewable energy sources. Energy analysis of preliminary building plans using industry-recognized simulation software must document the projected total energy consumption of all of the building components and building site usage. Projects with an energy analysis of the preliminary or rehabilitation building plans that propose a 10 percent to 100 percent energy generation commitment (where generation is considered to be the total amount of energy needed to be generated on-site to make the building a net-zero consumer of energy) will be awarded points as follows:

0 to 9 percent commitment to energy generation receives 0 points;

10 to 20 percent commitment to energy generation receives 1 point;

21 to 40 percent commitment to energy generation receives 2 points;

41 to 60 percent commitment to energy generation receives 3 points;

61 to 80 percent commitment to energy generation receives 4 points;

81 to 100 percent or more commitment to energy generation receives 5 points.

Projects may participate in Power Purchase Agreements or Solar Leases to achieve their on-site renewable energy generation goals provided that the financial obligations of the lease/purchase agreements are clearly documented and included in the application, and qualifying ratios continue to be achieved.

An additional (2) points will be awarded for off-grid systems, or elements of systems, provided that at least 5 percent of on-site renewable system is off-grid. See *www.dsireusa.org* for State and local specific incentives and regulations of energy initiatives.

iv. Property Management Credentials (5 points). Projects may be awarded an additional 5 points if the designated property management company or individuals that will assume maintenance and operations responsibilities upon completion of construction work have a Credential for Green Property Management. Credentialing can be obtained from the National Apartment Association (NAA), National Affordable Housing Management Association, The Institute for Real Estate Management, U.S. Green Building Council's Leadership in Energy and Environmental Design for Operations and Maintenance (LEED OM), or another source with a certifiable credentialing program. Credentialing must be illustrated in the resume(s) of the property management team and included with the pre-application.

The National Office will rank all pre-applications nationwide and distribute funds to States in rank order, within funding and RA limits. When Pursuant to 7 CFR 3560.56(c)(2)(ii), when proposals have an equal score, preference will be given first to Indian tribes as defined in § 3560.11 and then local non-profit organizations or public bodies whose principal purposes include low-income housing that meet the conditions of § 3560.55(c) and the following conditions:

(a) Is exempt from Federal income taxes under section 501(c)(3) or 501(c)(4) of the Internal Revenue code;

(b) Is not wholly or partially owned or controlled by a for-profit or limited-profit type entity;

(c) Whose members, or the entity, do not share an identity of interest with a for-profit or limited-profit type entity;

d) Is not co-venturing with another entity; and

(e) The entity or its members will not be receiving any direct or indirect benefits pursuant to LIHTC.

If there are two or more applications that have the same score and both cannot be funded, a lottery in accordance with 7 CFR 3560.56(c)(2)(ii) will be used to break the tie. If insufficient funds or RA remain for the next ranked proposal, that applicant will be given a chance to modify their pre-application to bring it within remaining funding levels. This will be repeated for each next ranked eligible proposal until an award can be made or the list is exhausted.

Rural Development will notify all applicants whether their applications have been accepted or rejected and provide appeal rights under 7 CFR part 11, as appropriate.

V. Federal Award Administration Information

1. States Award Notices

Loan applicants must submit their initial applications by the due date specified in this Notice. Once the applications have been scored and ranked by the National Office, the

National Office will advise States Offices of the proposals selected for further processing, State Offices will respond to applicants by letter.

If the application is not accepted for further processing, the applicant will be notified of appeal rights under 7 CFR part 11.

2. Administrative and National Policy

All Farm Labor Housing loans and grants are subject to the restrictive-use provisions contained in 7 CFR 3560.72(a)(2).

3. Reporting

Borrowers must maintain separate financial records for the operation and maintenance of the project and for tenant services. Tenant services will not be funded by Rural Development. Funds allocated to the operation and maintenance of the project may not be used to supplement the cost of tenant services, nor may tenant service funds be used to supplement the project operation and maintenance. Detailed financial reports regarding tenant services will not be required unless specifically requested by Rural Development, and then only to the extent necessary for Rural Development and the borrower to discuss the affordability (and competitiveness) of the service provided to the tenant. The project audit, or verification of accounts on Form RD 3560–10, ''*Borrower Balance Sheet,*'' together with an accompanying Form RD 3560–7, ''*Multiple Family Housing Project Budget Utility Allowance,*'' [showing actual,] must allocate revenue and expense between project operations and the service component.

VI. Equal Opportunity and Non-Discrimination Requirements

Borrowers and applicants will comply with the provisions of 7 CFR Section 3560.2. All housing must meet the accessibility requirements found at 7 CFR Section 3560.60 (d). All applicants must submit or have on file a valid Form RD 400–1, ''*Equal Opportunity Agreement,*'' and Form RD 400–4, ''*Assurance Agreement.*''

The U.S. Department of Agriculture (USDA) prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file an employment complaint, you must contact your Agency's EEO *Counselor* (PDF) within 45 days of the date of the alleged discriminatory act, event, or in the case of a personnel action. Additional information can be found online at *http://www.ascr.usda.gov/com plaint_filing_file.html.*

If you wish to file a Civil Rights program complaint of discrimination, complete the *USDA Program Discrimination Complaint Form* (PDF), found online at *http://www.ascr.usda.gov/complaint_filing_cust.html*, or at any USDA office, or call (866) 632–9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410, by fax (202) 690–7442 or email at *program.intake@usda.gov.*

Individuals who are deaf, hard of hearing or have speech disabilities and you wish to file either an EEO or program complaint please contact USDA through the Federal Relay Service at (800) 877–8339 or (800) 845–6136 (in Spanish).

Persons with disabilities who wish to file a program complaint, please see information above on how to contact us by mail directly or by email. If you require alternative means of communication for program information (e.g., Braille, large print, audiotape, etc.) please contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Dated: June 25, 2014.

Tony Hernandez,

Administrator, Housing and Community Facilities Programs.

[FR Doc. 2014–15358 Filed 6–30–14; 8:45 am]

BILLING CODE 3410–XV–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

TIME AND DATE: Friday, June 27, 2014, 12:00 p.m. e.d.t.

PLACE: Broadcasting Board of Governors, Cohen Building, Room 3321, 330 Independence Ave. SW., Washington, DC 20237.

STATUS: Notice of closed meeting of the Broadcasting Board of Governors.

MATTERS TO BE CONSIDERED: The members of the Broadcasting Board of Governors (BBG) will meet in a closed session to discuss and consider the selection of a Director of Global Strategy for the Agency. This meeting will be closed to public observation pursuant to 5 U.S.C. 552b(c)(6) in order to protect the privacy interests of candidates considered but not selected for the position. In accordance with the Government in the Sunshine Act and BBG policies, the meeting will be recorded and a transcript of the proceedings, subject to the redaction of information protected by 5 U.S.C. 552b(c)(6), will be made available to the public. The publicly-releasable transcript will be available for download at *www.bbg.gov* within 21 days of the date of the meeting.

Information regarding member votes to close the meeting and expected attendees can also be found on the Agency's public Web site.

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Oanh Tran at (202) 203–4545.

Oanh Tran,

Director of Board Operations.

[FR Doc. 2014–15499 Filed 6–27–14; 11:15 am]

BILLING CODE 8610–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and Opportunity for Public Comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 et seq.), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[06/20/2014 through 06/25/2014]

Firm name	Firm address	Date accepted for investigation	Product(s)
Century Fastener and Machine Co., Inc	5661 Howard Street, Niles, IL 60714 ...	6/23/2014	The firm manufactures various types of fasteners and small industrial pumps.
Essex Industries, Inc	7700 Gravois Road, St. Louis, MO 63123.	6/25/2014	The firm manufactures regulators, oxygen conserving devices, and liquid oxygen systems used for medical applications.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: June 25, 2014.

Michael DeVillo,

Eligibility Examiner.

[FR Doc. 2014–15379 Filed 6–30–14; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–46–2014]

Foreign-Trade Zone 176—Rockford, Illinois; Application for Expansion of Subzone 176E; UniCarriers Americas Corporation; Marengo, Illinois

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Greater Rockford Airport Authority, grantee of FTZ 176, requesting an expansion of Subzone 176E on behalf of UniCarriers Americas Corporation, located in Marengo, Illinois. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on June 26, 2014.

Subzone 176E was approved by the FTZ Board on August 21, 2006 (Board Order 1475, 71 FR 51184, 8–29–2006). The subzone currently consists of the following sites: *Site 1* (23 acres) 240 N. Prospect Street, Marengo, McHenry County; *Site 2* (11 acres) 19720 East Grant Highway, Marengo, McHenry County; and, *Site 3* (1.86 acres) 308 South Division Street, Harvard, McHenry County.

The current request involves expanding the subzone to include an additional site: *Site 4* (19 acres) 201 N. Prospect Street, Marengo, McHenry County. No authorization for additional production activity has been requested at this time.

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to review the application and make recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is August 11, 2014. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to August 25, 2014.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: June 26, 2014.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2014–15421 Filed 6–30–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–45–2014]

Foreign-Trade Zone (FTZ) 158—Vicksburg/Jackson, Mississippi, Notification of Proposed Production Activity, Southern Motion, Inc., (Upholstered Furniture), Pontotoc and Baldwyn, Mississippi

The Greater Mississippi Foreign-Trade Zone, Inc., grantee of FTZ 158, submitted a notification of proposed production activity on behalf of Southern Motion, Inc. (SMI), located in Pontotoc and Baldwyn, Mississippi. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on June 20, 2014.

A separate application for subzone designation at the SMI facilities was submitted and will be processed under Section 400.31 of the FTZ Board's regulations. The facilities are used to manufacture and distribute upholstered furniture as well as cut-and-sewn upholstery covering sets. The proposal indicates that SMI seeks to utilize foreign-origin ''micro-denier suede'' fabric finished with a hot caustic soda solution that would be transformed into furniture upholstery covering sets under FTZ procedures. The finished upholstery covering sets would then be assembled into finished chairs, seats, sofas, loveseats, and sectionals manufactured at the SMI facilities in Mississippi. All foreign upholstery fabric other than micro-denier suede fabric used in SMI's production within FTZ 158 would be admitted to the proposed subzone in domestic (duty-paid) status (19 CFR 146.43), thereby precluding FTZ-related duty savings on such fabrics.

Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt SMI from customs duty payments on the foreign micro-denier suede upholstery fabric used in export production. On its domestic sales, SMI would be able to apply the finished upholstery cover set (*i.e.,* furniture part) or finished furniture duty rate (free) for the micro-denier suede upholstery fabric described below. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The proposed scope of authority under FTZ procedures would only involve micro-denier suede upholstery fabrics finished with a hot caustic soda solution process (the applicant indicates such fabric is not produced by U.S. mills), as detailed in the notification (duty rate ranges from 2.7 to 17.2%). All other material inputs used in the production activity would be in domestic status.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is August 11, 2014.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Pierre Duy at *Pierre.Duy@trade.gov,* or (202) 482–1378.

Dated: June 25, 2014.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2014–15425 Filed 6–30–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Kue Sang Chun, 1476 U-Dong, 11th Floor, Haeundae-Gu, Busan, Seoul, 612–020, Republic of South Korea; Order

On November 28, 2012, the then-Director of the Office of Exporter Services, Bernard Kritzer entered an Order [1] denying Kue Sang Chun (''Chun'') all U.S. export privileges until November 10, 2016, pursuant to Section 11(h) of the Export Administration Act [2] and Section 766.25 of the Export Administration Regulations,[3] and based on a criminal conviction of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2000)) (''AECA'').

Whereas, the November 28, 2012 Order identified Chun's addresses as ''currently incarcerated at: Register Number 56727–060, FCI Loretto, Federal Correctional Institution, P.O. Box 1000, Loretto, PA 15940,'' and ''578 Treeside Lane, Avon Lake, OH 44012;''

Whereas, the Office of Export Enforcement, Bureau of Industry and Security, U.S. Department of Commerce (''Department''), has confirmed that these two addresses are no longer correct, and that Chun's current address is ''1476 U-Dong, 11 Floor, Haeundae-Gu, Busan, Seoul, 612–020, Republic of South Korea;'' and

Whereas, as a result of the information the Department obtained regarding Chun's current address, the Department has requested that an order be issued amending the November 28, 2012 Order to reflect that new address for Chun;

Accordingly, it is hereby ordered that the November 28, 2012 Order denying all U.S. export privileges to Kue Sang Chun is amended by deleting the addresses ''currently incarcerated at: Register Number 56727–060, FCI Loretto, Federal Correctional Institution, P.O. Box 1000, Loretto, PA 15940,'' and ''578 Treeside Lane, Avon Lake, OH 44012'', and by adding the address ''1476 U-Dong, 11 Floor, Haeundae-Gu, Busan, Seoul, 612–020, Republic of South Korea''. In all other aspects, the November 28, 2012 Order remains in full force and effect.

This Order, which is effective immediately, shall be published in the **Federal Register**.

Dated: June 24, 2014.

Eileen M. Albanese,

Acting Director, Office of Exporter Services.

[FR Doc. 2014–15389 Filed 6–30–14; 8:45 am]

BILLING CODE P

[1] 77 FR 72322 (Dec. 5, 2013).

[2] 50 U.S.C. app. 2401–2420 (2000). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended most recently by the Notice of August 8, 2013 (78 FR 49107 (Aug. 12, 2013)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

[3] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730 through 774 (2014).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Fidel Ignacio Cisneros, Inmate #—54544–037, FCI Englewood, Federal Correctional Institution, 9595 West Quincy Avenue, Littleton, CO 80123; Order Denying Export Privileges

On November 2, 2012, in the U.S. District Court, Middle District of Florida, Orlando Division, Fidel Ignacio Cisneros (''Cisneros''), was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Specifically, Cisneros knowingly and willfully exported and caused to be exported from the United States to Japan an Acquired Tactical Illuminating Laser Aimer, which was a defense article on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export. Cisneros was sentenced to 46 months of imprisonment and two years of supervised release, and fined a $100 assessment. Cisneros is also listed on the U.S. Department of State Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction.

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730 through 774 (2014). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2013 (78 FR 49107 (August 12, 2013)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

15 CFR 766.25(d); *see also* 50 U.S.C. app. 2410(h). In addition, section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Cisneros's conviction for violating the AECA, and have provided notice and an opportunity for Cisneros to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Cisneros.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Cisneros's export privileges under the Regulations for a period of six years from the date of Cisneros's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Cisneros had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. Until November 2, 2018, Fidel Ignacio Cisneros, with a last known address at: Inmate # –54544–037, FCI Englewood, Federal Correctional Institution, 9595 West Quincy Avenue, Littleton, CO 80123, and when acting for or on behalf of Cisneros, his representatives, assigns, agents or employees (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Cisneros by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order is effective immediately and shall remain in effect until November 2, 2018.

V. In accordance with Part 756 of the Regulations, Cisneros may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VI. A copy of this Order shall be delivered to the Cisneros. This Order shall be published in the **Federal Register**.

Issued this 24th day of June 2014.

Eileen M. Albanese,

Acting Director, Office of Exporter Services.

[FR Doc. 2014–15393 Filed 6–30–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Luis Alejandro Yanez Almeida, Inmate #–07362–379, Big Spring Correctional Institution, 2001 Rickabaugh Dr., Big Spring, TX 79720; Order Denying Export Privileges

On December 8, 2012, in the U.S. District Court, Southern District of Texas, Luis Alejandro Yanez Almeida (''Almeida''), was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Specifically, Almeida knowingly and willfully exported and caused to be exported and attempted to export and attempted to cause to be exported into the United Mexican States from the United States of America a defense article, to wit: A Century International Arms, model Draco, 7.62 mm pistol, serial number R–6162–09 which were designated as defense articles on the United States Munitions List, without having first obtained from the Department of State a license for such export or written authorization for such export. Almeida was sentenced to 33 months of imprisonment, two years of supervised release, and fined a $100 assessment. Almeida is also listed on the U.S. Department of State Debarred List.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the Export Administration Act (''EAA''), the EAR, or any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730 through 774 (2014). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. app. 2401–2420 (2000)) (''EAA''). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 8, 2013 (78 FR 49107 (August 12, 2013)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Almeida's conviction for violating the AECA, and have provided notice and an opportunity for Almeida to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have not received a submission from Almeida.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Almeida's export privileges under the Regulations for a period of 10 years from the date of Almeida's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Almeida had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. Until December 8, 2022, Luis Alejandro Yanez Almeida, with a last known address at: Inmate # 07362–379, Big Spring, Correctional Institution, 2001 Rickabaugh Dr., Big Spring, TXC 79720, and when acting for or on behalf of Almeida, his representatives, assigns, agents or employees (the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Almeida by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order is effective immediately and shall remain in effect until December 8, 2022.

V. In accordance with Part 756 of the Regulations, Almeida may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

VI. A copy of this Order shall be delivered to the Almeida. This Order shall be published in the **Federal Register**.

Issued this 24th day of June, 2014.

Eileen M. Albanese,

Acting Director, Office of Exporter Services.

[FR Doc. 2014–15392 Filed 6–30–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–809]

Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2011–2012

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

SUMMARY: On December 26, 2013, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on circular welded non-alloy steel pipe (CWP) from the Republic of Korea (Korea) for the period November 1, 2011, through October 31, 2012.[1] As a result of our analysis of the comments received, these final result differ from our *Preliminary Results.* For these final results, we find the subject merchandise has been sold at prices less than normal value.

DATES: *Effective Date:* July 1, 2014.

FOR FURTHER INFORMATION CONTACT: Mary Kolberg or Jennifer Meek, 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) 482–1785 or (202) 482–2778, respectively.

Background

Following the *Preliminary Results,* from January 20 through 24, 2014, the Department conducted a verification of Husteel Co. Ltd.'s (Husteel) sales questionnaire responses.

[1] *See Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2011–2012,* 78 FR 78336 (December 26, 2013) (*Preliminary Results*).

On April 7, 2014, the Department issued a memorandum extending the time period for issuing the final results of this administrative review from April 25, 2014 to June 24, 2014, as permitted by section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.213(h)(2).[2]

We received case briefs from Wheatland Tube Company (Wheatland) and Hyundai HYSCO (HYSCO) on May 9, 2014. On May 14, 2014, Husteel, Wheatland and the United States Steel Corporation (U.S. Steel) each submitted rebuttal briefs. We rejected Husteel's and U.S. Steel's rebuttal briefs on June 4, 2014 because each contained new factual information. Husteel and U.S. Steel each resubmitted rebuttal briefs without the new factual information on June 5, 2014 and June 6, 2014, respectively.

Scope of the Order

The merchandise subject to the order is circular welded non-alloy steel pipe and tube. The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive.

A full description of the scope of the order is contained in the memorandum from James Maeder, Director, Office II, Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Issues and Decision Memorandum for the 2011–2012 Administrative Review of Circular Welded Non-Alloy Steel Pipe from the Republic of Korea,'' dated concurrently with this notice (Issues and Decision Memorandum), and which is hereby adopted by this notice.

Analysis of Comments Received

All issues raised in the parties' briefs are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and it is available to all parties in the Central Records Unit, Room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/*. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes From the Preliminary Results

Based on our analysis of the comments received from interested parties, we made certain adjustments to Husteel's costs.[3] We also incorporated the minor corrections to Husteel's U.S. sales presented by Husteel at verification.[4]

Final Results of the Review

As a result of this review, we determine that the following weighted-average dumping margins exist for the period November 1, 2011, through October 31, 2012:

Producer/exporter	Weighted-average dumping margin (percent)
Husteel Co., Ltd.	0.59
Hyundai HYSCO	3.39

Disclosure

We will disclose the calculations used in our analysis to parties to these proceedings within five days of the date of the release of this notice pursuant to 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b), the Department determines, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

For assessment purposes, Husteel and HYSCO reported the name of the importer of record and the entered value for all of their sales to the United States during the period of review (POR). Accordingly, for each respondent, we calculated importer-specific *ad valorem* antidumping duty assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). Where an importer-specific assessment rate is zero or *de minimis* (*i.e.,* less than 0.5 percent), we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties in accordance with 19 CFR 351.106(c)(2).

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by Husteel and HYSCO for which they did not know were destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of subject merchandise entered or withdrawn from warehouse, for consumption, on or after the date of publication as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Husteel and HYSCO will be equal to the respective weighted-average dumping margin established in the final results of this review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the manufacturer of subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 4.80 percent, the ''all others'' rate established

[2] *See* Memorandum from Mary Kolberg, to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations entitled ''Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review.

[3] *See* Comment 1 of the Issues and Decision Memorandum.

[4] *See* Memorandum to The File from Jennifer Meek, International Trade Compliance Analyst, Enforcement and Compliance Office I, ''Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Final Calculation Memorandum for Husteel Co., Ltd.'' (June 24, 2014).

pursuant to a court decision.[5] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

These final results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 24, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Issues Discussed in the Issues and Decision Memorandum

Comment 1: Cost Reallocation—Husteel
Comment 2: General and Administrative Expenses, Rental Income Offset—Husteel
Comment 3: General and Administrative Expenses, Miscellaneous Income Offset—Husteel
Comment 4: General and Administrative Expenses, Litigation Accrual—HYSCO
Comment 5: Capping of Interest Revenue—HYSCO
Comment 6: Consideration of an Alternative Comparison Method in an Administrative Review
Comment 7: Application of a Differential Pricing Analysis
Comment 8: Denial of Offsets for Non-Dumped Sales With the Average-to-Transaction Method
Comment 9: Withdrawal of the Regulations Governing Targeted Dumping in Less-Than-Fair-Value Investigations

[FR Doc. 2014–15418 Filed 6–30–14; 8:45 am]

BILLING CODE 3510–DS–P

[5] *See Circular Welded Non-Alloy Steel Pipe From Korea: Notice of Final Court Decision and Amended Final Determination,* 60 FR 55833 (November 3, 1995).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–853]

Citric Acid and Certain Citrate Salts From Canada: Final Results of Antidumping Duty Administrative Review; 2012–2013

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

SUMMARY: On February 24, 2014, the Department of Commerce (the Department) published the preliminary results of the fourth administrative review of the antidumping duty order on citric acid and certain citrate salts (citric acid) from Canada.[1] The review covers one producer and exporter of the subject merchandise, Jungbunzlauer Canada Inc. (JBL Canada). The period of review (POR) is May 1, 2012, through April 30, 2013.

Based on our analysis of the comments received, we have made changes to our margin calculations. The final weighted-average dumping margin for JBL Canada is listed below in the ''Final Results of Review'' section of this notice.

DATES: *Effective Date:* July 1, 2014.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Kate Johnson, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC, 20230; telephone (202) 482–4007 or (202) 482–4929, respectively.

SUPPLEMENTARY INFORMATION:

Background

The review covers one producer and exporter of the subject merchandise, JBL Canada. On February 24, 2014, the Department published in the **Federal Register** the preliminary results of the instant administrative review of the antidumping duty order on citric acid from Canada. We invited parties to comment on the preliminary results of the review. In March 2014, we received case and rebuttal briefs from Archer Daniels Midland Company, Cargill, Incorporated, and Tate & Lyle Ingredients Americas LLC (collectively, the petitioners) and JBL Canada. The Department has conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise covered by this order is citric acid and certain citrate salts. The product is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at item numbers 2918.14.0000 and 2918.15.1000, 2918.15.5000 and 3824.90.9290. Although the HTSUS numbers are provided for convenience and customs purposes, the full written scope description, as described in the memorandum entitled ''Issues and Decision Memorandum for the Final Results of the 2012–2013 Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from Canada,'' dated concurrently with and hereby adopted by this notice (Issues and Decision Memorandum), remains dispositive.

Period of Review

The POR is May 1, 2012, through April 30, 2013.

Analysis of Comments Received

All issues raised by parties in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix I. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov;* the Issues and Decision Memorandum is available to all parties in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since The Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* we recalculated JBL Canada's

[1] *See Citric Acid and Certain Citrate Salts From Canada: Preliminary Results of Antidumping Duty Administrative Review; 2012–2013,* 79 FR 10093 (February 24, 2014) (*Preliminary Results*).

weighted-average dumping margin. Our calculations are discussed in detail in the accompanying final calculation memorandum.[2]

Final Results of the Review

We determine that a weighted-average dumping margin of 0.55 percent exists for entries of subject merchandise that were produced and/or exported by JBL Canada and that entered, or were withdrawn from warehouse, for consumption during the period May 1, 2012, through April 30, 2013.

Assessment Rates

Pursuant to 19 CFR 351.212(b)(1), the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries in accordance with the final results of this review. Pursuant to 19 CFR 356.8(a), the Department intends to issue appropriate appraisement instructions for the respondent subject to this review directly to CBP 41 days after the date of publication of the final results of this review.

As we stated in the *Preliminary Results,* we calculated importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales to that importer.[3] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis* (*i.e.,* at or above 0.50 percent). Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.,* less than 0.50 percent). The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for JBL Canada will be that established in the final results of this review, (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a previous review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 23.21 percent, the all-others rate made effective by the LTFV investigation. *See Citric Acid and Certain Citrate Salts From Canada and the People's Republic of China: Antidumping Duty Orders,* 74 FR 25703 (May 29, 2009). These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

In accordance with 19 CFR 351.305(a)(3), this notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 24, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix—Issues in Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Margin Calculations
V. Discussion of the Issues
1. Price Adjustment of a Business Proprietary Nature for Certain CEP Sales
2. Calculation of CEP Profit
3. Calculation of the U.S. Indirect Selling Expense Ratio
4. Missing Payment Dates
5. Differential Pricing Analysis

[FR Doc. 2014–15419 Filed 6–30–14; 8:45 am]

BILLING CODE 3510–DS–P

[2] *See* Memorandum to the File entitled, ''Final Results Margin Calculations for Jungbunzlauer Canada Inc.,'' dated concurrently with and hereby adopted by this notice.

[3] *See Preliminary Results,* 79 FR at 10094.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–998]

1,1,1,2-Tetrafluoroethane From the People's Republic of China: Antidumping Duty Investigation; Amended Affirmative Preliminary Determination of Critical Circumstances

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

SUMMARY: The Department of Commerce (''the Department'') is amending the preliminary determination of the less-than-fair-value (''LTFV'') investigation of 1,1,1,2-Tetrafluoroethane (''tetrafluoroethane'') from the People's Republic of China (''PRC'') to correct a significant ministerial error with respect to our preliminary critical circumstances determination. The period of investigation is April 1, 2013, through September 30, 2013.

DATES: *Effective* July 1, 2014.

FOR FURTHER INFORMATION CONTACT: Frances Veith or Bob Palmer, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4295 or (202) 482–9068, respectively.

SUPPLEMENTARY INFORMATION: On May 29, 2014, the Department published its *Preliminary Determination.*[1] On May 22,

[1] *See 1,1,1,2-Tetrafluroethane From the People's Republic of China: Antidumping Duty Investigation, Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and*

Continued

2014, the Department disclosed to interested parties its calculations for the *Preliminary Determination.* On May 27, 2014, we received ministerial error comments from Mexichem Fluor, Inc. (''Petitioner'') alleging that the Department made certain significant ministerial errors in the *Preliminary Determination.* No other party made an allegation of ministerial errors. On May 30, 2014, Weitron International Refrigeration Equipment (Kunshan) Co., Ltd. provided reply comments to Petitioner's allegation. After reviewing the allegations, we determine that the *Preliminary Determination* included a significant ministerial error with respect to our preliminary critical circumstances determination. Therefore, we made a change, as described below, to the *Preliminary Determination.*

Scope of the Investigation

The product subject to this investigation is 1,1,1,2-Tetrafluoroethane, R-134a, or its chemical equivalent, regardless of form, type, or purity level. The chemical formula for 1,1,1,2-tetrafluoroethane is CF_3-CH_2F, and the Chemical Abstracts Service (''CAS'') registry number is CAS 811–97–2.

1,1,1,2-Tetrafluoroethane is sold under a number of trade names including Klea 134a and Zephex 134a (Mexichem Fluor); Genetron 134a (Honeywell); Suva 134a, Dymel 134a, and Dymel P134a (DuPont); Solkane 134a (Solvay); and Forane 134a (Arkema). Generically, 1,1,1,2-tetrafluoroethane has been sold as Fluorocarbon 134a, R-134a, HFC-134a, HF A-134a, Refrigerant 134a, and UN3159.

Merchandise covered by the scope of this investigation is currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheading 2903.39.2020. Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

Analysis of Significant Ministerial Error Allegation

A ministerial error is defined in 19 CFR 351.224(f) as ''an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.'' With respect to preliminary determinations in investigations, 19 CFR 351.224(e) provides that the Department ''will analyze any comments received and, if appropriate, correct any significant ministerial error by amending the preliminary determination . . .'' A significant ministerial error is defined as an error, the correction of which, singly or in combination with other errors, would result in: (1) A change of at least five absolute percentage points in, but not less than 25 percent of, the antidumping duty rate calculated in the original (erroneous) preliminary determination; or (2) a difference between an antidumping duty rate of zero (or *de minimis*) and an antidumping duty rate of greater than *de minimis* or vice versa.[2]

As explained further in the Ministerial Error Memorandum issued concurrently with this Notice,[3] we determine that the *Preliminary Determination* contained an error with respect to our preliminary critical circumstances calculation. Correction of this error results in a determination that Bluestar's imports were ''massive'' during the comparison period and changes the preliminary critical circumstances determination from a negative to an affirmative determination for Bluestar.[4] The Department considers this ministerial error to be significant warranting an amendment to our preliminary critical circumstances determination with respect to Bluestar. The Department does not consider any of the other alleged ministerial errors to be significant within the meaning of 19 CFR 351.224(g).[5]

Amended Affirmative Preliminary Determination of Critical Circumstances

The Department determines that there was a significant ministerial error in the critical circumstances calculation for Bluestar in the *Preliminary Determination.* Consequently, we are amending the critical circumstances preliminary determination with respect to Bluestar pursuant to 19 CFR 351.224(e). Specifically, we found an unintentional error in our calculation under the statutory criteria involving massive imports over a relatively short period.[6] In our corrected calculation of Bluestar's massive import analysis, we found that imports based on Bluestar's reported shipments of merchandise under consideration increased during the comparison period by more than 15 percent over its respective imports in the base period.[7] Therefore, we amend our preliminarily determination and find there also to be massive imports for Bluestar, pursuant to section 733(e)(1)(B) of the Tariff Act of 1930, as amended (the ''Act'') and 19 CFR 351.206(c)(2)(i). Accordingly, as both conditions under section 733(e)(1)(A)(ii) and 733(e)(1)(B) of the Act have been satisfied, we find that critical circumstances exist with respect to Bluestar.

Suspension of Liquidation

The collection of cash deposits and suspension of liquidation will be revised, in accordance with section 733(e)(2) of the Act because we have preliminarily found that critical circumstances exist with regard to imports exported by Bluestar. We will instruct U.S. Customs and Border Protection (''CBP'') to suspend liquidation of all entries[8] of tetrafluoroethane from the PRC, that are entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which the suspension of liquidation was first ordered (*i.e.,* May 29, 2014, the date of publication in the **Federal Register** of the notice of an affirmative preliminary determination that tetrafluoroethane is being, or is likely to be, sold in the United States at LTFV).

We will also instruct CBP to require a cash deposit equal to the estimated preliminary antidumping duty rate reflected in the *Preliminary Determination.* This suspension of liquidation will remain in effect until further notice.

Postponement of Final Determination, 79 FR 30817 (May 29, 2014) (''*Preliminary Determination*'').

[2] *See* 19 CFR 351.224(g).

[3] *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from James C. Doyle, Director, Office V, through Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled, ''Antidumping Duty Investigation of 1,1,1,2-Tetrafluoroethane from the People's Republic of China: Allegation of a Significant Ministerial Error in the Preliminary Determination,'' dated concurrently with this notice for the analysis performed (''Ministerial Error Memorandum''). This memorandum is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov*, and is available to all parties in the Department's Central Records Unit in Room 7046 of the Department of Commerce building.

[4] *Id.*

[5] *See* Ministerial Error Memorandum.

[6] *See* section 733(e)(1)(B).

[7] *See* Ministerial Error Memorandum, Allegation 1 and Attachment.

[8] In the *Preliminary Determination,* we found that critical circumstances exist with respect to all exporters except for Bluestar. See *Preliminary Determination,* 79 FR at 30818. We note that we inadvertently omitted language in the ''Suspension of Liquidation'' section indicating that we will instruct CBP to suspend liquidation on the applicable entries on or after the date which is 90 days before the date on which the suspension of liquidation was first ordered. The correct suspension of liquidation language for all entries is provided here.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we will notify the International Trade Commission (''ITC'') of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.224(e).

Dated: June 24, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2014–15420 Filed 6–30–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (''the Act''), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (''the Department'') conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department finds that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after July 2014, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its ''Opportunity to Request Administrative Review'' notices, so that interested parties will be aware of the manner in which the Department intends to exercise its discretion in the future.

Opportunity to Request a Review: Not later than the last day of July 2014,[1] interested parties may request administrative review of the following orders, findings, or suspended

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

investigations, with anniversary dates in July for the following periods:

	Period of review
Antidumping Duty Proceedings	
FINLAND: Carboxymethylcellulose A–405–803	7/1/13–6/30/14
INDIA: Polyethylene Terephthalate Film A–533–824	7/1/13–6/30/14
IRAN: In-Shell Pistachios A–507–502	7/1/13–6/30/14
ITALY: Certain Pasta A–475–818	7/1/13–6/30/14
JAPAN: Clad Steel Plate A–588–838	7/1/13–6/30/14
JAPAN: Polyvinyl Alcohol A–588–861	7/1/13–6/30/14
JAPAN: Stainless Steel Sheet and Strip in Coils A–588–845	7/1/13–6/30/14
NETHERLANDS: Carboxymethylcellulose A–421–811	7/1/13–6/30/14
REPUBLIC OF KOREA: Stainless Steel Sheet and Strip in Coils A–580–834	7/1/13–6/30/14
RUSSIA: Solid Urea A–821–801	7/1/13–6/30/14
TAIWAN: Polyethylene Terephthalate Film A–583–837	7/1/13–6/30/14
TAIWAN: Stainless Steel Sheet and Strip in Coils A–583–831	7/1/13–6/30/14
THAILAND: Carbon Steel Butt-Weld Pipe Fittings A–549–807	7/1/13–6/30/14
THE PEOPLE'S REPUBLIC OF CHINA: Carbon Steel Butt-Weld Pipe Fittings A–570–814	7/1/13–6/30/14
THE PEOPLE'S REPUBLIC OF CHINA: Certain Potassium Phosphate Salts A–570–962	7/1/13–6/30/14
THE PEOPLE'S REPUBLIC OF CHINA: Certain Steel Grating A–570–947	7/1/13–6/30/14
THE PEOPLE'S REPUBLIC OF CHINA: Circular Welded Carbon Quality Steel Pipe A–570–910	7/1/13–6/30/14
THE PEOPLE'S REPUBLIC OF CHINA: Persulfates A–570–847	7/1/13–6/30/14
THE PEOPLE'S REPUBLIC OF CHINA: Saccharin A–570–878	7/1/13–6/30/14
THE PEOPLE'S REPUBLIC OF CHINA: Xanthan Gum A–570–985	7/19/13–6/30/14
TURKEY: Certain Pasta A–489–805	7/1/13–6/30/14
UKRAINE: Solid Urea A–823–801	7/1/13–6/30/14
Countervailing Duty Proceedings	
INDIA: Polyethylene Terephthalate Film C–533–825	1/1/13–12/31/13
ITALY: Certain Pasta C–475–819	1/1/13–12/31/13
THE PEOPLE'S REPUBLIC OF CHINA: Certain Potassium Phosphate Salts C–570–963	1/1/13–12/31/13
THE PEOPLE'S REPUBLIC OF CHINA: Certain Steel Grating C–570–948	1/1/13–12/31/13
THE PEOPLE'S REPUBLIC OF CHINA: Circular Welded Carbon Quality Steel Pipe C–570–911	1/1/13–12/31/13
THE PEOPLE'S REPUBLIC OF CHINA: Prestressed Concrete Steel Wire Strand C–570–946	1/1/13–12/31/13
TURKEY: Certain Pasta C–489–806	1/1/13–12/31/13
Suspension Agreements	
RUSSIA: Certain Hot-Rolled Carbon Steel Flat Products A–821–809	7/1/13–6/30/14

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) the Department clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.[2]

Further, as explained in *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013), the Department clarified its practice with regard to the conditional review of the non-market economy (NME) entity in administrative reviews of antidumping duty orders. The Department will no longer consider the NME entity as an exporter conditionally subject to administrative reviews. Accordingly, the NME entity will not be under review unless the Department specifically receives a request for, or self-initiates, a review of the NME entity.[3] In

[2] *See also* the Enforcement and Compliance Web site at *http://trade.gov/enforcement/.*

[3] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to

administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, the Department will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity).

Following initiation of an antidumping administrative review when there is no review requested of the NME entity, the Department will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS'') on the IA ACCESS Web site at *http://iaaccess.trade.gov*.[4] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of July 2014. If the Department does not receive, by the last day of July 2014, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 11, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–15429 Filed 6–30–14; 8:45 am]

BILLING CODE 3510–DS–P

[4] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

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

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for August 2014

The following Sunset Reviews are scheduled for initiation in August 2014 and will appear in that month's Notice of Initiation of Five-Year Sunset Review (''Sunset Review'').

	Department contact
Antidumping Duty Proceedings	
Kitchen Appliance Shelving and Racks from China (A–570–941) (1st Review)	Charles Riggle (202) 482–0650.
Countervailing Duty Proceedings	
Kitchen Appliance Shelving and Racks from China (C–570–942) (1st Review)	Jacky Arrowsmith (202) 482–5255.
Suspended Investigations	
No Sunset Review of suspended investigations is scheduled for initiation in August 2014..	

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. The Notice of Initiation of Five-Year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 11, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–15426 Filed 6–30–14; 8:45 am]

BILLING CODE 3510–DS–P

the extent possible, include the names of such exporters in their request.

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (''Sunset'') Review

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

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating the five-year review (''Sunset Review'') of the antidumping and countervailing duty (''AD/CVD'') orders listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

DATES: *Effective Date:* July 1, 2014.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating Sunset Review(s) of the following antidumping and countervailing duty order(s):

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–570–939	731–TA–1153 ...	China	Tow-Behind Lawn Groomers and Parts Thereof (1st Review).	Charles Riggle (202) 482–0550.
C–570–940	701–TA–457	China	Tow-Behind Lawn Groomers and Parts Thereof (1st Review).	Jacky Arrowsmith (202) 482–5255.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Web site at the following address: ''*http://enforcement.trade.gov/sunset/.*'' All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''), can be found at 19 CFR 351.303.[1]

Revised Factual Information Requirements

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information.[2] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD/CVD investigations or proceedings initiated on or after August 16, 2013.[3] The formats for the revised certifications are provided at the end of the *Final Rule.* The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: The definition of factual information (19 CFR 351.102(b)(21), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt*, prior to submitting factual information in this segment. To the extent that other regulations govern the submission of factual information in a segment (such as 19 CFR 351.218), these time limits will continue to be applied.

Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Extension of Time Limits,* 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time

[1] *See also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* section 782(b) of the Act.

[3] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*'') (amending 19 CFR 351.303(g)).

limit established under part 351 of the Department's regulations expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm*, prior to submitting factual information in these segments.

Letters of Appearance and Administrative Protective Orders

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d)). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested parties to a proceeding submit an entry of appearance within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative protective order (''APO'') to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.[4]

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews. Consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: June 20, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–15434 Filed 6–30–14; 8:45 am]

BILLING CODE 3510–DS–P

[4] *See* 19 CFR 351.218(d)(1)(iii).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD334

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Scientific and Statistical Committee (SSC) of the Mid-Atlantic Fishery Management Council (Council) will hold meetings.

DATES: The SSC meeting will be held on Wednesday and Thursday, July 23–24, 2014. The meeting will begin at 9 a.m. on July 23 and conclude by 2 p.m. on July 24.

ADDRESSES: The meeting will be held at Admiral Fell Inn, 888 Broadway, Baltimore, MD 21231; telephone: (410) 522–7377.

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: Agenda items to be discussed at the SSC meeting include: 2015 ABC recommendation for bluefish; review fishery performance reports and multi-year ABC specifications for summer flounder, scup and black sea bass; review policy white paper on forage fish management; update on research plan development; and black sea bass research track assessment.

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: June 26, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–15395 Filed 6–30–14; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

Commission Agenda and Priorities; Notice of Hearing

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Notice of public hearing.

SUMMARY: The U.S. Consumer Product Safety Commission (Commission) will conduct a public hearing to receive views from all interested parties about the Commission's agenda and priorities for fiscal year 2015, which begins on October 1, 2014, and for fiscal year 2016, which begins on October 1, 2015. We invite participation by members of the public. Written comments and oral presentations concerning the Commission's agenda and priorities for fiscal years 2015 and 2016 will become part of the public record.

DATES: The hearing will begin at 10 a.m. on July 24, 2014, and will conclude the same day. Requests to make oral presentations and the written text of any oral presentations must be received by the Office of the Secretary not later than 5 p.m. Eastern Daylight Time (EDT) on July 10, 2014.

ADDRESSES: The hearing will be in the Hearing Room, 4th Floor of the Bethesda Towers Building, 4330 East West Highway, Bethesda, MD 20814. Requests to make oral presentations and texts of oral presentations should be captioned ''Agenda and Priorities FY 2015 and/or 2016'' and sent by electronic mail (email) to: *cpsc-os@cpsc.gov,* or mailed or delivered to the Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814. Requests must be received no later than 5 p.m. EDT on July 10, 2014.

FOR FURTHER INFORMATION CONTACT: For information about the hearing, or to request an opportunity to make an oral presentation, please send an email, call, or write Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; email: *cpsc-os@cpsc.gov;* telephone: (301) 504–7923; facsimile: (301) 504–0127. An electronic copy of the CPSC's budget request for fiscal year 2015 can be found at: *www.cpsc.gov/performance-and-budget.*

SUPPLEMENTARY INFORMATION: Section 4(j) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2053(j)) requires the Commission to establish an agenda for action under the laws the Commission administers and, to the extent feasible, to select priorities for action at least 30 days before the beginning of each fiscal year. Section 4(j) of the CPSA provides further that before establishing its agenda and priorities, the Commission conduct a public hearing and provide an opportunity for the submission of comments.

The Commission is in the process of preparing the agency's fiscal year 2015 Operating Plan and fiscal year 2016 Congressional Budget Request. Fiscal year 2015 begins on October 1, 2014, and fiscal year 2016 begins on October 1, 2015. Through this notice, the Commission invites the public to comment on the following questions:

1. What are the priorities the Commission should consider emphasizing and dedicating resources toward in the fiscal year 2015 Operating Plan and/or the fiscal year 2016 Congressional Budget Request?

2. What activities should the Commission consider deemphasizing in the fiscal year 2015 Operating Plan and/or the fiscal year 2016 Congressional Budget Request?

3. Should the Commission consider making any changes or adjustments to the agency's education, safety standards activities, regulation, and enforcement efforts in fiscal years 2015 and/or 2016, keeping in mind the CPSC's existing policy on establishing priorities for Commission action (16 CFR 1009.8)? The CPSC's budget request for fiscal year 2015 can be found at: *www.cpsc.gov/performance-and-budget.* Comments are welcome on whether particular action items should be higher priority than others, should not be included, or should be added to the fiscal year 2015 and/or fiscal year 2016 agendas.

Persons who desire to make oral presentations at the hearing on July 24, 2014, should send an email, call, or write Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814; email: *cpsc-os@cpsc.gov;* telephone: (301) 504–7923; facsimile (301) 504–0127. Requests must be received no later than 5 p.m. EDT on July 10, 2014. Presentations should be limited to approximately 10 minutes. The Commission reserves the right to impose further time limitations on all presentations and further restrictions to avoid duplication of presentations.

Dated: June 26, 2014.

Todd A. Stevenson,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2014–15339 Filed 6–30–14; 8:45 am]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) has submitted a public information collection request (ICR) entitled AmeriCorps Community Engagement Survey for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Anthony Nerino, at (202) 606–3913 or email to *anerino@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in the **Federal Register**:

(1) *By fax to:* (202) 395–6974, Attention: Ms. Sharon Mar, OMB Desk Officer for the Corporation for National and Community Service; or

(2) *By email to: smar@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments

A 60-day Notice requesting public comment was published in the **Federal Register** on March 4, 2014. This comment period ended May 5, 2014. No public comments were received from this Notice. Upon consultation with stakeholders regarding the focus of this research, the title of the study was changed to ''The Corporation for National and Community Service AmeriCorps Community Engagement Survey''.

Description: CNCS is seeking approval of the survey to be used in The Corporation for National and Community Service AmeriCorps Community Engagement Survey, which is used by CNCS to collect information on service activities and scope from AmeriCorps grantees in order to evaluate the program's level of engagement and impact on the communities they serve.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: The AmeriCorps Community Engagement Survey.

OMB Number: TBD.

Agency Number: None.

Affected Public: Primary AmeriCorps Grantees, AmeriCorps Grantee Operating Sites, Local Community Partner.

Total Respondents: 200 primary AmeriCorps grantees; 380 administrators of AmeriCorps operating sites; 1140 local community partners.

Frequency: One Time.

Average Time per Response: 30–35 minutes.

ESTIMATED TOTAL BURDEN HOURS

Grantee Survey	200 Respondents at 15 minutes = 50 hours.
Grantee Operating Site Survey	380 Respondents at 30 minutes = 190 hours.
Partner Survey	1140 Respondents at 20 minutes = 342 hours.
Total	1720 Respondents = 582 hours.
Total Burden Cost (capital/startup)	None.
Total Burden Cost (operating/maintenance)	None.

Dated: June 25, 2014.

Mary Hyde,

Deputy Director, Research and Evaluation.

[FR Doc. 2014–15400 Filed 6–30–14; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare a Supplemental Environmental Impact Statement/Supplemental Overseas Environmental Impact Statement for Employment of Surveillance Towed Array Sensor System Low Frequency Active Sonar

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) and Executive Order 12114, the Department of the Navy (DoN) is announcing its intent to prepare a Supplemental Environmental Impact Statement (SEIS)/Supplemental Overseas Environmental Impact Statement (SOEIS) to analyze the potential impact of Surveillance Towed Array Sensor System Low Frequency Active (SURTASS LFA) sonar on the five bottlenose dolphin stocks comprising the Hawaiian Islands Stock Complex (Kauai/Niiahu, Oahu, 4-island, Hawaii Island, and Hawaii Pelagic).

DATES: The Draft SEIS/SOEIS is expected to be available in early September 2014, at which time the public comment period will be open for 45 days. The Final SEIS/SOEIS is expected to be completed by early February 2015.

FOR FURTHER INFORMATION CONTACT: Chief of Naval Operations, Code N2N6F24, c/o SURTASS LFA Sonar SEIS/SOEIS Program Manager, 4100 Fairfax Drive, Suite 730, Arlington, Virginia 22203; or email: *eisteam@surtass-lfa-eis.com.*

SUPPLEMENTARY INFORMATION: Although the most recent Final SEIS/SOEIS for SURTASS LFA Sonar was completed in June 2012, during subsequent litigation (*Natural Resources Defense Council, Inc. et al.* v. *Pritzker et al.,* No. 12–cv–05380–EDL [E.D. Cal. October 18, 2012]), the court found that the SEIS/SOEIS was deficient in one limited respect in that the DoN failed to use the best available data from the 2010 Pacific Stock Assessment Report to analyze the potential impact of SURTASS LFA sonar on the individual stocks within the Hawaiian Islands Stock Complex of common bottlenose dolphins and allow public comment on that analysis. The court upheld the current SEIS/SOEIS in all other respects. The SEIS/SOEIS proposed in this notice will be prepared for the limited purpose of addressing the single deficiency identified by the court.

The National Marine Fisheries Service will be a cooperating agency under NEPA regulation (40 CFR 1501.6) for the development of the SEIS/SOEIS. The SEIS/SOEIS will comply with both NEPA and Executive Order 12114 (Environmental Effects Abroad of Major Federal Actions).

Additional information concerning SURTASS LFA sonar and pertinent environmental documents are available at: *http://www.surtass-lfa-eis.com.*

Dated: June 24, 2014.

N.A. Hagerty-Ford,

Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2014–15356 Filed 6–30–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF EDUCATION

[Docket No. ED–2014–ICCD–0099]

Agency Information Collection Activities; Comment Request; Annual Protection and Advocacy of Individual Rights (PAIR) Program Assurances

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before September 2, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0099 or via postal mail, commercial delivery,

or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will ONLY accept comments during the comment period in this mailbox when the regulations.gov site is not available. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact David Jones, 202–245–7356.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Annual Protection and Advocacy of Individual Rights (PAIR) Program Assurances.

OMB Control Number: 1820–0625.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 57.

Total Estimated Number of Annual Burden Hours: 9.

Abstract: Section 509 of the Rehabilitation Act of 1973, as amended (act), and its implementing Federal Regulations at 34 CFR Part 381, require the Protection and Advocacy of Individual Rights (PAIR) grantees to submit an application to the Rehabilitation Services Administration (RSA) Commissioner in order to receive assistance under Section 509 of the act. The act requires that the application contain Assurances to which the grantee must comply. Section 509(f) of the act specifies the Assurances. There are 57 PAIR grantees. All 57 grantees are required to be part of the protection and advocacy system in each State established under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 6041 et seq.).

Dated: June 25, 2014.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–15313 Filed 6–30–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; National Institute on Disability and Rehabilitation Research-Disability and Rehabilitation Research Projects and Centers Program-Minority-Serving Institution Field-Initiated Projects Program

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information

National Institute on Disability and Rehabilitation Research (NIDRR)—Disability and Rehabilitation Research Projects and Centers Program-Minority-Serving Institution (MSI) Field-Initiated Projects Program

Notice inviting applications for new awards for fiscal year (FY) 2014.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 84.133G–4 (Research) and 84.133G–5 (Development).

DATES:

Applications Available: July 1, 2014.

Date of Pre-Application Meeting: July 22, 2014.

Deadline for Transmittal of Applications: September 2, 2014.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Field-Initiated (FI) Projects program is to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. Another purpose of the FI Projects program is to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Act).

The purpose of this competition is to improve the capacity of minority entities to conduct high-quality disability and rehabilitation research. NIDRR will accomplish this by limiting eligibility for this competition to minority entities and Indian tribes in a manner consistent with section 21(b)(2)(A) of the Act, which authorizes NIDRR to make awards to minority entities and Indian tribes to carry out activities authorized under Title II of the Act.

NIDRR makes two types of awards under the FI Projects program: research grants and development grants. The MSI FI Projects research grants will be awarded under CFDA 84.133G–4, and the development grants will be awarded under CFDA 84.133G–5.

Note: Different selection criteria are used for FI Projects research grants and development grants. An applicant must clearly indicate in the application whether it is applying for a research grant (84.133G–4) or a development grant (84.133G–5) and must address the selection criteria relevant for its grant type. Without exception, NIDRR will review each application based on the grant designation made by the applicant. Applications will be determined ineligible and will not be reviewed if they do not include a clear designation as a research grant or a development grant.

In carrying out a research activity under an FI Projects research grant, a grantee must identify one or more hypotheses or research questions and, based on the hypotheses or research questions identified, perform an intensive, systematic study directed toward producing (1) new or full scientific knowledge, or (2) better understanding of the subject, problem studied, or body of knowledge.

In carrying out a development activity under an FI Projects development grant, a grantee must use knowledge and understanding gained from research to create materials, devices, systems, or methods beneficial to the target

population, including design and development of prototypes and processes. ''Target population'' means the group of individuals, organizations, or other entities expected to be affected by the project. More than one group may be involved since a project may affect those who receive services, provide services, or administer services.

Program Authority: 29 U.S.C. 764 and 29 U.S.C. 718.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 74, 75, 77, 80, 81, 82, 84, 86, and 97. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485. (c) The regulations for this program in 34 CFR part 350.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $200,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2014 or subsequent years from the list of unfunded applicants from this competition.

Maximum Award: We will reject any application that proposes a budget exceeding $200,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Note: The maximum amount includes direct and indirect costs.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months. We will reject any application that proposes a project period exceeding 36 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the project period through a notice published in the **Federal Register**.

III. Eligibility Information

1. *Eligible Applicants:* Parties eligible to apply for MSI FI Projects grants are limited to minority entities and Indian tribes as authorized by section 21(b)(2)(A) of the Act. A minority entity is defined as a historically black college or university (a part B institution, as defined in section 322(2) of the Higher Education Act of 1965, as amended), a Hispanic-serving institution of higher education, an American Indian tribal college or university, or another IHE whose minority student enrollment is at least 50 percent.

2. *Cost Sharing or Matching:* Cost sharing is required by 34 CFR 350.62 and will be negotiated at the time of the grant award.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.*

To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.133G–4 or 84.133G–5.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit Part III to the equivalent of no more than 50 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, excluding titles, headings, footnotes, quotations, references, captions and text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, the recommended page limit does apply to all of the application narrative (Part III).

The application package will provide instructions for completing all components to be included in the application. Each application must include a cover sheet (Standard Form 424); budget requirements (ED Form 524) and narrative justification; other required forms; an abstract, Human Subjects narrative, and Part III narrative; resumes of staff; and other related materials, if applicable.

Note: Please submit an appendix that lists every collaborating organization and individual names in the application, including staff, consultants, contractors, and advisory board members. We will use this information to help us screen for conflicts of interest with our reviewers.

An applicant should consult NIDRR's Long-Range Plan for Fiscal Years 2013–2017 (78 FR 20299) (the Plan) when preparing its application. The Plan is organized around the following research domains: (1) Community Living and Participation; (2) Health and Function; and (3) Employment.

3. *Submission Dates and Times:*

Applications Available: July 1, 2014.

Date of Pre-Application Meeting: Interested parties are invited to participate in a pre-application meeting and to receive information and technical assistance through individual consultation with NIDRR staff. The pre-application meeting will be held on July 22, 2014. Interested parties may participate in this meeting by conference call with NIDRR staff from the Office of Special Education and Rehabilitative Services between 1:00 p.m. and 3:00 p.m., Washington, DC time. NIDRR staff also will be available from 3:30 p.m. to 4:30 p.m., Washington, DC time, on the same day, by telephone, to provide information and technical assistance through individual consultation. For further information or to make arrangements to participate in the meeting via conference call or to arrange for an individual consultation, contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

Deadline for Transmittal of Applications: September 2, 2014.

Applications for grants under this competition must be submitted electronically using the Grants.gov

Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV.7. *Other Submission Requirements* of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM) (formerly the Central Contractor Registry (CCR)), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet. A DUNS number can be created within one-to-two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow 2–5 weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data entered into the SAM database by an entity. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, you will need to allow 24 to 48 hours for the information to be available in Grants.gov and before you can submit an application through Grants.gov.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *http://www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via Grants.gov, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with Grants.gov as an AOR. Details on these steps are outlined at the following Grants.gov Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under the program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications

Applications for grants under the MSI FI Projects program, CFDA Number 84.133G–4 (Research) or 84.133G–5 (Development), must be submitted electronically using the Governmentwide Grants.gov Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the MSI FI Projects program, CFDA Number 84.133G–4 (Research) or 84.133G–5 (Development), at *www.Grants.gov.* You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.133, not 84.133G).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the Grants.gov system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the Grants.gov system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this program to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to

Grants.gov under News and Events on the Department's G5 system home page at *www.G5.gov.*

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information you typically provide on the following forms: the Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

• You must upload any narrative sections and all other attachments to your application as files in a PDF (Portable Document) read-only, non-modifiable format. Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF or submit a password-protected file, we will not review that material. Additional, detailed information on how to attach files is in the application instructions.

• Your electronic application must comply with any page-limit requirements described in this notice.

• After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by email. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., Room 5133, Potomac Center Plaza (PCP), Washington, DC 20202–2700. FAX: (202) 245–7323.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. Submission of Paper Applications by Mail.

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133G–4 (Research) or 84.133G–5 (Development)), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. Submission of Paper Applications by Hand Delivery

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.133G–4 (Research) or 84.133G–5 (Development)), 550 12th

Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the program under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 350.54 and 350.55 and are listed in the application package.

Note: Different selection criteria are used for FI Projects research grants and development grants. An applicant must clearly indicate in the application whether it is applying for a research grant (84.133G–4) or a development grant (84.133G–5) and must address the selection criteria applicable to its grant type.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary also requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

Additional factors we consider in selecting an application for an award are as follows:

The Secretary is interested in outcomes-oriented research or development projects that use rigorous scientific methodologies. To address this interest, applicants are encouraged to articulate goals, objectives, and expected outcomes for the proposed research or development activities. Proposals should describe how results and planned outputs are expected to contribute to advances in knowledge, improvements in policy and practice, and public benefits for individuals with disabilities. Applicants should propose projects that are designed to be consistent with these goals. We encourage applicants to include in their application a description of how results will measure progress towards achievement of anticipated outcomes (including a discussion of measures of effectiveness), the mechanisms that will be used to evaluate outcomes associated with specific problems or issues, and how the proposed activities will support new intervention approaches and strategies. Submission of the information identified in this section is voluntary, except where required by the selection criteria listed in the application package.

3. *Special Conditions:* Under 34 CFR 74.14 and 80.12, the Secretary may impose special conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 34 CFR parts 74 or 80, as applicable; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* To evaluate the overall success of its research program, NIDRR assesses the quality of its funded projects through a review of grantee performance and products. Each year, NIDRR examines a portion of its grantees to determine:

- The number of products (e.g., new or improved tools, methods, discoveries, standards, interventions, programs, or devices) developed or tested with NIDRR funding that have been judged by expert panels to be of high quality and to advance the field.
- The average number of publications per award based on NIDRR-funded research and development activities in refereed journals.
- The percentage of new NIDRR grants that assess the effectiveness of interventions, programs, and devices using rigorous methods.

For these reviews, NIDRR uses information submitted by grantees as part of their Annual Performance Reports.

Department of Education program performance reports, which include information on NIDRR programs, are available on the Department's Web site: *www.ed.gov/about/offices/list/opepd/sas/index.html.*

5. *Continuation Awards:* In making a continuation award, the Secretary may consider, under 34 CFR 75.253, the extent to which a grantee has made ''substantial progress toward meeting the objectives in its approved application.'' This consideration includes the review of a grantee's progress in meeting the targets and projected outcomes in its approved application, and whether the grantee has expended funds in a manner that is consistent with its approved application and budget. In making a continuation grant, the Secretary also considers whether the grantee is operating in compliance with the assurances in its

approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue SW., Room 5133, PCP, Washington, DC 20202–2700. Telephone: (202) 245–7532 or by email: *marlene.spencer@ed.gov.*

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: June 26, 2014.

Michael K. Yudin,

Acting Assistant, Secretary for Special, Education and, Rehabilitative Services.

[FR Doc. 2014–15380 Filed 6–30–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Annual Notice of Interest Rates of Federal Student Loans Made Under the William D. Ford Federal Direct Loan Program on or After July 1, 2013

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.268.

DATES: This notice is effective July 1, 2014.

SUMMARY: The Chief Operating Officer for Federal Student Aid announces the interest rates for loans made under the William D. Ford Federal Direct Loan (Direct Loan) Program on or after July 1, 2014, through June 30, 2015.

FOR FURTHER INFORMATION CONTACT: Ian Foss, U.S. Department of Education, 830 First Street NE., Room 114I1, Washington, DC 20202. Telephone: (202) 377–3681 or by email: *ian.foss@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION: Section 455(b) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1087e(b)), provides formulas for determining the interest rates charged to borrowers for loans made under the Direct Loan Program including: Federal Direct Subsidized Stafford Loans (Direct Subsidized Loans); Federal Direct Unsubsidized Stafford Loans (Direct Unsubsidized Loans); Federal Direct PLUS Loans (Direct PLUS Loans); and Federal Direct Consolidation Loans (Direct Consolidation Loans).

Direct Subsidized Loans, Direct Unsubsidized Loans, and Direct PLUS Loans (collectively, Direct Loans) first disbursed on or after July 1, 2013, have a fixed interest rate that is calculated based on the high yield of the 10-year Treasury notes auctioned at the final auction held before June 1 of each year, plus a statutory add-on percentage. Therefore, while the interest rate determination for new loans will be different from year to year, such loans will have a fixed interest rate for the life of the loan. In each case, the calculated rate is capped by a maximum interest rate.

The following chart contains specific information on the calculation of the interest rates for Direct Loans first disbursed on or after July 1, 2014, and through June 30, 2015. We publish a separate notice containing the interest rates for Direct Loans that were made in prior years.

FIXED-RATE DIRECT SUBSIDIZED LOANS, DIRECT UNSUBSIDIZED LOANS, AND DIRECT PLUS LOANS FIRST DISBURSED ON OR AFTER 7/1/2014 AND THROUGH 6/30/2015

Loan type	Student grade level	Cohort		Index rate	Margin (percent)	Fixed rate (percent)	Max. rate (percent)
		First disbursed on/after	First disbursed before	10-Year treasury note			
Subsidized	Undergraduates	7/1/2014	7/1/2015	2.61	2.05	4.66	8.25
Unsubsidized	Undergraduates	7/1/2014	7/1/2015	2.61	2.05	4.66	8.25
Unsubsidized	Graduate and Professional Students.	7/1/2014	7/1/2015	2.61	3.60	6.21	9.50
PLUS	Parents of Dependent Undergraduates.	7/1/2014	7/1/2015	2.61	4.60	7.21	10.50
PLUS	Graduate and Professional Students.	7/1/2014	7/1/2015	2.61	4.60	7.21	10.50

If an application for a Direct Consolidation Loan is received by the Department on or after July 1, 2013, the interest rate on that loan is the weighted average of the consolidated loans, rounded up to the nearest higher ⅛ of 1 percent. Such Direct Consolidation Loans do not have an interest rate cap.

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.

Authority: 20 U.S.C. 1087, *et seq.*

Dated: June 26, 2014.

James F. Manning,

Chief of Staff of Federal Student Aid, delegated the authority to perform the functions and duties of the Chief Operating Officer of Federal Student Aid.

[FR Doc. 2014–15430 Filed 6–30–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Quadrennial Energy Review: Notice of Public Meeting

AGENCY: Office of Energy Policy and Systems Analysis, Secretariat, Quadrennial Energy Review Task Force, Department of Energy.

ACTION: Notice of public meeting.

SUMMARY: At the direction of the President, the U.S. Department of Energy (DOE or Department), as the Secretariat for the Quadrennial Energy Review Task Force (QER) Task Force will convene a public meeting to discuss and receive comments on issues related to the Quadrennial Energy Review.

DATES: The sixth public meeting will be held on Monday, July 21, 2014, beginning at 9:00 a.m. Written comments are welcome, especially following the public meeting, and should be submitted within 60 days of the meeting.

ADDRESSES: The Pittsburgh meeting will be held at the Rashid Auditorium, Hillman Center, Carnegie Mellon University, 4902 Forbes Avenue, Pittsburgh, Pennsylvania 15213.

You may submit written comments to: *QERComments@hq.doe.gov* or by U.S. mail to the Office of Energy Policy and Systems Analysis, EPSA–60, QER Meeting Comments, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0121.

For the July 21 Public Meeting, please title your comment ''Natural Gas Transmission, Storage & Distribution, Pittsburgh, Pennsylvania, July 21, 2014''.

FOR FURTHER INFORMATION CONTACT: Ms. Adonica Renee Pickett, EPSA–90, U.S. Department of Energy, Office of Energy Policy and Systems Analysis, 1000 Independence Avenue SW., Washington, DC 20585–0121. *Telephone:* (202) 586–9168 *Email: Adonica.Pickett@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On January 9, 2014, President Obama issued a *Presidential Memorandum—Establishing a Quadrennial Energy Review.* To accomplish this review, the Presidential Memorandum establishes a Quadrennial Energy Review Task Force to be co-chaired by the Director of the Office of Science and Technology Policy, and the Director of the Domestic Policy Council. Under the Presidential Memorandum, the Secretary of Energy shall provide support to the Task Force, including support for coordination activities related to the preparation of the Quadrennial Energy Review Report, policy analysis and modeling, and stakeholder engagement.

The DOE, as the Secretariat for the Quadrennial Energy Review Task Force, will hold a series of public meetings to discuss and receive comments on issues related to the Quadrennial Energy Review.

The initial focus for the Quadrennial Energy Review will be our Nation's infrastructure for transporting, transmitting, storing and delivering energy. Our current infrastructure is increasingly challenged by transformations in energy supply, markets, and patterns of end use; issues of aging and capacity; impacts of climate change; and cyber and physical threats. Any vulnerability in this infrastructure may be exacerbated by the increasing interdependencies of energy systems with water, telecommunications, transportation, and emergency response systems. The first Quadrennial Energy Review Report will serve as a roadmap to help address these challenges.

The Department of Energy has a broad role in energy policy development and the largest role in implementing the Federal Government's energy research and development portfolio. Many other executive departments and agencies also play key roles in developing and implementing policies governing energy resources and consumption, as well as associated environmental impacts. In addition, non-Federal actors are crucial contributors to energy policies. Because most energy and related infrastructure is owned by private entities, investment by and engagement of the private sector is necessary to develop and implement effective policies. State and local policies; the views of nongovernmental, environmental, faith-based, labor, and other social organizations; and contributions from the academic and non-profit sectors are also critical to the development and implementation of effective energy policies.

An interagency Quadrennial Energy Review Task Force, which includes members from all relevant executive departments and agencies (agencies), will develop an integrated review of energy policy that integrates all of these perspectives. It will build on the foundation provided in the Administration's *Blueprint for a Secure Energy Future* of March 30, 2011, and *Climate Action Plan* released on June 25, 2013. The Task Force will offer recommendations on what additional actions it believes would be appropriate. These may include recommendations on additional executive or legislative actions to address the energy challenges and opportunities facing the Nation.

July 21, 2014 Public Meeting: Natural Gas Transmission, Storage & Distribution

On July 21, 2014, the DOE will hold a public meeting in Pittsburgh, Pennsylvania. The July 21, 2014, public meeting will feature facilitated panel discussions, followed by an open microphone session. Persons desiring to speak during the open microphone session at the public meeting should come prepared to speak for no more than 5 minutes and will be accommodated on a first-come, first-serve basis, according to the order in which they register to speak on a sign-in sheet available at the meeting location, on the morning of the meeting.

In advance of the meeting, DOE anticipates making publicly available a briefing memorandum providing useful background information regarding the topics under discussion at the meeting. DOE will post this memorandum on its Web site: *http://energy.gov.*

Submitting comments via email. Submitting comments by email to the QER email address will require you to provide your name and contact information in the transmittal email. Your contact information will be viewable to DOE staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any).

Your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to the QER email address (*QERcomments@hq.doe.gov*) information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted to the QER email address cannot be claimed as CBI. Comments received through the email address will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section, below.

If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a CD, if feasible, in which case it is not necessary to submit printed copies. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Confidential Business Information. Pursuant to *10 CFR 1004.11*, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination. Confidential information should be submitted to the Confidential QER email address: *QERConfidential@hq.doe.gov*

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest. It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

Issued in Washington, DC, on June 26, 2014.

Michele Torrusio,

QER Secretariat, QER Interagency Task Force, U.S. Department of Energy.

[FR Doc. 2014–15388 Filed 6–30–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Microgrid Competition

AGENCY: Office of Electricity Delivery and Energy Reliability, Department of Energy.

ACTION: Notice of a competition.

SUMMARY: The U.S. Department of Energy (DOE) announced the administration of an incentive prize competition titled ''Microgrid Competition.'' The goal of this Department of Energy Incentive Prize Competition is to support implementation of microgrids to enhance resiliency of the U.S. grid and to provide a cleaner and more efficient and cost-effective power system. The concept of this Competition originated from the Resilience Incentive Prizes Workshop that was sponsored by the Sandy Rebuilding Task Force to harness innovation and generate breakthroughs in energy infrastructure resilience and to help communities become more resilient to future events that may occur. The Competition is in further support of the DOE-led grand challenges to make the U.S. grid more resilient.

DATES: See Key Challenge Dates and Deadlines in **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The Microgrid Competition is available at *http://www.energy.gov/microgridchallenge.*

FOR FURTHER INFORMATION CONTACT: Questions regarding this Competition, its requirements, or evaluation criteria can be submitted to *MicrogridCompetition@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Key Challenge Dates and Deadlines

Submission Period: July 1, 2014, to August 29, 2014, 11:59 p.m. EDT.

Judging Period: September 2, 2014, to September 30, 2014.

Data Validation Period: October 1, 2014, to October 20, 2014.

Announcement of Winners: October 22, 2014, to October 31, 2014.

II. Introduction

The Competition will award prizes for operational microgrids in the U.S. with interconnected distributed energy resources (DER) that provide uninterruptible power to critical facilities and services during emergencies. Critical facilities and services are defined by the Contestants, but typically involve those associated with preserving public health and safety. Under this Competition, critical facilities and services are grouped into the following six segments: Municipal facilities; commercial facilities; industrial facilities and activities; emergency shelters; healthcare and hospitals; and other government facilities. Each Submission must clearly identify for which one of the six competition segments it is being entered. Contestants also are encouraged to partner with local utilities in the Competition submission.

III. The Prizes

A total of $600,000 in prizes is considered to be awarded under this Competition, i.e., one award of $100,000 in each of the six segments. The award will recognize the operational microgrid in each segment that has had the best current performance, with evidential data of the record, in enhancing grid resiliency and providing a cleaner and

more efficient and cost-effective energy system. Each winner will be invited to a public announcement event hosted by the DOE and its supporters and will be highlighted on the DOE's Web site.

Competition Details

I. How does the competition work?
II. Submission Requirements
III. Rules of the Competition
IV. Evaluation of Submissions
V. Verification and Announcement of Winners
VI. Authority and Prize Amount
VII. Privileged or Confidential Information
VIII. Additional Terms and Conditions
IX. Contact Information
Appendix A: *Microgrid Operational Data Template File (Excel, 33 KB, for downloads).*
Appendix A is available at *http://www.energy.gov/microgridchallenge.*

Competition Details

I. How does the competition work?

The U.S. Department of Energy (DOE) Office of Electricity Delivery and Energy Reliability (OE) is hosting a national competition among operational microgrids to enhance grid resiliency and provide a cleaner and more efficient and cost-effective energy system. All Contestants must submit (1) complete microgrid system design and benefit documentation and (2) complete microgrid operational data using the template file in Appendix A. Appendix A is available at *http://www.energy.gov/microgridchallenge.*

The microgrid system design and benefit documentation shall include a description of the following:

- Boundaries of the microgrid system
- DER, electrical loads (critical and noncritical), and thermal loads (if present) in the microgrid
- Locations and quantities of fuel sources for microgrid generation assets
- Distributed resources interconnection application accepted by the utility with jurisdiction
- The microgrid electrical circuit diagram including the locations of the DER, microgrid switch, critical and noncritical electrical loads, thermal loads, microgrid protection equipment, utility protection equipment, and the interface with the area electric power system (EPS)

Using the information and data submitted, the DOE will evaluate each Submission according to four performance criteria: Resiliency, clean energy system, system energy efficiency, and cost effectiveness. This evaluation will result in a score for each criterion. For example, a Submission will receive one score designated as ''A'' for resiliency, a score ''B'' for clean energy system, a score ''C'' for system energy efficiency, and a score ''D'' for cost effectiveness. In each of the six competition segments, the Submission that has the highest combined score from all four criterion scores (i.e., A+B+C+D) will win a Microgrid Most Valuable Participant (MVP) Award. The six competition segments, each defined by the primary type of customer facilities or activities receiving service from the microgrid, are:

Segment #1: Municipal facilities (e.g., police stations, fire stations, water and wastewater facilities)
Segment #2: Commercial facilities (e.g., telecom/data centers, financial centers)
Segment #3: Industrial facilities and activities (e.g., transportation, critical manufacturing, fuel supply chain)
Segment #4: Emergency shelters (e.g., housing, lodging, schools, etc.)
Segment #5: Healthcare/hospitals
Segment #6: Other government facilities (military and non-military)

The microgrid for Submission can be owned and/or operated by customers, electric utilities, or independent providers. Depending on the Submissions received, the DOE anticipates making one Microgrid 2014 MVP Award in each segment, with up to a total of six MVP Awards to be made under this Competition. Each Microgrid 2014 MVP Award recipient will receive a cash prize of $100,000.

Each Submission will be evaluated according to the following performance criteria, with a numeric score of 0–25 resulting under each criterion.

Score A (0–25) for Resiliency

Resiliency will be evaluated and scored based on adequacy of black start capabilities for microgrid generation assets, ability to island from and reconnect with the area EPS that meets the requirements of the IEEE 1547™ Standard for Interconnecting Distributed Resources with Electric Power Systems, and adequacy and essential nature of critical facilities and loads in the microgrid. In addition, the adequacy and availability of microgrid generation and storage assets to meet and exceed the customer-defined objectives for resiliency will be evaluated and scored. These objectives include the duration required for the microgrid to continuously serve all critical loads during grid outages and the ability to support future added critical loads to the microgrid. Lastly, access to uninterruptible fuel sources for generators will be evaluated and scored to ensure that all critical loads can be adequately served for the specified outage duration.

Score B (0–25) for Clean Energy System

The Cleanness of the microgrid system is measured by the percent reduction in the annual marginal CO_2 emissions resulting from microgrid operation, as compared to the base case of no DER or microgrid for the same boundary area. It is calculated as follows:

Reduction in total annual marginal CO_2 emissions (%) = 1 − (total emissions with microgrid operation/total emissions for the base case of no DER or microgrid)

Total emissions include both emissions produced outside of the microgrid boundary (i.e., emissions associated with the generation, transmission, and distribution of electricity that is inputted to the microgrid area) and those generated within the microgrid area. For the purpose of this Competition, the published annual marginal CO_2 emission factors [1] for the corresponding region of each microgrid area (also shown in the data file template, under tab ''MEFs'') will be used to assess total emissions and the % reduction per the formula above.

Score C (0–25) for System Energy Efficiency

This evaluation will be based on the percent improvement in system energy efficiency, using the formula below:

Improvement in system energy efficiency (%) = 1 − (total energy supplies after microgrid implementation/total energy supplies before microgrid implementation)

Total energy supplies for both before and after microgrid implementation include the total utility-supplied electrical and thermal energy (i.e., electricity and other fuel supplies, with all converted to source or primary BTU [2]) used to serve the same loads year-round.

Score D (0–25) for Cost-Effectiveness

Cost effectiveness will be measured based on the NPV (net present value) of the microgrid project in $/kW. The components for the NPV calculation shall include fixed costs (design, permitting, interconnection, installation, commission testing, etc.), annual costs (operation and

[1] Siler-Evans, K., Azevedo, I.L., Morgan, M.G., (2012). Marginal emissions factors for the US electricity system. *Environmental Science & Technology,* 46 (9), pp. 4742–4748.

[2] For the purpose of this Competition, the conversion of electric energy to primary BTU is 11,480 BTU/kW-hr.

maintenance [O&M], fuels, electricity import, etc.), and annual savings (from utility bills, reduced downtime, ancillary services, etc.). For the purpose of this Competition, the NPV is calculated by deducting the total costs from the sum of the annual cash flows over the project duration of 10 years using a discount rate of 10%. The annual cash flows are the net annual savings, which are the annual savings from microgrid operation less the annual costs of microgrid operation.

II. Submission Requirements

The Submission requirements are as follows:

1. Download and complete the *Microgrid Operational Data Template File (Excel, 33 KB),* and

2. Email both the completed microgrid system design and benefit documentation and the completed microgrid operational data file to *MicrogridCompetition@hq.doe.gov* by August 29, 2014.

III. Rules of the Competition

The following rules apply to this Competition.

- To be eligible, all competing microgrids must meet the following definition of a microgrid: A group of interconnected loads and DER within clearly defined electrical boundaries that acts as a single controllable entity with respect to the grid and can connect and disconnect from the grid to enable it to operate in grid-connected or island mode.
- All competing microgrids must have more than 150 kW of aggregated generation capacity serving two or more critical facilities.
- All entities are eligible to enter their operating microgrids in the U.S. or its Territories in this Competition, inclusive of those owned and/or operated by customers, electric utilities, or independent providers.
- Further, in accordance with the America COMPETES Reauthorization Act of 2010, 15 U.S.C. 3719(g), the following requirements must be met to be eligible to win a prize under this Competition:

(1) A private entity shall be incorporated in and maintain a primary place of business in the United States; an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States; and

(2) An individual or entity may not be a Federal entity or Federal employee acting within the scope of their employment.''

- Each Submission must clearly identify for which one of the six competition segments it is being entered. Although each entity is allowed to submit more than one microgrid project under this Competition, only one microgrid project can be entered by an entity in each segment. Also, the same microgrid project cannot be entered into more than one segment.
- All Contestants must submit complete microgrid system design and benefit documentation. The documentation must not exceed 20 pages, including cover page, table of contents, charts, graphs, maps, photographs, tables, and other pictorial presentations, when printed using standard 8.5″ by 11″ paper with 1″ margins (top, bottom, left, and right) {single spaced} with font not smaller than 11 point.

All Contestants must submit complete microgrid operational data using the template file in Appendix A. Appendix A is available at *http://www.energy.gov/microgridchallenge.* All Submissions must provide one full year of microgrid operational data for the period of June 1, 2013 to May 31, 2014 and one full year of the base-case data for the same yearly period (i.e., June 1 to May 31) immediately before microgrid operation. For example, if the microgrid project began its full operation in July 2011, the full-year microgrid operational data will be for the period of June 1, 2013 to May 31, 2014 and the full-year base-case data will be for the period of June 1, 2010 to May 31, 2011. All Submissions including complete system design and benefit documentation (submitted in a single file named ''DesignBenefit.pdf'') and operational data file (submitted in a single file named ''data.xls or .xlsx'') must be submitted before the Competition deadline of August 29, 2014.

IV. Evaluation of Submissions

All Submissions that meet the Competition rules will then be subject to evaluation by an expert panel. The expert panel will be appointed by the DOE, may include both Federal and non-Federal personnel, and will determine the Microgrid 2014 MVP Award winners. Each Submission will be evaluated on the four performance criteria and will be given a score for each criterion. The Submission that receives the highest combined score for all four performance criteria in each of the six competition segments is the presumptive winner for that segment.

The presumptive winners will be required to have their microgrid design/benefit information and operational data (before and after microgrid implementation) validated by the DOE Technical Advisory Group (TAG) before receiving the Microgrid 2014 MVP Award. The TAG comprises microgrid experts from DOE national laboratories.

The DOE reserves the right not to make a Microgrid MVP Award in a segment, if there are few qualifying Submissions submitted to that segment or if the submitted information or data cannot be validated by the TAG.

V. Verification and Announcement of Winners

The DOE anticipates notifying the Competition winners of the Microgrid 2014 MVP Award in October 2014. Each winner will be required to sign and return to the DOE, within ten (10) days of the date that the notice was sent, an Affidavit of Eligibility and Liability/Publicity Release (except where prohibited) in order to claim the award cash prize. At the sole discretion of the DOE, a potential winner will be deemed ineligible to receive the $100,000 cash prize if the entity fails to sign and return the affidavit of eligibility and liability/publicity release within the required time period or if the Submission or the entity is disqualified for any other reason. In the event of a disqualification of a winner, the DOE, at its sole discretion, may award the applicable prize to an alternate winner. Winners will be invited to a public announcement event hosted by the DOE and its supporters and will be highlighted on the DOE's Web site.

VI. Authority and Prize Amount

This Competition is being conducted under the authority of the America COMPETES Reauthorization Act of 2010, 15 U.S.C. 3719. Monetary prizes will be awarded subject to the availability of funds. The DOE reserves the right to suspend, cancel, extend, or curtail the Competition as required or determined by appropriate DOE officials. Nothing within this document or in any documents supporting the Competition shall be construed as obligating the DOE or any other Federal agency or instrumentality to any expenditure of appropriated funds, or any obligation or expenditure of funds in excess of or in advance of available appropriations. The DOE will award a single dollar amount to a winning Team, and each Team, whether consisting of a single or multiple Contestants, is solely responsible for allocating any prize amount among its member Contestants as they deem appropriate. The DOE will not arbitrate, intervene, advise on, or resolve any matters between entrant members. It will be up to each winning Team to reallocate the prize money among its member Contestants, if they deem it appropriate.

VII. Privileged or Confidential Information

All materials submitted to the DOE as part of a Submission become DOE records and cannot be returned. The DOE will use the materials to evaluate a Submission in accordance with the Rules of the Competition, as well as to establish benchmark performance for operating microgrids from information contained in all Submissions.

The Freedom of Information Act (FOIA) and its amendments have resulted in an increasing number of requests from outside the Government for copies of materials submitted to federal agencies. If a Contestant's Submission contains information that he/she believes should be withheld from such requestors under FOIA on the grounds that they contain ''trade secrets and commercial or financial information'' [5 U.S.C. 552(b)(4)], the Contestant should:

1. Mark the title page with the following legend:

''Some parts of this document, as identified on individual pages, are considered by the Contestant to be privileged or confidential trade secrets or commercial or financial information not subject to mandatory disclosure under the Freedom of Information Act. Material considered privileged or confidential on such grounds is contained on page(s) _____ and

2. Mark each individual item considered privileged or confidential under FOIA with the following legend:

''The data or information is considered confidential or privileged, and is not subject to mandatory disclosure under the Freedom of Information Act.''

Whenever a document submitted to the DOE contains information which may be exempt from public disclosure, it will be handled in accordance with the procedures pursuant to 10 CFR 1004.11 and described below. While the DOE is responsible for making the final determination with regard to the disclosure or nondisclosure of information contained in requested documents, the DOE will consider the Contestant's views in making its determination.

(a) When the DOE may determine, in the course of responding to a FOIA request, not to release information submitted to the DOE without seeking any or further Contestant's views, no notice will be given the Contestant.

(b) When the DOE, in the course of responding to a FOIA request, cannot make the determination without having the consideration of the Contestant's views, the Contestant shall be promptly notified and provided an opportunity to submit its views on whether information contained in the requested document (1) is exempt from the mandatory public disclosure requirements of the FOIA, (2) contains information referred to in 18 U.S.C. 1905, or (3) is otherwise exempt by law from public disclosure. The DOE will make its own determinations as to whether any information is exempt from disclosure. Notice of a determination by the DOE that a claim of exemption made pursuant to this paragraph is being denied will be given to a person making such a claim no less than seven (7) calendar days prior to intended public disclosure of the information in question.

(c) Criteria to be applied by the DOE in determining whether information is exempt from mandatory disclosure pursuant to 5 U.S.C. 552(b)(4) include:

(1) Whether the information has been held in confidence by the person to whom it pertains;

(2) Whether the information is of a type customarily held in confidence by the person to whom it pertains and whether there is a reasonable basis therefor;

(3) Whether the information was transmitted to and received by the Department in confidence;

(4) Whether the information is unavailable in public sources;

(5) Whether disclosure of the information is likely to impair the Government's ability to obtain similar information in the future; and

(6) Whether disclosure of the information is likely to cause substantial harm to the competitive position of the person from whom the information was obtained.

VIII. Additional Terms and Conditions

Competition Subject to Applicable Law: The Competition is subject to all applicable Federal laws and regulations. Submitting to this Competition constitutes each Team and/or Contestant's agreement to the official rules as set forth on *http://www.energy.gov/microgridchallenge* and administrative decisions, which are final and binding in all matters related to the Competition. Eligibility for a prize award is contingent upon fulfilling all requirements set forth herein.

Publicity: Except where prohibited, participation in the Competition constitutes each winner's consent for the DOE and its agents to use each winner's Submission information for promotional purposes through any form of media, worldwide, without further permission, payment, or consideration.

Liability and Insurance: Any and all information provided by or obtained from the Federal Government is without any warranty or representation whatsoever, including but not limited to its suitability for any particular purpose. Further, in accordance with 15 U.S.C. 3719(i), each Contestant shall provide proof of general liability insurance of $1 million per incident and a $5 million umbrella policy for claims by a third party for death, bodily injury, or property damage or loss resulting from an activity carried out in connection with the Competition, with the Federal Government named as an additional insured under the Contestant's insurance policy. Additionally, Contestants must agree to indemnify the Federal Government against third party claims for damages arising from or related to competition activities and for damage or loss to Government property resulting from such an activity.

Taxes: Winners are responsible for both reporting and paying all applicable Federal, state, and local taxes payable from any prize amounts awarded under this Competition.

IX. Contact Information

For questions about this Competition, contact DOE at *Microgrid;Competition@hq.doe.gov.*

Appendix A

Microgrid Operational Data Template File is available at *http://www.energy.gov/microgridchallenge.*

Issued in Washington, DC, on June 25, 2014.

Patricia A. Hoffman

Assistant Secretary, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2014–15386 Filed 6–30–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2629–014–Vermont]

Village of Morrisville, Vermont; Notice of Availability of Draft Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for license for the multi-development Morrisville Hydroelectric Project, located on the Green River, Elmore Pond Brook, and Lamoille River in Lamoille County, Vermont, and has prepared a draft Environmental Assessment (EA) for the project. The

project does not occupy any federal land.

The draft EA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the draft EA is on file with the Commission and is available for public inspection. The draft EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the date of this notice. Comments may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments.

For assistance, please contact FERC Online Support. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail comments to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2629–014.

For Further Information Contact: Steve Kartalia at (202) 502–6131 or *Stephen.Kartalia@ferc.gov.*

Dated: June 25, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–15405 Filed 6–30–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–2245–000]

TriEagle Energy, LP ; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of TriEagle Energy, LP's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 15, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERC OnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 25, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–15404 Filed 6–30–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–2238–000]

Repsol Energy North America Corporation; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Repsol Energy North America Corporation's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is July 15, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 25, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–15402 Filed 6–30–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–2240–000]

Yasmin Partners LLC; Supplemental Notice that Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Yasmin Partners LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability, is July 15, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 25, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–15403 Filed 6–30–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–2232–000]

Capital Energy LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Capital Energy LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR Part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 15, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERC OnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 25, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–15401 Filed 6–30–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14108–001]

Western Minnesota Municipal Power Agency; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 14108–001.

c. *Date Filed:* May 7, 2014.

d. *Submitted By:* Western Minnesota Municipal Power Agency (Western Minnesota).

e. *Name of Project:* Mississippi River Lock and Dam No.15 Hydroelectric Project.

f. *Location:* On the Mississippi River, in Scott County, Iowa at an existing lock and dam owned and operated by the U.S. Army Corps of Engineers (Corps). The project would occupy 1.5 acres of federal lands managed by the Corps.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Raymond Wahle, Missouri River Energy Services, 3724 W. Avera Drive, P.O. Box 88920, Sioux Falls, South Dakota 57109; phone: (605) 330–6963; email: *rwahle@mrenergy.com.*

i. *FERC Contact:* Patrick Ely at (202) 502–8570 or via email at *patrick.ely@ferc.gov.*

j. Western Minnesota filed its request to use the Traditional Licensing Process on May 7, 2014. Western Minnesota provided public notice of its request on May 20, 2014. In a letter dated June 25, 2014, the Director of the Division of Hydropower Licensing approved Western Minnesota's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR part 402; (b) NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920; and (c) the Iowa State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Western Minnesota as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act, section 305 of the Magnuson-Stevens Fishery Conservation and Management Act, and section 106 of the National Historic Preservation Act.

m. Western Minnesota filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONline Support@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: June 25, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–15406 Filed 6–30–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2005–0530; FRL–9913–06–ORD]

Proposed Information Collection Request; Comment Request; Application for Reference and Equivalent Method Determination (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Application for Reference and Equivalent Method Determination (Renewal)'' (EPA ICR No. 0559.12, OMB Control No. 2080–0005) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through October 31, 2014. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before September 2, 2014.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–ORD–2005–0530, online using *www.regulations.gov* (our preferred method), by email to *ord-docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Robert W. Vanderpool, Environmental Protection Agency, Human Exposure and Atmospheric Sciences Division, Process Modeling Research Branch, Mail Drop D205–03, Research Triangle Park, NC 27711; telephone number: 919–541–7877; fax number: 919–541–1153; email address: *Vanderpool.Robert@epa.gov*

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: To determine compliance with the NAAQS, State air monitoring agencies are required to use, in their air quality monitoring networks, air monitoring methods that have been

formally designated by the EPA as either reference or equivalent methods under EPA regulations at 40 CFR Part 53. A manufacturer or seller of an air monitoring method (e.g. an air monitoring sampler or analyzer) that seeks to obtain such EPA designation of one of its products must carry out prescribed tests of the method. The test results and other information must then be submitted to the EPA in the form of an application for a reference or equivalent method determination in accordance with 40 CFR Part 53. The EPA uses this information, under the provisions of Part 53, to determine whether the particular method should be designated as either a reference or equivalent method. After a method is designated, the applicant must also maintain records of the names and mailing addresses of all ultimate purchasers of all analyzers or samplers sold as designated methods under the method designation. If the method designated is a method for fine particulate matter ($PM_{2.5}$) and coarse particulate matter ($PM_{10-2.5}$), the applicant must also submit a checklist signed by an ISO-certified auditor to indicate that the samplers or analyzers sold as part of the designated method are manufactured in an ISO 9001-registered facility. Also, an applicant must submit a minor application to seek approval for any proposed modifications to previously designated methods.

Form Numbers: None

Respondents/affected entities: Private manufacturers, states.

Respondent's obligation to respond: Required to obtain the benefit of EPA designation under 40 CFR Part 53. Submission of some information that is claimed by the applicant to be confidential business information may be necessary to make a reference or equivalent method determination. The confidentiality of any submitted information identified as confidential business information by the applicant will be protected in full accordance with 40 CFR Part 53.15 and all applicable provisions of 40 CFR Part 2.

Estimated number of respondents: 22

Frequency of response: Annual

Total estimated burden: 7,492 hours

Total estimated cost: $650,494 (per year), includes $132,668, annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in the hours in the total estimated respondent burden compared with the ICR currently approved by OMB.

Dated: June 20, 2014.

Jennifer Orme-Zavaleta,

Director, National Exposure Research Laboratory.

[FR Doc. 2014–15385 Filed 6–30–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0132; FRL 9912–38–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Recordkeeping Requirements for Producers, Registrants, and Applicants of Pesticides and Pesticide Devices Under Section 8 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''Recordkeeping Requirements for Producers, Registrants, and Applicants of Pesticides and Pesticide Devices under Section 8 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)'' (EPA ICR No. 0143.12, OMB Control No. 2070–0028) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through June 30, 2014. Public comments were previously requested via the **Federal Register** (79 FR 14706) on March 17, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before July 31, 2014.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0132, to (1) EPA online using www.regulations.gov (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Michelle Stevenson, Office of Compliance, Monitoring, Assistance, and Media Programs Division, Pesticides, Waste & Toxics Branch (2225A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–4203.

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Producers of pesticides must maintain certain records with respect to their operations and make such records available for inspection and copying as specified in section 8 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and in regulations at 40 CFR part 169. This information collection is mandatory under FIFRA section 8. It is used by the Agency to determine compliance with the Act. The information is used by EPA Regional pesticide enforcement and compliance staffs, the Office of Enforcement and Compliance Assurance (OECA), and the Office of Pesticide Programs (OPP) within the Office of Chemical Safety and Pollution Prevention (OCSPP), as well as the U.S. Department of Agriculture (USDA), the Food and Drug Administration (FDA), and other Federal agencies, States under Cooperative Enforcement Agreements, and the public.

Form Numbers: None.

Respondents/affected entities: Producers of pesticides for sale or distribution in the United States.

Respondent's obligation to respond: Mandatory (40 CFR part 169)

Estimated number of respondents: 14,447 (total).

Frequency of response: Annual

Total estimated burden: 28,894 hours (per year). Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: $3,500,508 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is an increase of 5,694 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to the growth in the number of respondents since the last ICR.

Spencer W. Clark,

Acting Director, Collection Strategies Division.

[FR Doc. 2014–15351 Filed 6–30–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–1138; FRL–9913–09–OAR]

Agency Information Collection Activities; Proposed Collection; Comment Request; Reporting and Recordkeeping Requirements for Importation of Nonroad Engines and Recreational Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that the Environmental Protection Agency (EPA) is planning to submit a request to renew an existing approved Information Collection Request (ICR) to the Office of Management and Budget (OMB). This ICR is scheduled to expire on December 31, 2014. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before September 2, 2014.

ADDRESSES: Submit your comments referencing Docket ID No. EPA–HQ–OAR–2007–1138 online using *www.regulations.gov* (our preferred method), by email to *pugliese.holly@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mailcode 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Holly Pugliese, Compliance Division, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan, 48105; telephone number: 734–214–4288; fax number: 734–214–4869; email address: *pugliese.holly@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: This ICR covers the burden associated with EPA Form 3520–21, a declaration form for importers of nonroad vehicles or engines into the United States, which identifies the regulated category of engine or vehicle and the regulatory provisions under which the importation is taking place. In addition, this ICR covers the possible burden of EPA Form 3520–8 if it comes to be used to request final importation clearance for Independent Commercial Importers of nonroad Compression Ignition engines, who would have to bring the engines into compliance and provide test results, comparable to the use of Form 3520–8 for on-road vehicles and engines as covered by OMB 2060–0095. The information is used by Agency enforcement personnel to verify that all nonroad vehicles and engines subject to Federal emission requirements have been declared upon entry or that the category of exclusion or exemption from emissions requirements has been identified in the declaration. The information is also used to identify and prosecute violators of the regulations and to monitor the program in achieving the objectives of the regulations. The Forms are required before making customs entry; see 19 CFR 12.73 and 12.74.

Form Number: 3520–21.

Frequency of response: Once per entry. (One form per shipment may be used.)

Respondents/affected entities: Information collected is from individual importers, or companies who import and manufacture nonroad engines and recreational vehicles.

Respondent's obligation to respond: Required for any importer to legally import nonroad vehicles or engines into the U.S.

Estimated number of respondents: 12,000.

Total estimated burden: 6029 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $410,178.38 (per year), includes $38,002 annualized capital or operation & maintenance costs.

Changes in Estimates: This is an increase in $110,896.39 the total estimated respondent burden compared with the ICR currently approved by OMB. The program has remained consistent over time and the increase in burden is primarily due to costs of labor.

Dated: June 19, 2014.

Byron J. Bunker,

Director, Compliance Division, Office of Transportation and Air Quality.

[FR Doc. 2014–15464 Filed 6–30–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9913–05–OA]

National Environmental Education Advisory Council Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meetings.

SUMMARY: Under the Federal Advisory Committee Act, the Environmental Protection Agency (EPA) gives notice of a series of teleconference meetings of the National Environmental Education Advisory Council (NEEAC). The NEEAC was created by Congress to advise, consult with, and make recommendations to the Administrator of the Environmental Protection Agency on matters related to activities, functions and policies of EPA under the National Environmental Education Act (the Act). 20 U.S.C. 5508(b).

The purpose of these teleconference(s) is to discuss specific topics of relevance for consideration by the council in order to provide advice and insights to the Agency on environmental education.

DATES: The National Environmental Education Advisory Council will hold public teleconferences on Monday July 7, 2014, Friday August 8, 2014, and Friday September 12, 2014, from 1 p.m. until 2 p.m. Mountain Standard Time.

FOR FURTHER INFORMATION CONTACT: Javier Araujo, Designated Federal Officer, *araujo.javier@epa.gov,* 202–564–2642, U.S. EPA, Office of Environmental Education, William Jefferson Clinton North Room 1426, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Members of the public wishing to gain access to the teleconference, make brief oral comments, or provide a written statement to the NEEAC must contact Javier Araujo, Designated Federal Officer, at *araujo.javier@epa.gov* or 202–564–2642 by 10 business days prior to each regularly scheduled meeting.

Meeting Access: For information on access or services for individuals with disabilities or to request accommodations please contact Javier Araujo at *araujo.javier@epa.gov* or 202–564–2642, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: June 17, 2014.

Sarah Sowell,

Acting Deputy Director, Office of Environmental Education.

Dated: June 17, 2014.

Javier Araujo,

(NEEAC) Designated Federal Officer.

[FR Doc. 2014–15397 Filed 6–30–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2014–0459; FRL–9912–39]

Pesticide Chemicals; Registration Review; Draft Human Health and Ecological Risk Assessment; Notice of Availability.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's draft human health and ecological risk assessments for the registration review of chlorfenapyr, fenoxaprop-p-ethyl, flumiclorac-pentyl, maleic hydrazide, sulfentrazone, and tebuthiuron and opens a public comment period on these documents. Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed draft human health and ecological risk assessments, including an endangered species assessment, for all uses of the previously listed pesticide chemicals. After reviewing comments received during the public comment period, EPA will issue revised risk assessments, explain any changes to the draft risk assessments, and respond to comments and may request public input on risk mitigation before completing proposed registration review decisions for the previously listed pesticide chemicals. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

DATES: Comments must be received on or before September 2, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number for the specific pesticide of interest provided in the table in Unit III.A., by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For pesticide specific information contact: The Chemical Review Manager identified in the table in Unit III.A. for the pesticide of interest.

For general questions on the registration review program, contact: Richard Dumas, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–8015; email address: *dumas.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may 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 Chemical Review Manager listed under **FOR FURTHER INFORMATION CONTACT**.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or

CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Authority

EPA is conducting its registration review of chlorfenapyr, fenoxaprop-p-ethyl, flumiclorac-pentyl, maleic hydrazide, sulfentrazone, and tebuthiuron pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

III. Registration Reviews

A. What action is the Agency taking?

As directed by FIFRA section 3(g), EPA is reviewing the pesticide registrations for chlorfenapyr, fenoxaprop-p-ethyl, flumiclorac-pentyl, maleic hydrazide, sulfentrazone, and tebuthiuron to ensure that they continue to satisfy the FIFRA standard for registration—that is, that these pesticides can still be used without unreasonable adverse effects on human health or the environment.

Pursuant to 40 CFR 155.53(c), EPA is providing an opportunity, through this notice of availability, for interested parties to provide comments and input concerning the Agency's draft human health and ecological risk assessments for chlorfenapyr, fenoxaprop-p-ethyl, flumiclorac-pentyl, maleic hydrazide, sulfentrazone, and tebuthiuron. Such comments and input could address, among other things, the Agency's risk assessment methodologies and assumptions, as applied to these draft risk assessments. The Agency will consider all comments received during the public comment period and make changes, as appropriate, to the draft human health and ecological risk assessments. EPA will then issue revised risk assessments, explain any changes to the draft risk assessments, and respond to comments. In the **Federal Register** notice announcing the availability of the revised risk assessments, if the revised risk assessments indicate risks of concern, the Agency may provide a comment period for the public to submit suggestions for mitigating the risk identified in the revised risk assessments. At present, EPA is releasing registration review draft risk assessments for the pesticide cases identified in the following table and further described after the table.

REGISTRATION REVIEW DRAFT RISK ASSESSMENTS

Registration review case name and No.	Pesticide docket ID No.	Chemical review manager, telephone number, and email address
Chlorfenapyr (Case 7419–1)	EPA–HQ–OPP–2010–0467	Margaret Hathaway, (703) 305–5076, *hathaway.margaret@epa.gov.*
Fenoxaprop-p-ethyl (Case 7209)	EPA–HQ–OPP–2007–0437	Molly Clayton, (703) 603–0522, *clayton.molly@epa.gov.*
Flumiclorac-pentyl (Case 7232)	EPA–HQ–OPP–2009–0084	Tracy Perry, (703) 308–0128, *perry.tracy@epa.gov.*
Maleic hydrazide (Case 0381)	EPA–HQ–OPP–2009–0387	Ricardo Jones, (703) 347–0493, *jones.ricardo@epa.gov.*
Sulfentrazone (Case 7231)	EPA–HQ–OPP–2009–0624	Christina Scheltema, (713) 308–2201, *scheltema.christina@epa.gov.*
Tebuthiuron (Case 0054)	EPA–HQ–OPP–2009–0327	Joel Wolf, (703) 347–0228, *wolf.joel@epa.gov.*

• *Chlorfenapyr.* Chlorfenapyr is an insecticide/miticide used to control a wide range of mites and insects such as caterpillars, centipedes, thrips, fungus gnats, ants, cockroaches, beetles, bed bugs, silverfish, spiders, and termites. Chlorfenapyr is registered for use on greenhouse food and non-food crops, and as an insecticide/termiticide for use on indoor and outdoor residential sites, food/feed handling areas, indoor and outdoor commercial sites (including sewers), and indoor medical sites. EPA has completed a draft human health risk assessment for all chlorfenapyr uses. In addition, the Agency has determined that there is limited outdoor environmental exposure from the use of chlorfenapyr and has come to a no-effect determination for endangered species.

• *Fenoxaprop-p-ethyl.* Fenoxaprop-p-ethyl is an herbicide used to control weeds on barley, cotton, rice, soybeans, and wheat. It is also registered for non-agricultural use on conservation reserve lands, ornamentals, rights-of-way, and turf. EPA has completed draft human

health and ecological risk assessments, including a screening-level listed species assessment, for all fenoxaprop-p-ethyl uses. EPA acknowledges that further refinements to the listed species assessment will be completed in future revisions and requests public comment on specific areas that will reduce the uncertainties associated with the characterization of risk to listed species identified in the current assessment.

• *Flumiclorac-pentyl.* Flumiclorac-pentyl is a post-emergence herbicide registered for use on field corn, soybeans, cotton, and a variety of non-cropped areas. EPA has completed draft human health and ecological risk assessments, including a screening-level listed species assessment, for all flumiclorac-pentyl uses. EPA acknowledges that further refinements to the listed species assessment will be completed in future revisions and requests public comment on specific areas that will reduce the uncertainties associated with the characterization of risk to listed species identified in the current assessment.

• *Maleic Hydrazide.* Maleic hydrazide is an herbicide and plant growth regulator used on tobacco, potatoes, onions, non-bearing citrus, turf, utility and highway rights-of-way, airports, industrial land, lawns, recreational areas, ornamental shade trees and ornamental plants. EPA has completed draft human health and ecological risk assessments, including a screening-level listed species assessment, for all maleic hydrazide uses. EPA acknowledges that further refinements to the listed species assessment will be completed in future revisions and requests public comment on specific areas that will reduce the uncertainties associated with the characterization of risk to listed species identified in the current assessment.

•*Sulfentrazone.* Sulfentrazone is an herbicide registered for use to control a variety of broadleaf weeds on several agricultural crops, ornamental turf/plants, residential lawns, and recreational areas such as golf courses. EPA has completed draft human health and ecological risk assessments, including a screening-level listed species assessment, for all sulfentrazone uses. EPA acknowledges that further refinements to the listed species assessment will be completed in future revisions and requests public comment on specific areas that will reduce the uncertainties associated with the characterization of risk to listed species identified in the current assessment.

•*Tebuthiuron.* Tebuthiuron is a systemic, relatively non-selective herbicide used to control broadleaf and woody weeds, grasses and brush on feed crop sites (pasture and rangeland) and a variety of non-food crop sites. EPA has completed draft human health and ecological risk assessments, including a screening-level listed species assessment, for all tebuthiuron uses. EPA acknowledges that further refinements to the listed species assessment will be completed in future revisions and requests public comment on specific areas that will reduce the uncertainties associated with the characterization of risk to listed species identified in the current assessment.

1. *Other related information.* Additional information on chlorfenapyr, fenoxaprop-p-ethyl, flumiclorac-pentyl, maleic hydrazide, sulfentrazone, and tebuthiuron is available for each pesticide at *http://www.epa.gov/pesticides/chemicalsearch/* and in each chemical's individual docket listed in the table in Unit III.A. Information on the Agency's registration review program and its implementing regulation is available at *http://www2.epa.gov/pesticide-reevaluation.*

2. *Information submission requirements.* Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

• To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.

• The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audiographic or videographic record. Written material may be submitted in paper or electronic form.

• Submitters must clearly identify the source of any submitted data or information.

• Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

List of Subjects

Environmental protection, Pesticides and pests, Chlorfenapyr, Fenoxaprop-p-ethyl, Flumiclorac-pentyl, Maleic hydrazide, Sulfentrazone, and Tebuthiuron.

Dated: June 24, 2014.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2014–15481 Filed 6–30–14; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Sunshine Act; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATES: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on July 10, 2014, from 9:00 a.m. until such time as the Board concludes its business.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

• June 12, 2014.

B. New Business

• Statement on Regulatory Burden—Final Notice of Intent.

C. Reports

• Equal Employment Opportunity and Inclusion Periodic Report.

Dated: June 27, 2014.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2014–15519 Filed 6–27–14; 4:15 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget (OMB)

AGENCY: Federal Communications Commission (FCC).

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3502–3520), the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimates; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB Control Number.

DATES: Written PRA comments should be submitted on or before July 31, 2014. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget (OMB), via fax at 202–395–5167, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), via the Internet at *Leslie.Smith@fcc.gov.* To submit your PRA comments by email, please send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Leslie F. Smith, Office of Managing Director (OMD), Federal Communications Commission (FCC), at 202–418–0217, or via the Internet at: *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1081.

Title: Section 54.202, Telecommunications Carriers Eligible to Receive Universal Service Support.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 20 respondents; 20 responses.

Estimated Time per Response: 40 hours.

Obligation to Respond: Required to obtain or retain benefits, 47 CFR 54.202, 54.209.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 800 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature of Extent of Confidentiality: If respondents submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules, 47 CFR 0.459.

Needs and Uses: Designation as an Eligible Telecommunications Carrier (ETC) makes a telecommunications carrier eligible to participate in the Universal Service Fund's high-cost and low-income programs, which support the extension of telecommunications services to underserved rural and low-income communities. In the absence of this information collection, the Commission's ability to oversee the use of Federal universal service funds and to combat waste, fraud, and abuse in the use of Federal funds would be compromised. Section 54.202 of the Commission's rules requires carriers seeking designation from the Commission to submit an application that certifies that the carrier will comply with the service requirement applicable to the support that it receives, 47 CFR 54.202(a)(1)(i); applicants must submit a five year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area, with estimates of the area and population that will be served as a result of the improvements, § 54.202(a)(1)(ii); an applicant must demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations, § 54.202(a)(2); demonstrate that it will satisfy applicable consumer protection and service quality standards, § 54.202(a)(3); A common carrier seeking designation as an ETC for purposes of receiving support only under subpart E of Part 54 of the Commission's rules (Universal Service Support for Low-Income Consumers) must demonstrate that it is financially and technically capable of providing the Lifeline service in compliance with subpart E, § 54.202(a)(4); applicants must submit information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan, § 54.202(a)(5). If the common carrier is seeking designation as an eligible telecommunications carrier under section 214(e)(6) for any part of Tribal lands shall provide a copy of its petition to the affected tribal government and tribal regulatory authority, as applicable, at the time it files its petition with the Federal Communications Commission. In addition, the Commission shall send any public notice seeking comment on any petition for designation as an eligible telecommunications carrier on Tribal lands, at the time it is released, the affected tribal government and tribal regulatory authority, as applicable, by the most expeditious means available, § 54.202(c).

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–15300 Filed 6–30–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and (e) ways to further reduce the information burden for small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before September 2, 2014. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0484.

Title: Section 4.9, Part 4 of the Commission's Rules Concerning Disruptions to Communications.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, not-for profit institutions.

Number of Respondents: Approximately 1,100 respondents; 15,444 responses per year.

Estimated Time per Response: No more than 2.5 hours per occurrence.

Frequency of Response: On occasion and annual reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Mandatory. Statutory authority for this collection of information is contained in 47 U.S.C. 151, 154(i)–(j) & (o), 201(b), 214(d), 218, 251(e)(3), 301, 303(b), 303(g), 303(r), 307, 309(a), 316, 332, 403, 615a–1, and 615c.

Total Annual Burden: 29,870 hours.

Total Annual Cost: $0.

Privacy Impact Assessment: No impacts.

Nature and Extent of Confidentiality: Network Outage Reporting System (NORS) outage reports filed with the Commission pursuant to Part 4 of its rules are presumed confidential. The information in those filings may be shared with the Department of Homeland Security only under appropriate confidential disclosure provisions. Other persons seeking disclosure must follow the procedures delineated in 47 CFR 0.457 and 0.459 of the Commission's rules for requests for and disclosure of information. The revisions to this information collection require information to be transmitted to third parties, not to the FCC. Accordingly, the Commission cannot, and does not, guarantee confidentiality of information provided directly to public safety answering points (PSAPs). The revisions do not affect the confidential treatment of information provided directly to the FCC through NORS.

Needs and Uses: The Commission is seeking OMB approval for a revision of this information collection in order to obtain the full three year approval from OMB. The Commission is reporting a 223-hour increase in its previous annual burden estimates. The increase is due to adoption of FCC 13–158, a Report and Order establishing more specific outage notification obligations for Covered 911 Service Providers, which are the respondents subject to the revised requirements of this information collection.

Previous FCC rules required certain communications providers to notify PSAPs of 911 outages ''as soon as possible'' with ''all available information that may be useful.'' The revisions to this information collection respond to the derecho storm that struck the Midwest and Mid-Atlantic United States in June 2012, causing significant disruptions in 911 service. Through its inquiry into these 911 outages, the Commission learned that many PSAPs' efforts to restore service were complicated by inadequate information and ineffective communication by 911 service providers. Consequently, the Commission amended section 4.9 of its rules to require more specific 911 outage notifications to PSAPs within specified time periods.

Under the new rule, Covered 911 Service Providers must notify PSAPs of outages that potentially affect 911 service within 30 minutes of discovering the outage and provide contact information such as a name, telephone number, and email for follow-up. Whenever additional material information becomes available, but no later than two hours after the initial contact, the Covered 911 Service Provider must communicate additional detail to the PSAP, including the nature of the outage, its best-known cause, the geographic scope of the outage, and the estimated time for repairs. Notifications must be transmitted by telephone and in writing via electronic means, unless the PSAP and service provider have agreed in advance to an alternative method. The new requirements apply only to entities defined as Covered 911 Service Providers under 47 CFR 12.4(a)(4), and outage reporting obligations for other entities remain unchanged.

The above revisions do not require information to be submitted to the FCC, but rather to third parties (*i.e.,* PSAPs and other ''911 special facilities'') that experience 911 outages. While the amended rule will not result in new or different information submitted to the Commission, it will require Covered 911 Service Providers to transmit more specific information to PSAPs to improve their situational awareness and ability to respond to 911 outages. Such notifications are necessary because PSAP personnel depend on reliable 911 service to answer emergency calls and dispatch help when needed. When 911 service is compromised, PSAPs require prompt notification and useful information about the outage so that they may make alternate plans to reroute calls until service is restored. Many Covered 911 Service Providers indicate that they already collect the required outage information for internal use, and for submission to the FCC through required NORS reports. Therefore, the obligation to provide more specific outage notifications to PSAPs will not generally require

collection of new or different information, only a more consistent effort to ensure that transmission of such information is timely and complete. These revisions do not affect the obligation to submit NORS outage reports to the FCC or the information that must be provided in NORS reports; these portions of the information collection have already been approved by OMB and have not changed since that approval.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–15303 Filed 6–30–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communication Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before July 31, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov <mailto:PRA@fcc.gov>* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0678.

Title: Part 25 of the Federal Communications Commission's Rules Governing the Licensing of, and Spectrum Usage by, Commercial Earth Stations and Space Stations.

Form No.: FCC Form 312; Schedule S; Schedule B; Schedule A; FCC Form 312–EZ; FCC Form 312–R.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 4,880 respondents; 4,928 responses.

Estimated Time per Response: 0.5–80 hours per response.

Frequency of Response: On occasion, one time and annual reporting requirements; third-party disclosure requirement; recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154, 301, 302, 303, 307, 308, 309, 332 and 705 unless otherwise noted.

Total Annual Burden: 34,155 hours.

Annual Cost Burden: $9,998,785.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general, there is no need for confidentiality with this collection of information.

Needs and Uses: On August 9, 2013, the Federal Communications Commission (Commission) released a Report and Order (R&O) titled, ''In the Comprehensive Review of Licensing and Operating Rules for Satellite Services.'' FCC 13–111. In this R&O, the Commission adopted comprehensive changes to Part 25 of the Commission's rules, which governs licensing and operation of space stations and earth stations for the provision of satellite communication services. Many of the amendments are substantive changes intended to afford licensees as much operational flexibility as possible consistent with minimizing harmful interference and easing administrative burdens on licensees, applicants, and the Commission. Additionally, this information collection is revised by incorporating existing separate information collection requirements under Part 25 into this information collection. Specifically, the revision of OMB Control No. 3060–0678 (Part 25 of the Commission's Rules) will consolidate information collections that are currently under OMB Control Nos. 3060–0768 (28 GHz Band Segmentation Plan), 3060–0955 (2 GHz Mobile Satellite Service Reports), 3060–0962 (Redesignation of the 18 GHz Band), 3060–0994 (Flexibility for Delivery of Communications by MSS Providers), 3060–1013 (Mitigation of Orbital Debris), 3060–1014 (Ku-band NGSO FSS), 3060–1059 (Global Mobile Personal Communications by Satellite (GMPCS)/E911 Call Centers), 3060–1061 (Earth Stations on Board Vessels (ESVs)), 3060–1066 (Renewal of Application for Satellite Space and Earth Station Authorization), 3060–1067 (Qualification Questions), 3060–1095 (Surrenders of Authorizations), 3060–1097 (Rules for Broadcasting Satellite Service), 3060–1106 (Vehicle Mounted Earth Stations (VMES)), 3060–1108 (Consummation of Assignments and Transfers of Control), 3060–1153 (Satellite Digital Radio Service (SDARS)), and 3060–1187 (Earth Stations Aboard Aircraft (ESAA)). Therefore, the number of respondents, number of responses, annual burden hours and annual costs have been amended from the previous submission

that was approved by the Office of Management and Budget (OMB) on March 13, 2013.

The information collection requirements accounted for in this collection are needed to determine the technical and legal qualifications of applicants or licensees to operate a station and to determine whether the authorization is in the public interest, convenience and necessity. Without such information, the Commission could not determine whether to permit respondents to provide telecommunications services in the United States. Therefore, the Commission would not be able to fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended, and the obligations imposed on parties to the World Trade Organization (WTO) Basic Telecom Agreement.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–15302 Filed 6–30–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communication Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before September 2, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* <*mailto:PRA@fcc.gov*> and to *Cathy.Williams@fcc.gov* <*mailto:Cathy.Williams@fcc.gov*>.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0185.

Title: Section 73.3613, Filing of Contracts.

Form Number: N/A.

Type of Review: Revision of a currently collection.

Respondents: Business or other for profit entities; not-for-profit institutions.

Number of Respondents and Responses: 2,400 respondents and 2,400 responses.

Estimated Time per Response: 0.25 to 0.5 hours.

Frequency of Response: On occasion reporting requirement; Recordkeeping requirement; Third party disclosure requirement.

Total Annual Burden: 975 hours.

Total Annual Costs: $135,000.

Privacy Act Impact Assessment: No impact(s).

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collections is contained in Section 154(i) and 303 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Needs and Uses: On April 15, 2014, the Commission released a Report and Order (79 FR 29009, May 20, 2014, FCC 14–28, rel. April 15, 2014) that adopted changes to 47 CFR Section 73.3613 and the FCC's attribution rules. Specifically, certain television joint sales agreements (''JSAs'') are now attributable under the Commission's attribution rules. As a result, television stations will now be required to file JSAs that result in attribution under the Commission's multiple ownership rules.

The revised Section 73.3613(d)(2) is as follows:

(2) *Joint sales agreements:* Joint sales agreements involving radio stations where the licensee (including all parties under common control) is the brokering entity, the brokering and brokered stations are both in the same market as defined in the local radio multiple ownership rule contained in 73.3555(a), and more than 15 percent of the advertising time of the brokered station on a weekly basis is brokered by that licensee; joint sales agreements involving television stations where the licensee (including all parties under common control) is the brokering entity, the brokering and brokered stations are both in the same market as defined in the local television multiple ownership rule contained in 73.3555(b), and more than 15 percent of the advertising time of the brokered station on a weekly basis is brokered by that license. Confidential or proprietary information may be redacted where appropriate but such information shall be made available for inspection upon request by the FCC.

The following information collection requirements will remain a part of this collection and they have not changed since last approved by the Office of Management and Budget (OMB):

47 CFR 73.3613 currently requires each licensee or permittee of a commercial or noncommercial AM, FM, TV or International broadcast station shall file with the FCC copies of the following contracts, instruments, and documents together with amendments, supplements, and cancellations (with the substance of oral contracts reported in writing), within 30 days of execution thereof:

(a) Network service: Network affiliation contracts between stations and networks will be reduced to writing and filed as follows:

(1) All network affiliation contracts, agreements, or understandings between a TV broadcast or low power TV station and a national network. For the purposes of this paragraph the term network means any person, entity, or corporation which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more states; and/or any person, entity, or corporation controlling, controlled by, or under common control with such person, entity, or corporation.

(2) Each such filing on or after May 1, 1969, initially shall consist of a written instrument containing all of the terms

and conditions of such contract, agreement or understanding without reference to any other paper or document by incorporation or otherwise. Subsequent filings may simply set forth renewal, amendment or change, as the case may be, of a particular contract previously filed in accordance herewith.

(3) The FCC shall also be notified of the cancellation or termination of network affiliations, contracts for which are required to be filed by this section.

(b) Ownership or control: Contracts, instruments or documents relating to the present or future ownership or control of the licensee or permittee or of the licensee's or permittee's stock, rights or interests therein, or relating to changes in such ownership or control shall include but are not limited to the following:

(1) Articles of partnership, association, and incorporation, and changes in such instruments;

(2) Bylaws, and any instruments effecting changes in such bylaws;

(3) Any agreement, document or instrument providing for the assignment of a license or permit, or affecting, directly or indirectly, the ownership or voting rights of the licensee's or permittee's stock (common or preferred, voting or nonvoting), such as:

(i) Agreements for transfer of stock;

(ii) Instruments for the issuance of new stock; or

(iii) Agreements for the acquisition of licensee's or permittee's stock by the issuing licensee or permittee corporation. Pledges, trust agreements, options to purchase stock and other executory agreements are required to be filed. However, trust agreements or abstracts thereof are not required to be filed, unless requested specifically by the FCC. Should the FCC request an abstract of the trust agreement in lieu of the trust agreement, the licensee or permittee will submit the following information concerning the trust:

(A) Name of trust;

(B) Duration of trust;

(C) Number of shares of stock owned;

(D) Name of beneficial owner of stock;

(E) Name of record owner of stock;

(F) Name of the party or parties who have the power to vote or control the vote of the shares; and

(G) Any conditions on the powers of voting the stock or any unusual characteristics of the trust.

(4) Proxies with respect to the licensee's or permittee's stock running for a period in excess of 1 year, and all proxies, whether or not running for a period of 1 year, given without full and detailed instructions binding the nominee to act in a specified manner. With respect to proxies given without full and detailed instructions, a statement showing the number of such proxies, by whom given and received, and the percentage of outstanding stock represented by each proxy shall be submitted by the licensee or permittee within 30 days after the stockholders' meeting in which the stock covered by such proxies has been voted. However, when the licensee or permittee is a corporation having more than 50 stockholders, such complete information need be filed only with respect to proxies given by stockholders who are officers or directors, or who have 1% or more of the corporation's voting stock. When the licensee or permittee is a corporation having more than 50 stockholders and the stockholders giving the proxies are not officers or directors or do not hold 1% or more of the corporation's stock, the only information required to be filed is the name of any person voting 1% or more of the stock by proxy, the number of shares voted by proxy by such person, and the total number of shares voted at the particular stockholders' meeting in which the shares were voted by proxy.

(5) Mortgage or loan agreements containing provisions restricting the licensee's or permittee's freedom of operation, such as those affecting voting rights, specifying or limiting the amount of dividends payable, the purchase of new equipment, or the maintenance of current assets.

(6) Any agreement reflecting a change in the officers, directors or stockholders of a corporation, other than the licensee or permittee, having an interest, direct or indirect, in the licensee or permittee as specified by § 73.3615.

(7) Agreements providing for the assignment of a license or permit or agreements for the transfer of stock filed in accordance with FCC application Forms 314, 315, 316 need not be resubmitted pursuant to the terms of this rule provision.

(c) Personnel: (1) Management consultant agreements with independent contractors; contracts relating to the utilization in a management capacity of any person other than an officer, director, or regular employee of the licensee or permittee; station management contracts with any persons, whether or not officers, directors, or regular employees, which provide for both a percentage of profits and a sharing in losses; or any similar agreements.

(2) The following contracts, agreements, or understandings need not be filed: Agreements with persons regularly employed as general or station managers or salesmen; contracts with program managers or program personnel; contracts with attorneys, accountants or consulting radio engineers; contracts with performers; contracts with station representatives; contracts with labor unions; or any similar agreements.

(d)(1) *Time brokerage agreements (also known as local marketing agreements):* Time brokerage agreements involving radio stations where the licensee (including all parties under common ownership) is the brokering entity, the brokering and brokered stations are both in the same market as defined in the local radio multiple ownership rule contained in § 73.3555(a), and more than 15 percent of the time of the brokered station, on a weekly basis is brokered by that licensee; time brokerage agreements involving television stations where the licensee (including all parties under common control) is the brokering entity, the brokering and brokered stations are both licensed to the same market as defined in the local television multiple ownership rule contained in § 73.3555(b), and more than 15 percent of the time of the brokered station, on a weekly basis, is brokered by that licensee; time brokerage agreements involving radio or television stations that would be attributable to the licensee under § 73.3555 Note 2, paragraph (i). Confidential or proprietary information may be redacted where appropriate but such information shall be made available for inspection upon request by the FCC.

(e) The following contracts, agreements or understandings need not be filed but shall be kept at the station and made available for inspection upon request by the FCC; subchannel leasing agreements for Subsidiary Communications Authorization operation; franchise/leasing agreements for operation of telecommunications services on the television vertical blanking interval and in the visual signal; time sales contracts with the same sponsor for 4 or more hours per day, except where the length of the events (such as athletic contests, musical programs and special events) broadcast pursuant to the contract is not under control of the station; and contracts with chief operators.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–15304 Filed 6–30–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewals; Comment Request (3064–0109 & –0162)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of existing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comment on renewal of the information collections 3064–0109 & –0162, described below.

DATES: Comments must be submitted on or before September 2, 2014.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/*
- *Email: comments@fdic.gov* Include the name and number of the collection in the subject line of the message.
- *Mail:* Gary A. Kuiper (202–898–3877), Counsel, 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 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal to Renew the Following Currently-Approved Collections of Information

1. *Title:* Notice of Branch Closure
OMB Number: 3064–0109.
Frequency of Response: On occasion.
Affected Public: State nonmember banks and state savings associations.
Estimated Number of Respondents: 2125.
Estimated Time per Response: 2.1 hours.
Total Annual Burden: 4400 hours.
General Description of Collection: Section 42 of the Federal Deposit Insurance Act mandates that an institution proposing to close a branch give its primary regulator no less than 90 days written notice. Notices of closure are submitted on occasion as needed. Also, each insured depository institution must adopt branch closing policies. The adoption of policies is a one-time activity, repeated only if the institution finds need to revise its policy.

2. *Title:* Large-Bank Deposit Insurance Programs
OMB Number: 3064–0162.
Frequency of Response: On occasion.
Affected Public: Insured depository institutions having at least $2 billion in domestic deposits and either at least: (i) 250,000 deposit accounts; or (ii) $20 million in total assets.
Estimated Number of Respondents: 151.
Estimated Time per Response: 132.4–215.2 hours.
Total Annual Burden: 19,992–32,495.2 hours.
General Description of Collection: Insured depository institutions having at least $2 billion in domestic deposits and either: (1) More than 250,000 deposit accounts; or (2) total assets over $20 billion, regardless of the number of deposit accounts are required to adopt mechanisms that, in the event of the institution's failure: (1) provide the FDIC with standard deposit account and customer information; and (2) allow the FDIC to place and release holds on liability accounts, including deposits.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 26th day of June, 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–15361 Filed 6–30–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

The Commission gives notice that the following Ocean Transportation Intermediary licenses have been reissued pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101).

License No.: 023599F.
Name: Ashimiyu Alowonle dba Classique Companies.
Address: 4355 Irving Avenue North, Minneapolis, MN 55412.
Date Reissued: May 21, 2014.

License No.: 024332N.
Name: JT Freight Solutions.
Address: 1255 Corporate Center Drive, Suite 218, Monterey Park, CA 91754.
Date Reissued: June 6, 2014.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2014–15368 Filed 6–30–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations and Terminations

The Commission gives notice that the following Ocean Transportation Intermediary licenses have been revoked or terminated for the reason indicated pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101) effective on the date shown.

License No.: 2462F.
Name: Sky-Sea Forwarding Corp.
Address: 20 West Lincoln Avenue, Suite 203, Valley Stream, NY 11580.
Date Revoked: May 28, 2014.
Reason: Failed to maintain a valid bond.

License No.: 12545N.
Name: Williams Shipping & Delivery Services, Inc.
Address: 1177 Utica Avenue, Brooklyn, NY 11203.
Date Revoked: July 26, 2013.
Reason: Failed to maintain a valid bond.

License No.: 16481N.
Name: Sterling Container Line Limited.
Address: Level 7, 713–20 Metroplaza, Tower 11, 223 Hing Fong Road, Kwai Fong, N.T. Hong Kong.
Date Surrendered: June 13, 2014.
Reason: Voluntary surrender of license.

License No.: 17957NF.
Name: E.T.F. Services, Inc. dba Global Link Enterprises.
Address: 2500 83rd Street, Bergen, NJ 07047.

Date Revoked: May 29, 2014.
Reason: Failed to maintain valid bonds.

License No.: 18177N.
Name: Seariders International, Inc.
Address: 6545 Nova Drive, Suite 201, Davie, FL 33317.
Date Revoked: June 13, 2014.
Reason: Failed to maintain a valid bond.

License No.: 18183NF.
Name: Marisol International LLC.
Address: 2424 W. Kingsley, Suite C, Springfield, MO 65807.
Date Revoked: June 15, 2014.
Reason: Failed to maintain valid bonds.

License No.: 018362N.
Name: Williams Caribbean Shipping & Delivery Services, Inc.
Address: 275 Howard Avenue, Brooklyn, NY 11233.
Date Revoked: May 28, 2014.
Reason: Failed to maintain a valid bond.

License No.: 019923F.
Name: Tretaylor International, Inc.
Address: 2034 Rolling Hills Way, Rocky Face, GA 30740.
Date Revoked: May 28, 2014.
Reason: Failed to maintain a valid bond.

License No.: 020128N.
Name: Embarques Victoria Multiservices Corp.
Address: 3634 Bailey Avenue, 1st Floor, Bronx, NY 10463.
Date Revoked: May 1, 2014.
Reason: Failed to maintain a valid bond.

License No.: 020899NF.
Name: AHC Logistics Cargo Consultant, Inc.
Address: 11591 NW 50th Terrace, Doral, FL 33178.
Date Revoked: June 11, 2014.
Reason: Failed to maintain valid bonds.

License No.: 022501N.
Name: Port Line Services LLC.
Address: 481 Doremus Avenue, 1st Floor, Newark, NJ 07105.
Date Revoked: June 6, 2014.
Reason: Failed to maintain a valid bond.

License No.: 023264NF.
Name: EP-Team, Inc. dba EP-Team.
Address: 3700 Forums Drive, Suite 201, Flower Mound, TX 75028.
Date Revoked: June 14, 2014.
Reason: Failed to maintain valid bonds.

License No.: 023768F.
Name: Markland Investments, Inc.
Address: 4517 Fulton Industrial Blvd., Atlanta, GA 30336.
Date Revoked: June 4, 2014.
Reason: Failed to maintain a valid bond.

License No.: 023861NF.
Name: Rescigno Logistics Group, LLC.
Address: 1 Windsor Cove, Suite 301, Columbia, SC 29223.
Date Revoked: June 8, 2014.
Reason: Failed to maintain valid bonds.

License No.: 024273N.
Name: Evgeny Lavrentev dba Galaxy Enterprises LA.
Address: 14732 Calvert Street, Van Nuys, CA 91411.
Date Revoked: May 28, 2014.
Reason: Failed to maintain a valid bond.

License No.: 024332F.
Name: JT Freight Solutions.
Address: 1255 Corporate Center Drive, Suite 218, Monterey Park, CA 91754.
Date Surrendered: June 6, 2014.
Reason: Voluntary surrender of license.

License No.: 024540N.
Name: GB America, LLC.
Address: 19100 Von Karman Avenue, Suite 370, Irvine, CA 92612.
Date Revoked: May 25, 2014.
Reason: Failed to maintain a valid bond.

License No.: 024606N.
Name: KYS Imports & Exports Inc.
Address: 1938 Tyler Avenue, Suite O, El Monte, CA 91733.
Date Revoked: June 5, 2014.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,
Director, Bureau of Certification and Licensing.

[FR Doc. 2014–15376 Filed 6–30–14; 8:45 am]
BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 16, 2014.

A. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President), 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *The Stanton D. Nelson Trust No. 2, the Clark S. Nelson Trust No. 2, the N. Terry Nelson Trust No. 7, and the N. Terry Nelson Trust No. 8, all of Long Island, Kansas; and Clarke S. Nelson, Long Island, Kansas; Stanton D. Nelson, Norton, Kansas; John McClymont, Norton, Kansas; Janet M. Sell, Long Island, Kansas; and John P. Engelbert,* Norton, Kansas, all as co-trustees of one or more of the trusts, and as members of the Nelson Control Group acting in concert; to acquire voting shares of Norton Bankshares, Inc., and thereby indirectly acquire voting shares of The First State Bank, both in Norton, Kansas.

In connection with this application, Clark S. Nelson Trust No. 2, Long Island, Kansas, and all trustees listed above also have applied to acquire voting shares of Norton Bankshares, Inc., and thereby indirectly acquire voting shares of The First State Bank, both in Norton, Kansas.

Board of Governors of the Federal Reserve System, June 26, 2014.

Michael J. Lewandowski,
Associate Secretary of the Board.

[FR Doc. 2014–15349 Filed 6–30–14; 8:45 am]
BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et 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 25, 2014.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First Business Financial Services, Inc.,* Madison, Wisconsin; to merge with Aslin Group, Inc., and thereby indirectly acquire Alterra Bank, both in Leawood, Kansas.

Board of Governors of the Federal Reserve System, June 26, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–15348 Filed 6–30–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Family Violence Prevention and Services: Grants to States; Native American Tribes and Alaskan Native Villages; and State Domestic Violence Coalitions.

OMB No.: 0970–0280.

Description: The Family Violence Prevention and Services Act (FVPSA), 42 U.S.C. 10401 et seq., authorizes the Department of Health and Human Services to award grants to States, Territories, Tribes or Tribal Organizations, and State Domestic Violence Coalitions for family violence prevention and intervention activities. The proposed information collection activities will be used to make grant award decisions and to monitor grant performance.

Respondents: State Agencies and Territories Administering FVPSA Grants; Tribal Governments and Tribal Organizations; and State Domestic Violence Coalitions.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Grant Application	53	1	10	530
Tribal Grant Application	150	1	5	750
State Domestic Violence Coalition Application	56	1	10	560
State FVPSA Grant Performance Progress Report	53	1	10	530
Tribal FVPSA Grant Performance Progress Report	150	1	10	1,500
State Domestic Violence Coalition Performance Progress Report	56	1	10	560

Estimated Total Annual Burden Hours: 4,430.

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, Fax: 202–395–7285, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2014–15412 Filed 6–30–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[C.F.D.A. Number: 93.671]

Funding Opportunity Announcement for Family Violence Prevention and Services/Grants for Domestic Violence Shelters/Grants to Native American Tribes (Including Alaska Native Villages) and Tribal Organizations

AGENCY: Family and Youth Services Bureau (FYSB), Administration on Children, Youth, and Families (ACYF), ACF, HHS.

ACTION: This Funding Opportunity Announcement (FOA) was originally published as Funding Opportunity Number HHS–2014–ACF–ACYF–FVPS–0801 on April 29, 2014 at *http://www.acf.hhs.gov/grants/open/foa/view/HHS–2014–ACF–ACYF-FVPS-0801.* FYSB is publishing this notice in the **Federal Register** to satisfy its regulatory requirements at 45 CFR 1370.2.

SUMMARY: This FOA governs the proposed award of formula grants under the Family Violence Prevention and Services Act (FVPSA) to Native American tribes (including Alaska Native villages) and tribal organizations. The purpose of these grants is to: (1) assist tribes in efforts to increase public awareness about, and primary and secondary prevention of, family violence, domestic violence, and dating violence; and (2) assist tribes in efforts to provide immediate shelter and supportive services for victims of family violence, domestic violence, or dating violence, and their dependents (42 U.S.C. 10401, et. seq.). This FOA announces formula awards and is not open for competition.

DATES: The application due date is June 30, 2014.

FOR FURTHER INFORMATION CONTACT: Shena R. Williams at (202) 205–5932 or email at *Shena.Williams@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION: The following is the full, published FOA, available at *http://www.acf.hhs.gov/*

grants/open/foa/view/HHS-2014-ACF-ACYF-FVPS-0801:

I. Funding Opportunity Description

Description

Background

The Administration on Children, Youth and Families (ACYF) is committed to facilitating healing and recovery and promoting the social and emotional well-being of victims, children, youth, and families who have experienced domestic violence, maltreatment, exposure to violence, and trauma. This FVPSA funding opportunity announcement, administered through ACYF's Family and Youth Services Bureau (FYSB) is designed to assist tribes in their efforts to support the establishment, maintenance, and expansion of programs and projects: (1) To prevent incidents of family violence, domestic violence, and dating violence; (2) to provide immediate shelter, supportive services, and access to community-based programs for victims of family violence, domestic violence, or dating violence, and their dependents; and (3) to provide specialized services for children exposed to family violence, domestic violence, or dating violence, underserved populations, and victims who are members of racial and ethnic minority populations (section 10406 (a)).

Tribes face unique circumstances and obstacles when responding to family violence. The particular legal relationship of the United States to Indian tribes creates a federal trust responsibility to assist tribal governments in safeguarding the lives of Indian victims of family violence.

In FY 2013 the Department of Health and Human Services (HHS) and the Administration for Children and Families (ACF) consulted with tribal governments on all of the grant programs administered by ACF. FVPSA-related issues were addressed during each of these consultations.

During FY 2013, ACF awarded FVPSA grants to 143 tribes or tribal organizations in support of 222 tribes; 55 states and territories; and 55 nonprofit State Domestic Violence Coalitions. In addition, ACF awarded FVPSA grants to one National Indian Resource Center addressing Domestic Violence and Safety for Indian Women, other national, special issue and culturally specific resource centers, and the National Domestic Violence Hotline.

Ensuring the Well-Being of Vulnerable Children and Families/Adults

ACYF is committed to facilitating healing and recovery and promoting the social and emotional well-being of children, youth, and families/adults who have experienced maltreatment, exposure to violence, and/or trauma. Awards governed by this funding opportunity announcement and other current fiscal year expenditures are designed to ensure that effective interventions are in place to build skills and capacities that contribute to the healthy, positive, and productive functioning of families.

Experiencing trauma can have a profound effect on the overall functioning of individuals and families. Thus, efforts to address the impact of trauma are essential in cultivating social and emotional well-being. ACYF therefore promotes a trauma-informed approach, which involves understanding and responding to the symptoms of chronic interpersonal trauma and traumatic stress, as well as the behavioral and mental health consequences of trauma.

ACYF expects to maintain a continued focus on social and emotional well-being as a critical component of its overall mission to ensure positive outcomes for all individuals and families. Tribal grantees have a critical role in incorporating ACYF priorities by helping to ensure trauma-informed interventions are embedded within the service provision framework of all services funded by FVPSA. Tribes and tribal organizations are strongly encouraged to leverage the expertise of the FVPSA-funded National Indigenous Women's Resource Center on Domestic Violence and the National Center on Domestic Violence, Trauma and Mental Health to infuse programs with best supported and most promising practices on trauma-informed interventions as they seek to promote the social and emotional well-being of families seeking shelter and supportive services.

Use of Funds

Grantees should ensure that not less than 70 percent of the funds distributed are used for the primary purpose of providing immediate shelter and supportive services to adult and youth victims of family violence, domestic violence, or dating violence, and their dependents. Not less than 25 percent of the funds must be used for the purpose of providing supportive services and prevention services (section 10408(b)).

FVPSA funds awarded to grantees should be used for activities described in (section 10408(b)):

Shelter

- Provision of immediate shelter and related supportive services to adult and youth victims of family violence, domestic violence, or dating violence, and their dependents, including paying for the operating and administrative expenses of the facilities for such shelter.

Supportive Services

- Provision of individual and group counseling, peer support groups, and referral to community-based services to assist family violence, domestic violence, and dating violence victims, and their dependents, in recovering from the effects of the violence.
- Provision of services, training, technical assistance, and outreach to increase awareness of family violence, domestic violence, and dating violence, and increase the accessibility of family violence, domestic violence, and dating violence services.
- Provision of culturally and linguistically appropriate services.
- Provision of services for children exposed to family violence, domestic violence, or dating violence, including age-appropriate counseling, supportive services, and services for the non-abusing parent that support that parent's role as a caregiver, which may, as appropriate, include services that work with the non-abusing parent and child together.
- Provision of advocacy, case management services, and information and referral services, concerning issues related to family violence, domestic violence, or dating violence intervention and prevention, including: (1) Assistance in accessing related federal and state financial assistance programs; (2) legal advocacy to assist victims and their dependents; (3) medical advocacy, including provision of referrals for appropriate health care services (including mental health, alcohol, and drug abuse treatment), but which shall not include reimbursement for any health care services; (4) assistance locating and securing safe and affordable permanent housing and homelessness prevention services; (5) transportation, child care, respite care, job training and employment services, financial literacy services and education, financial planning and related economic empowerment services; and (6) parenting and other educational services for victims and their dependents.
- Provision of prevention services, including outreach to underserved populations.
- Assistance in developing safety plans, and supporting efforts of victims

of family violence, domestic violence, or dating violence to make decisions related to their ongoing safety and well-being.

Annual FVPSA Tribal Grantee Meeting

One or more grantee representatives should plan to attend FVPSA's tribal grantee meeting and may use grant funding to support the travel of up to two participants. The meeting is a training and technical assistance activity focusing on FVPSA administrative issues as well as the promotion of evidence-informed and promising practices to address family violence, domestic violence, and dating violence. Subsequent correspondence will advise the grantees of the date, time, and location of their grantee meeting in 2015.

Client Confidentiality

In order to ensure the safety of adult, youth, and child victims of family violence, domestic violence, or dating violence, and their families, FVPSA-funded programs must establish and implement policies and protocols for maintaining the confidentiality of records pertaining to any individual provided domestic violence services. Consequently, when providing statistical data on program activities and program services, individual identifiers of client records will not be used (section 10406(c)(5)).

In the annual grantee Performance Progress Report (PPR), grantees must collect unduplicated data from each program. No client level data should be shared with a third party, regardless of encryption, hashing, or other data security measures, without a written, time-limited release as described in section 10406(c)(5). The address or location of any FVPSA-supported shelter facility shall, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public (section 10406(c)(5)(H)) and the confidentiality of records pertaining to any individual provided domestic violence services by any FVPSA-supported program will be strictly maintained.

Coordinated and Accessible Services

The impacts of family violence may include physical injury and death of primary or secondary victims, psychological trauma, isolation from family and friends, harm to children living with a parent or caretaker who is either experiencing or perpetrating family violence, increased fear, reduced mobility, damaged credit, employment and financial instability, homelessness, substance abuse, chronic illnesses, and a host of other health and related mental health consequences. In tribal communities, these dynamics may be compounded by barriers such as the isolation of vast rural areas, the concern for safety in isolated settings, lack of housing and shelter options, and the transportation requirements over long distances. These factors heighten the need for the coordination of the services through an often limited delivery system. To help bring about a more effective response to the problem of family violence, domestic violence, or dating violence, HHS urges tribes and tribal organizations receiving funds under this funding opportunity to coordinate activities and related issues and to consider joining a consortium of tribes to coordinate service delivery where appropriate.

It is essential that community service providers are involved in the design and improvement of intervention and prevention activities. Coordination and collaboration among victim services providers; community-based, culturally specific, and faith-based services providers; housing and homeless services providers; and tribal, federal, state, and local public officials and agencies are needed to provide more responsive and effective services to victims of family violence, domestic violence, and dating violence, and their families.

To promote a more effective response to family violence, domestic violence, and dating violence, HHS requires states receiving FVPSA funds to collaborate with State Domestic Violence Coalitions, tribes, tribal organizations, service providers, and community-based organizations to address the needs of family violence, domestic violence, and dating violence victims, particularly for those who are members of racial and ethnic minority populations and underserved populations (section 10407(a)(2)).

To serve victims most in need and to comply with federal law, services must be widely accessible. Services must not discriminate on the basis of age, disability, sex, race, color, national origin, or religion (section 10406(c)(2)). The HHS Office for Civil Rights provides guidance that may assist grantees in complying with civil rights laws that prohibit discrimination on these bases.

HHS also provides guidance to recipients of federal financial assistance on meeting the legal obligation to take reasonable steps to provide meaningful access to federally assisted programs by persons with limited English proficiency. Please see *www.hhs.gov/ocr/civilrights/resources/laws/revisedlep.html.* Additionally, HHS provides guidance regarding access to HHS-funded services for immigrant survivors of domestic violence. Please see *www.hhs.gov/ocr/civilrights/resources/specialtopics/origin/domesticviolencefactsheet.html.*

Services must also be provided on a voluntary basis; receipt of emergency shelter or housing must not be conditioned on participation in supportive services (section 10408(d)). Please see Appendix B for guidance regarding access to HHS-funded services for lesbian, gay, bisexual, transgender, or questioning (LGTBQ) (also known as ''Two Spirited'') survivors of domestic violence.

Additionally, please see Appendix B—LGBTQ (also known as ''Two-Spirit'') Accessibility Policy; this Policy provides that the applicant must consider how its program will be inclusive of and non-stigmatizing toward LGBTQ/Two-Spirit participants in its application for funding. If not already in place, the applicant and, if applicable, subawardees must establish and publicize policies prohibiting harassment based on race, sexual orientation, gender, gender identity (or expression), religion, and national origin, as well as provide staff training and implement policies and procedures for documenting work reflecting these assurances.

Definitions—For the Purposes of This Funding Opportunity

Tribes and tribal organizations should use the following definitions in carrying out their programs.

Dating Violence: Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

Domestic Violence: Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Family Violence: Any act or threatened act of violence, including any forceful detention of an individual, which (a) results or threatens to result in physical injury; and (b) is committed by a person against another individual (including an elderly person) to whom such person is, or was, related by blood or marriage, or otherwise legally related, or with whom such person is, or was, lawfully residing.

Indian Tribe: Any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et. seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Personally Identifying Information or Personal Information: Any individually identifying information for or about an individual, including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, including: a first and last name, a home or other physical address, contact information (including a postal, email or Internet protocol address, or telephone or facsimile number), a social security number, and any other information, including date of birth, racial or ethnic background, or religious affiliation, that, in combination with any of the above identifiers, would serve to identify any individual.

Shelter: The provision of temporary refuge and supportive services in compliance with applicable state law and regulation governing the provision, on a regular basis, of shelter, safe homes, meals, and supportive services to victims of family violence, domestic violence, or dating violence, and their dependents.

State Domestic Violence Coalition: A statewide, nonprofit, private domestic violence service organization with a membership that includes a majority of the primary-purpose domestic violence service providers in the state; has board membership representative of primary-purpose domestic violence service providers and the communities in which the services are being provided in the state; has as its purpose to provide education, support, and technical assistance to such service providers to enable the providers to establish and maintain shelter and supportive services for victims of domestic violence and their dependents; and serves as an information clearinghouse, primary point of contact, and resource center on domestic violence for the state and supports the development of policies, protocols, and procedures to enhance domestic violence intervention and prevention in the state.

Supportive Services: Services for adult and youth victims of family violence, domestic violence, or dating violence, and their dependents. Such services are designed to meet the needs of such victims for short-term, transitional, or long-term safety and provide counseling, advocacy, or assistance for victims of family violence, domestic violence, or dating violence, and their dependents.

Tribal Consortium: A partnership between one or more tribes or Alaska Native villages which authorizes a single tribal organization or nonprofit to submit an application and administer the FVPSA grant funds on their behalf.

Tribally Designated Official: An individual designated by an Indian tribe, tribal organization, or nonprofit private organization authorized by an Indian tribe to administer a grant.

Tribal Organization: The recognized governing body of any Indian tribe; any legally established organization of Indians that is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization, and that includes the maximum participation of Indians in all phases of its activities. In any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.

Underserved Populations: Populations underserved because of geographic location, underserved racial and ethnic populations, populations underserved because of special needs (such as language barriers, disabilities, alienage status, or age), and any other population determined to be underserved by the Attorney General or by the Secretary of HHS, as appropriate.

II. Award Information

Subject to the availability of federal appropriations and as authorized by law, in FY 2014, ACYF will allocate 10 percent of the appropriation available under section 10403(a) to tribes for the establishment and operation of shelters (including safe houses), and the provision of supportive services or prevention services to adults and youth victims of family violence, domestic violence, or dating violence, and their dependents.

HHS will also make available funds to states to support local domestic violence programs to provide immediate shelter and supportive services for adult and youth victims of family violence, domestic violence, or dating violence, and their dependents; State Domestic Violence Coalitions to provide technical assistance and training, advocacy services, among other activities with local domestic violence programs; the national resource centers, special issue resource centers, and culturally specific resource centers; the National Domestic Violence Hotline; and to support discretionary projects including training and technical assistance, collaborative projects with advocacy organizations and service providers, data collection efforts, public education activities, research, and other demonstration projects.

In computing tribal allocations, ACF will use the latest available population figures available from the Census Bureau. The latest Census population counts may be viewed at: *www.census.gov.* Where Census Bureau data are unavailable, ACF will use figures from the Bureau of Indian Affairs' (BIA's) Indian Population and Labor Force Report, which is available at: *www.bia.gov/WhatWeDo/Knowledge/Reports/index.htm.*

The funding formula for the allocation of family violence funds is based upon the tribe's population. The formula has two parts, the tribal population base allocation and a population category allocation.

Base allocations are determined by a tribe's population and a funds allocation schedule. Tribes with populations between 1 and 50,000 people receive a $2,500 base allocation for the first 1,500 people. For each additional 1,000 people above the 1,500 person minimum, a tribe's base allocation is increased $1,000. Tribes with populations between 50,001 to 100,000 people receive base allocations of $125,000, and tribes with populations of 100,001 to 150,000 receive a base allocation of $175,000.

Once the base allocations have been distributed to the tribes that have applied for FVPSA funding, the ratio of the tribal population category allocation to the total of all base allocations is then considered in allocating the remainder of the funds. By establishing base amounts with distribution of proportional amounts for larger tribes, FYSB is balancing the need for basic services for all tribes with the greater demand for services among tribes with larger populations. In FY 2013, actual grant awards ranged from $14,071–$1,583,043.

Tribes with smaller populations are encouraged to apply for FVPSA funding

as a consortium. In a tribal consortium, the population of all of the tribes involved is used to calculate the award amount. The allocations for each of the tribes included in the consortium will be combined to determine the total grant for the consortium.

Length of Project Periods

FVPSA tribal formula grant awards will be used to perform or to partially perform functions or activities that take place within a 2-year period. The project period for this award is from October 1, 2013 to September 30, 2015.

Expenditure Period

The project period under this program announcement is 24 months. The FVPSA funds may be used for expenditures starting October 1 of each fiscal year for which they are granted, and will be available for expenditure through September 30 of the following fiscal year.

Award year (Federal fiscal year (FY))	Project period (24 months)	Application requirements & expenditure periods
FY 2014	10/01/2013–9/30/2015	Regardless of the date the award is received, these funds may be expended by the grantee for obligations incurred since October 1, 2013. The funds may be expended through September 30, 2015.

Re-allotted funds, if any, are available for expenditure until the end of the fiscal year following the fiscal year that the funds became available for re-allotment. FY 2014 grant funds that are made available to tribes and tribal organizations through re-allotment must be expended by the grantee no later than September 30, 2015.

III. Eligibility Information

Tribes, tribal organizations, and nonprofit private organizations authorized by a tribe, as defined in *Section I.* of this announcement, are eligible for funding under this program. A tribe has the option to authorize a tribal organization or a nonprofit private organization to submit an application and administer the grant funds awarded under this grant (section 10409(b)). Tribes may apply singularly or as part of a consortium with other tribes.

Additional Information on Eligibility

DUNS Number and System for Award Management (SAM) Requirement

All applicants must have a DUNS number (*www.dnb.com*), be registered with the System for Award Management (SAM, *www.sam.gov*), and maintain an active SAM registration until the application process is complete, and should a grant be made, throughout the life of the award. Applicants should finalize a new, or renew an existing, registration at least two weeks before the application deadline to allow time to resolve any issues that may arise. Failure to comply with these requirements may result in your inability to submit your application or receive an award. Maintain documentation (with dates) of your efforts to register or renew at least two weeks before the deadline. See the SAM Quick Guide for Grantees at: *https://www.sam.gov/sam/transcript/SAM_Quick_Guide_Grants_Registrations-v1.6.pdf.*

HHS requires all entities that plan to apply for, and ultimately receive, federal grant funds from any HHS Agency, or receive subawards directly from recipients of those grant funds to:

- Be registered in the SAM prior to submitting an application or plan;
- Maintain an active SAM registration with current information at all times during which it has an active award or an application or plan under consideration by an OPDIV; and
- Provide its active DUNS number in each application or plan it submits to the OPDIV.

ACF is prohibited from making an award until an applicant has complied with these requirements. At the time an award is ready to be made, if the intended recipient has not complied with these requirements, ACF:

- May determine that the applicant is not qualified to receive an award; and
- May use that determination as a basis for making an award to another applicant.

IV. Application Requirements

Forms, Assurances, Certifications, and Policy

Applicants seeking financial assistance under this announcement must submit the listed Standard Forms (SFs), assurances, certifications and policy. All required Standard Forms, assurances, and certifications are available at *ACF Funding Opportunities Forms* or at the *Grants.gov Forms Repository* unless specified otherwise.

Forms/certifications	Description	Where found
SF 424M	This is a required Standard Form Application for Federal Assistance—Mandatory	*www.Grants.gov Forms Repository/Active Forms.*
Certification Regarding Lobbying	Required of all applicants at the time of their application. If not available with the application, it must be submitted prior to the award of the grant.	Available at *http://www.acf.hhs.gov/grants-forms.*
SF–LLL—Disclosure of Lobbying Activities.	If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the applicant shall complete and submit the SF–LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions. Applicants must furnish an executed copy of the Certification Regarding Lobbying prior to award.	''Disclosure Form to Report Lobbying'' is available at *http://www.acf.hhs.gov/grants-forms.html.*

Forms/certifications	Description	Where found
The needs of lesbian, gay, bisexual, transgender, and questioning youth are taken into consideration in applicants program design.	See Appendix B for submission requirements	See Appendix B for the complete policy description.

Assurances and Policy

Each applicant must provide a signed copy of both the assurance and policy. (See Appendices A and B.)

The Project Description

The content of the application should include the following in this order:

A. Cover Letter

The cover letter of the application should include the following information:

(1) The name and mailing address of the tribe, tribal organization, or nonprofit private organization applying for the FVPSA grant.

(2) The name of the Tribally Designated Official authorized to administer this grant, along with the Official's telephone number, fax number, and email address.

(3) The name of a Program Contact designated to administer and coordinate programming, including the telephone number, fax number, and email address.

(4) The Employee Identification Number (EIN) of the entity submitting the application.

(5) The D–U–N–S number of the entity submitting the application (see *Section III. Eligibility*).

(6) The signature of the Tribally Designated Official (see *Section I. Definitions*).

B. Program Description

An overview of the project including:

(1) A description of the service area(s) and population(s) to be served.

(2) A description of the services and activities to be provided with FVPSA funds.

(3) A description of barriers that challenge the effectiveness of the operation of the program and/or services provided to victims of domestic violence, family violence, and dating violence, and their dependents.

(4) A description of the technical assistance needed to address the described barriers.

C. Capacity

A description of the applicant's operation of and/or capacity to carry out a FVPSA program. This might be demonstrated in ways such as the following:

(1) The current operation of a shelter (including a safe house), or domestic and dating violence prevention program;

(2) The establishment of joint or collaborative service agreements with a local public agency or a private nonprofit agency for the operation of family violence, domestic violence, or dating violence activities or services; or

(3) The operation of other social services programs.

D. Services To Be Provided

A description of the activities and services to be provided, including:

(1) How the grant funds will be used to provide shelter, supportive services, and prevention services for victims of family violence, domestic violence, and dating violence. Please note that for the purposes of this grant, domestic violence does not include services targeted solely to address child abuse and neglect.

(2) How the services are designed to reduce family violence, domestic violence, and dating violence.

(3) A plan describing how the organization will provide specialized services for children exposed to family violence, domestic violence, or dating violence.

(4) An explanation of how the program plans to document and track services provided, as well as any outcomes that can be linked to the program's logic model.

(5) A description of how the funds are to be spent. For example, a half-time Domestic Violence Advocate and costs for transportation to shelter.

E. Involvement of Individuals and Organizations

A description of the procedures designed to involve knowledgeable individuals and interested organizations in providing services funded under FVPSA. For example, knowledgeable individuals and interested organizations may include tribal officials or social services staff involved in family violence prevention, tribal law enforcement officials, representatives of State or Tribal Domestic Violence Coalitions, and operators of domestic violence shelters and service programs.

F. Involvement of Community-Based Organizations

(1) A description of how the applicant will involve community-based organizations whose primary purpose is to provide culturally appropriate services to underserved populations.

(2) A description of how these community-based organizations can assist the tribe in addressing the unmet needs of such populations.

G. Current Signed Tribal Resolution

A copy of a current tribal resolution or an equivalent document that:

(1) Covers the entirety of FY 2014, including a date when the resolution or equivalent document expires, which can be no more than 5 years.

(2) States that the tribe or tribal organization has the authority to submit an application on behalf of the individuals in the tribe(s) and to administer programs and activities funded.

Note: An applicant that received no funding in the immediately preceding fiscal year must submit a new tribal resolution or its equivalent. An applicant funded as part of a consortium in the immediately preceding year that is now seeking funds as a single tribe must also submit a new resolution or its equivalent. Likewise, an applicant funded as a single tribe in the immediately preceding fiscal year that is now seeking funding as a part of a consortium must submit a new resolution or its equivalent.

H. Policies and Procedures

Written documentation of the policies and procedures developed and implemented, including copies of the policies and procedures, to ensure that the safety and confidentiality of clients and their dependents served is maintained as described in *Section I.*

Paperwork Reduction Disclaimer

As required by the Paperwork Reduction Act, 44 U.S.C. 3501–3520, the public reporting burden for the project description is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. The Project Description information collection is approved under OMB control number 0970–0280, which expires November 30, 2014. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Intergovernmental Review of Federal Programs

The review and comment provisions of the Executive Order (E.O.) 12372 and Part 100 do not apply. Federally recognized tribes are exempt from all provisions and requirements of E.O. 12372.

Funding Restrictions

The Consolidated Appropriations Act, 2014 (Pub. L. 113–76), enacted January 17, 2014, limits the salary amount that may be awarded and charged to ACF grants and cooperative agreements. Award funds issued under this announcement may not be used to pay the salary, or any percentage of salary, to an individual at a rate in excess of Executive Level II. The Executive Level II salary of the Federal Executive Pay scale is $181,500 (*http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2014/EX.pdf*). This amount reflects an individual's base salary *exclusive* of fringe benefits and any income that an individual may be permitted to earn outside of the duties to the applicant organization. This salary limitation also applies to subawards/subcontracts under an ACF mandatory and discretionary grant.

Application Submission

Applications should be sent or delivered to: Family Violence Prevention and Services Program, Family and Youth Services Bureau, Administration on Children, Youth and Families, Administration for Children and Families, Attention: Shena R. Williams, 1250 Maryland Avenue SW., Suite 8213, Washington, DC 20024.

V. Award Administration Information

Administrative and National Policy Requirements

Awards issued under this announcement are subject to the uniform administrative requirements and cost principles of 45 CFR part 74 (Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, Other Nonprofit Organizations, and Commercial Organizations) or 45 CFR part 92 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Tribal Governments). The Code of Federal Regulations (CFR) is available at *www.gpo.gov.*

An application funded with the release of federal funds through a grant award does not constitute, or imply, compliance with federal regulations. Funded organizations are responsible for ensuring that their activities comply with all applicable federal regulations.

Equal Treatment for Faith-Based Organizations

Grantees are also subject to the requirements of 45 CFR 87.1(c), Equal Treatment for Faith-Based Organizations, which says, ''Organizations that receive direct financial assistance from the [Health and Human Services] Department under any Department program may not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance from the Department.'' Therefore, organizations must take steps to completely separate the presentation of any program with religious content from the presentation of the federally funded program by time or location *in such a way that it is clear that the two programs are separate and distinct.* If separating the two programs by time but presenting them in the same location, one program must *completely* end before the other program begins.

A faith-based organization receiving HHS funds retains its independence from federal, state, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs. For example, a faith-based organization may use space in its facilities to provide secular programs or services funded with federal funds without removing religious art, icons, scriptures, or other religious symbols. In addition, a faith-based organization that receives federal funds retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents in accordance with all program requirements, statutes, and other applicable requirements governing the conduct of HHS-funded activities.

Regulations pertaining to the Equal Treatment for Faith-Based Organizations, which includes the prohibition against federal funding of inherently religious activities, Understanding the Regulations Related to the Faith-Based and Neighborhood Partnerships Initiative'' are available at *http://www.hhs.gov/partnerships/about/regulations/.* Additional information, resources, and tools for faith-based organizations is available through The Center for Faith-based and Neighborhood Partnerships Web site at *http://www.hhs.gov/partnerships/index.html* and at the *Administration for Children & Families: Toolkit for Faith-based and Community Organizations.*

Requirements for Drug-Free Workplace

The Drug-Free Workplace Act of 1988 (41 U.S.C. 8102 et seq.) requires that all organizations receiving grants from any federal agency agree to maintain a drug-free workplace. By signing the application, the Authorizing Official agrees that the grantee will provide a drug-free workplace and will comply with the requirement to notify ACF if an employee is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment. Government-wide requirements for Drug-Free Workplace for Financial Assistance are found in 2 CFR part 182; HHS implementing regulations are set forth in 2 CFR 382.400. All recipients of ACF grant funds must comply with the requirements in Subpart B—Requirements for Recipients Other Than Individuals, 2 CFR 382.225. The rule is available at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr;sid=18b5801410be6af416dc258873ffb7ec;rgn=div2;view=text;node=20091112%3A1.1;idno=49;cc=ecfr.*

Debarment and Suspension

HHS regulations published in 2 CFR part 376 implement the government-wide debarment and suspension system guidance (2 CFR part 180) for HHS' non-procurement programs and activities. ''Non-procurement transactions'' include, among other things, grants, cooperative agreements, scholarships, fellowships, and loans. ACF implements the HHS Debarment and Suspension regulations as a term and condition of award. Grantees may decide the method and frequency by which this determination is made and may check the Excluded Parties List System (EPLS) located at *www.sam.gov,* although checking the EPLS is not required. More information is available at *http://www.acf.hhs.gov/grants-forms.*

Pro-Children Act

The Pro-Children Act of 2001, 20 U.S.C. 7181 through 7184, imposes restrictions on smoking in facilities where federally funded children's services are provided. HHS grants are subject to these requirements only if they meet the Act's specified coverage. The Act specifies that smoking is prohibited in any indoor facility (owned, leased, or contracted for) used for the routine or regular provision of kindergarten, elementary, or secondary

education or library services to children under the age of 18. In addition, smoking is prohibited in any indoor facility or portion of a facility (owned, leased, or contracted for) used for the routine or regular provision of federally funded health care, day care, or early childhood development, including Head Start services to children under the age of 18. The statutory prohibition also applies if such facilities are constructed, operated, or maintained with federal funds. The statute does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, portions of facilities used for inpatient drug or alcohol treatment, or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 per violation and/or the imposition of an administrative compliance order on the responsible entity.

Approval/Disapproval of an Application

The Secretary of HHS shall approve any application that meets the requirements of the FVPSA and this announcement. The Secretary shall not disapprove an application unless the Secretary gives the applicant reasonable notice of the Secretary's intention to disapprove and a 6-month period providing an opportunity for correction of any deficiencies. The Secretary shall give such notice within 45 days after the date of submission of the application if any of the provisions of the application have not been satisfied. If the tribe does not correct the deficiencies in such application within the 6-month period following the receipt of the Secretary's notice, the Secretary shall withhold payment of any grant funds to such tribe until such date as the tribe provides documentation that the deficiencies have been corrected.

VI. Reporting Requirements

Performance Progress Reports (PPR)

ACF grantees must submit a PPR using the standardized format provided by FVPSA and approved by OMB (0970–0280). This report will describe the grant activities carried out during the year, report the number of people served, and contain a plan to document and track services provided, as well as any outcomes that can be linked to the program's logic model. Consortia grantees should compile the information from the individual report of each participating tribe into a comprehensive PPR for submission. A copy of the PPR is available on the FYSB Web site at: *www.acf.hhs.gov/programs/fysb/resource/ppr-tribal-fvpsa.*

PPRs for tribes and tribal organizations are due on an annual basis at the end of the calendar year (December 30) and will cover from October 1 through September 30. Grantees should submit their reports online through the Online Data Collection (OLDC) system at the following address: *https://extranet.acf.hhs.gov/ssi* with a copy sent to: Division of Family Violence Prevention (FVPSA Programs), Family and Youth Services Bureau, Administration on Children, Youth and Families, Administration for Children and Families, Attention: Shena R. Williams, 1250 Maryland Avenue SW., Room 8213, Washington, DC 20024, Phone: (202) 205–5932, Email: *Shena.Williams@acf.hhs.gov.*

Federal Financial Reports (FFR)

Grantees must submit annual Financial Status Reports. The first SF–425A is due December 30, 2014. The final SF–425A is due December 30, 2015. SF–425A can be found at: *www.whitehouse.gov/omb/grants/grants_forms.html, www.forms.gov.*

Completed reports may be mailed to:

Deborah Bell,
Division of Mandatory Grants,
Office of Grants Management,
Administration for Children and Families,
370 L'Enfant Promenade SW., 6th Floor,
Washington, DC 20447.

Grantees should submit their reports online through the Online Data Collection (OLDC) system at the following address: *https://extranet.acf.hhs.gov/ssi.* Failure to submit reports on time may be a basis for withholding grant funds, or suspending or terminating the grant. All funds reported as unobligated after the obligation period will be recouped.

VII. FFATA Subaward and Executive Compensation

Awards issued as a result of this funding opportunity may be subject to the Transparency Act subaward and executive compensation reporting requirements of 2 CFR 170. See ACF's *Award Term for Federal Financial Accountability and Transparency Act (FFATA) Subaward and Executive Compensation Reporting Requirement* implementing this requirement and additional award applicability information.

ACF has implemented the use of the SF–428 *Tangible Property Report* and the SF–429 *Real Property Status Report* for all grantees. Both standard forms are available at *www.whitehouse.gov/omb/grants_forms/.*

VIII. Agency Contact

Program Office Contact

Shena R. Williams, Program Specialist at (202) 205–5932 or email at *Shena.Williams@acf.hhs.gov.*

Grants Management Contact

Deborah Bell, Division of Mandatory Grants at (202) 401–4611 or email at *Deborah.Bell@acf.hhs.gov.*

IX. Appendices

A. Assurances of Compliance With Grant Requirements

B. LGBTQ (Also Known as ''Two-Spirited'') Accessibility Policy

Appendix A

Assurances of Compliance With Grant Requirements

The grantee certifies that it will comply with the following assurances under the Family Violence Prevention and Services Act, 42 U.S.C. 10401, *et seq.* (cited herein by the applicable section number only):

(1) Family Violence Prevention and Services Act (FVPSA) grant funds will be used to provide shelter, supportive services or prevention services to adult and youth victims of family violence, domestic violence, or dating violence and their dependents (section 10408(b)(1)).

(2) Not less than 70 percent of the funds distributed shall be for the primary purpose of providing immediate shelter and supportive services as defined in section 10402(9) and (12) to adult and youth victims of family violence, domestic violence or dating violence as defined in section 10402(2), (3) and (4), and their dependents (section 10408(b)(2)).

(3) Not less than 25 percent of the funds distributed shall be for the purpose of providing supportive services and prevention services as described in section 10408(b)(1)(B) through (H), to victims of family violence, domestic violence, or dating violence, and their dependents (section 10408(b)(2)).

(4) Grant funds will not be used as direct payment to any victim of family violence, domestic violence, or dating violence, or to any dependent of such victim (section 10408(d)(1)).

(5) No income eligibility standard will be imposed on individuals with respect to eligibility for assistance or services supported with funds appropriated to carry out the FVPSA (section 10406(c)(3)).

(6) No fees will be levied for assistance or services provided with funds appropriated to carry out the FVPSA (section 10406(c)(3)).

(7) The address or location of any shelter or facility assisted under the FVPSA that otherwise maintains a confidential location will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public (section 10406(c)(5)(H)).

(8) Procedures are established to ensure compliance with the provisions of section

10406(c)(5) regarding non-disclosure of confidential of private information (section 10407(a)(2)(A)).

(9) Pursuant to Section 10406(c)(5), comply with the new FVPSA provisions regarding non-disclosure of confidential or private information. As such, the applicant will comply with additional requirements imposed by that section which include but are not limited to: (A) Grantees shall not disclose any personally identifying information collected in connection with services requested (including services utilized or denied), through grantee's funded activities or reveal personally identifying information without informed, written, reasonably time-limited consent by the person about whom information is sought, whether for the FVPSA funded activities or any other Federal or State program (additional consent requirements have been omitted *but see section 10406(c)(5)(B)(ii)(I)* for further requirements); (B) grantees may not release information compelled by statutory or court order unless adhering to the requirements of section 10406(c)(5)(C); (C) grantees may share non-personally identifying information in the aggregate for the purposes enunciated in section 10406(c)(5)(D)(i) as well as for other purposes found in section 10406(c)(5)(D)(ii) and (iii).

(10) As prescribed by section 10406(c)(2) of the FVPSA, the Tribe will use grant funds in a manner which avoids prohibited discrimination on the basis of age, disability, sex, race, color, national origin, or religion.

(11) Funds made available under the FVPSA will be used to supplement and not supplant other Federal, State and local public funds expended to provide services and activities that promote the objectives of the FVPSA (section 10406(c)(6)).

(12) Receipt of supportive services under the FVPSA will be voluntary. No condition will be applied for the receipt of emergency shelter (section 10408(d)(2)).

(13) The Tribe has a law or procedure to bar an abuser from a shared household or a household of the abused person, which may include eviction laws or procedures (section 10407(a)(2)(H)).

Tribally Designated Official

Tribe or Tribal Organization

Appendix B

LGBTQ (Also Known as ''Two-Spirited'') Accessibility Policy

As the Authorized Organizational Representative (AOR) signing this application on behalf of

[*Insert full, formal name of applicant organization*]

I hereby attest and certify that:

The needs of lesbian, gay, bisexual, transgender, and questioning (also known as ''Two-Spirited'') program participants are taken into consideration in applicant's program design. Applicant considered how its program will be inclusive of and non-stigmatizing toward such participants. If not already in place, awardee and, if applicable, sub-awardees must establish and publicize policies prohibiting harassment based on race, sexual orientation, gender, gender identity (or expression), religion, and national origin. The submission of an application for this funding opportunity constitutes an assurance that applicants have or will put such policies in place within 12 months of the award. Awardees should ensure that all staff members are trained to prevent and respond to harassment or bullying in all forms during the award period. Programs should be prepared to monitor claims, address them seriously, and document their corrective action(s) so all participants are assured that programs are safe, inclusive, and non-stigmatizing by design and in operation. In addition, any sub-awardees or subcontractors:

- Have in place or will put into place within 12 months of the award policies prohibiting harassment based on race, sexual orientation, gender, gender identity (or expression), religion, and national origin;
- Will enforce these policies;
- Will ensure that all staff will be trained during the award period on how to prevent and respond to harassment or bullying in all forms, and;
- Have or will have within 12 months of the award, a plan to monitor claims, address them seriously, and document their corrective action(s).

Insert Date of Signature:

Print Name and Title of the AOR:

Signature of AOR:

[End of full FOA]

Statutory Authority: The statutory authority for this program is 42 U.S.C. 10401, *et. seq.*

Mark Greenberg,

Acting Assistant Secretary, Administration for Children and Families.

[FR Doc. 2014–15331 Filed 6–30–14; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0258]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Submission of Petitions: Food Additive, Color Additive (Including Labeling), and Generally Regarded as Safe Affirmation; Submission of Information to a Master File in Support of Petitions; Electronic Submission

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 31, 2014.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0016. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Submission of Petitions: Food Additive, Color Additive (Including Labeling), and GRAS Affirmation; Submission of Information to a Master File in Support of Petitions; Electronic Submission Using Form FDA 3503—21 CFR 70.25, 71.1, 170.35, 171.1, 172, 173, 179 and 180 (OMB Control Number 0910–0016)—Extension

Section 409(a) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 348(a)) provides that a food additive shall be deemed to be unsafe, unless: (1) The additive and its use, or intended use, are in conformity with a regulation issued under section 409 of the FD&C Act that describes the condition(s) under which the additive may be safely used; (2) the additive and its use, or intended use, conform to the terms of an exemption for investigational use; or (3) a food contact notification submitted under section 409(h) of the FD&C Act is effective. Food Additive Petitions (FAPs) are submitted by individuals or companies to obtain approval of a new food additive or to amend the conditions of use permitted under an existing food additive regulation. Section 171.1 of FDA's regulations specifies the information that a petitioner must submit in order to establish that the proposed use of a food additive is safe and to secure the publication of a food additive regulation describing the

conditions under which the additive may be safely used. Parts 172, 173, 179, and 180 contain labeling requirements for certain food additives to ensure their safe use.

Section 721(a) of the FD&C Act (21 U.S.C. 379e(a)) provides that a color additive shall be deemed to be unsafe unless the additive and its use are in conformity with a regulation that describes the condition(s) under which the additive may safely be used, or the additive and its use conform to the terms of an exemption for investigational use issued under section 721(f) of the FD&C Act. Color additive petitions (CAPs) are submitted by individuals or companies to obtain approval of a new color additive or a change in the conditions of use permitted for a color additive that is already approved. Section 71.1 of the Agency's regulations specifies the information that a petitioner must submit to establish the safety of a color additive and to secure the issuance of a regulation permitting its use. FDA's color additive labeling requirements in § 70.25 require that color additives that are to be used in food, drugs, devices, or cosmetics be labeled with sufficient information to ensure their safe use.

FDA scientific personnel review FAPs to ensure the safety of the intended use of the additive in or on food or that may be present in food as a result of its use in articles that contact food. Likewise, FDA personnel review CAPs to ensure the safety of the color additive prior to its use in food, drugs, cosmetics, or medical devices.

Under section 201(s) of the FD&C Act (21 U.S.C.321(s)), a substance is generally regarded as safe (GRAS) if it is generally recognized among experts qualified by scientific training and experience to evaluate its safety, to be safe through either scientific procedures or common use in food. The FD&C Act historically has been interpreted to permit food manufacturers to make their own initial determination that use of a substance in food is GRAS and thereafter seek affirmation of GRAS status from FDA. FDA reviews petitions for affirmation of GRAS status that are submitted on a voluntary basis by the food industry and other interested parties under authority of sections 201, 402, 409, and 701 of the FD&C Act (21 U.S.C. 321, 342, 348, and 371). To implement the GRAS provisions of the FD&C Act, FDA has set forth procedures for the GRAS affirmation petition process in § 170.35(c)(1) of its regulations.

While the GRAS affirmation petition process still exists, FDA has not received a GRAS affirmation petition since the establishment of the voluntary GRAS notification program and is not expecting any during the period covered by this proposed extension of collection of information.

Interested persons may transmit FAP or CAP regulatory submissions in electronic format or paper format to the Office of Food Additive Safety in the Center for Food Safety and Applied Nutrition using Form FDA 3503. Form FDA 3503 helps the respondent organize their submission to focus on the information needed for FDA's safety review. Form FDA 3503 can also be used to organize information within a Master File submitted in support of Petitions according to the items listed on the form. Master Files can be used as repositories for information that can be referenced in multiple submissions to the Agency, thus minimizing paperwork burden for food and color additive approvals. FDA estimates that the amount of time for respondents to complete Form FDA 3503 will continue to be 1 hour.

Description of Respondents: Respondents are businesses engaged in the manufacture or sale of food, food ingredients, color additives, or substances used in materials that come into contact with food.

In the **Federal Register** of April 16, 2014 (79 FR 21469) FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN

21 CFR Section/FDA Form	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours	Total operating and maintenance costs
CAPs						
70.25, 71.1	2	1	2	1,337	2,674	$5,600
GRAS Affirmation Petitions						
170.35	1 or fewer	1	1 or fewer	2,614	2,614	0
FAPs						
171.1	3	1	3	7,093	21,279	0
Form FDA 3503	6	1	6	1	6	0
Total					26,573	5,600

The estimate of burden for food additive, color additive, or GRAS affirmation petitions is based on FDA's experience with the petition process. FDA is retaining its prior estimate of the number of petitions received because the average number of petitions received annually has varied little over the past 10 years. The figures for hours per response are based on estimates from experienced persons in the Agency and in industry. Although the estimated hour burden varies with the type of petition submitted, an average petition involves analytical work and appropriate toxicological studies, as well as the work of drafting the petition itself. The burden varies depending on the complexity of the petition, including the amount and types of data needed for scientific analysis.

Color additives are subjected to payment of fees for the petitioning process. The listing fee for a color additive petition ranges from $1,600 to $3,000, depending on the intended use of the color and the scope of the requested amendment. A complete schedule of fees is set forth in 21 CFR

70.19. An average of one Category A and one Category B color additive petition is expected per year. The maximum color additive petition fee for a Category A petition is $2,600 and the maximum color additive petition fee for a Category B petition is $3,000. Because an average of two color additive petitions are expected per calendar year, the estimated total annual cost burden to petitioners for this startup cost would be less than or equal to $5,600 (1 × $2,600 + 1 × $3,000 listing fees = $5,600). There are no capital costs associated with color additive petitions.

The labeling requirements for food and color additives were designed to specify the minimum information needed for labeling in order that food and color manufacturers may comply with all applicable provisions of the FD&C Act and other specific labeling acts administered by FDA. Label information does not require any additional information gathering beyond what is already required to assure conformance with all specifications and limitations in any given food or color additive regulation. Label information does not have any specific recordkeeping requirements unique to preparing the label. Therefore, because labeling requirements under § 70.25 for a particular color additive involve information required as part of the CAP safety review process, the estimate for number of respondents is the same for § 70.25 and § 71.1, and the burden hours for labeling are included in the estimate for § 71.1. Also, because labeling requirements under parts 172, 173, 179, and 180 for particular food additives involve information required as part of the FAP safety review process under § 171.1, the burden hours for labeling are included in the estimate for § 171.1.

Dated: June 25, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–15384 Filed 6–30–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0202]

Over-the-Counter Drug Monograph System—Past, Present, and Future; Public Hearing; Reopening of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of the comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period for the notice of public hearing, published in the **Federal Register** of February 24, 2014 (79 FR 10168), requesting comment on how to improve or alter the current Over-the-Counter (OTC) Monograph Process for reviewing nonprescription drugs marketed under the OTC Drug Review. FDA is reopening the comment period to update comments and to receive any new information.

DATES: Submit either electronic or written comments by July 31, 2014.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Mary Gross, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20903–0002, 301–796–3519, *mary.gross@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of February 24, 2014 (79 FR 10168), FDA announced a public hearing to obtain input on the OTC Drug Review (sometimes referred to as the OTC Monograph Process, OTC Monograph, or OTC Drug Review). As stated in the **Federal Register** notice, FDA has been assessing the OTC Monograph Process and, in particular, has been considering how effectively the monograph system is functioning in today's world, 40 years after its inception, from the scientific, policy, and process perspectives. In the February 24, 2014, notice of public hearing, FDA announced it was soliciting comments about whether and how to modernize the process for the future. The public hearing was held to obtain information and comments from the public on the strengths and weaknesses of the current OTC Monograph Process, and to obtain and discuss ideas about modifications or alternatives to this process. Interested persons were originally given until May 12, 2014, to comment on the OTC Monograph Process.

II. Request for Comments

On our own initiative, we are reopening the comment period to allow interested persons additional time to comment to respond fully to FDA's specific requests for comments and to allow potential respondents to thoroughly evaluate and address pertinent issues.

III. How To Submit Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). You should annotate and organize your comments to identify the specific questions identified by the topic to which they refer (see 79 FR 10168 at 10171, section III). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: June 26, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–15375 Filed 6–30–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0833]

Office of the Commissioner; Request for Comments on the Food and Drug Administration Fiscal Year 2014–2018 Strategic Priorities Document; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is seeking public comments on its draft Strategic Priorities Fiscal Year (FY) 2014–2018 document. FDA has identified these cross-cutting strategic priorities and core mission goals that will guide its efforts to achieve its public health mission. FDA is seeking public comment to help further refine these priorities and goals.

DATES: Submit either electronic or written comments by July 31, 2014.

ADDRESSES: Submit electronic comments to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Darian Tarver, Office of the

Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 3238, Silver Spring, MD 20993–0002, 301–796–4850.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is posting its draft Strategic Priorities FY 2014–2018 document to ensure that the public has an opportunity to comment on this document.

The purpose of this document is to outline FDA's strategic intentions and plans for the next 4 years. This document identifies five cross-cutting strategic priorities and four core mission goals that will guide efforts to achieve FDA's public health mission and to fulfill its role in supporting the larger mission and strategic goals of the Department of Health and Human Services. The five cross-cutting strategic priorities are: (1) Regulatory science, (2) globalization, (3) safety and quality, (4) smart regulation, and (5) stewardship. The four core mission goals are: (1) Enhance oversight of FDA-regulated products, (2) improve and safeguard access to FDA-regulated products to benefit health, (3) promote better informed decisions about the use of FDA-regulated products, and (4) strengthen organizational excellence and accountability.

For comparison purposes, the current FDA Strategic Priorities FY 2011–2015 document can be viewed at *http://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/ucm227527.htm.*

The text of the draft Strategic Priorities FY 2014–2018 document is available in a downloadable portable document format through FDA's Web site: *http://www.fda.gov/AboutFDA/.* We look forward to receiving your comments (see **DATES**).

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: June 26, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–15374 Filed 6–30–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; 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 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 Library of Medicine Special Emphasis Panel, Conflicts R01/K99.

Date: July 17, 2014.

Time: 12:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, 6705 Rockledge Drive, Suite 301Bethesda, MD 20817, (Telephone Conference Call).

Contact Person: Zoe E. Huang, MD, Scientific Review Officer, Extramural Programs, National Library of Medicine, NIH, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892–7968, 301–594–4937, *huangz@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS).

Dated: June 24, 2014.

Michelle Trout,

Program Analyst, Office of the Federal Advisory Committee Policy.

[FR Doc. 2014–15297 Filed 6–30–14; 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; Population Sciences and Epidemiology.

Date: July 10, 2014.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Julia Krushkal, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3148, MSC 7770, Bethesda, MD 20892, 301–435–1782, *krushkalj@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; AREA: Cardiovascular and Respiratory Sciences.

Date: July 21–22, 2014.

Time: 9:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 4136, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Sara Ahlgren, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4136, Bethesda, MD 20892, 301–435–0904, *sara.ahlgren@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Autoimmune Diseases, Regulatory T-cells and Transplantation.

Date: July 21, 2014.

Time: 3:00 p.m. to 7:00 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: Betty Hayden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, 301–435–1223, *haydenb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Academic Research Enhancement: Healthcare Delivery and Methodologies.

Date: July 22, 2014.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Ping Wu, Ph.D., Scientific Review Officer, HDM IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, Bethesda, MD 20892, 301–615–7401, *wup4@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; HIV/AIDS Innovative Research Applications.

Date: July 23–24, 2014.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Kenneth A. Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflicts: Continuous Submissions: Respiratory Diseases.

Date: July 24–25, 2014.

Time: 11:00 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: Yuanna Cheng, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, (301) 435–1195, *Chengy5@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Urology and Nephrology.

Date: July 24, 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: Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@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 23, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–15295 Filed 6–30–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Child Health and Human Development Special Emphasis Panel, June 17, 2014, 08:30 a.m. to June 17, 2014, 12:00 p.m., Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD, 20814 which was published in the **Federal Register** on May 19, 2014, 79 FR 28740.

The meeting notice is amended to change the date of the ZHD1 Special Emphasis Panel meeting from June 17, 2014 to July 8, 2014. The meeting will now be a telephone conference call and will be closed to the public.

Dated: June 25, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–15299 Filed 6–30–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Cancellation of Meeting

Notice is hereby given of the cancellation of the National Children's Study Advisory Committee, July 11, 2014, 9:00 a.m. to July 11, 2014, 4:45 p.m., National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 which was published in the **Federal Register** on June 16, 2014, 79 FR 34332.

The meeting of the National Children's Study Advisory Committee is cancelled for July 11, 2014, 9:00 a.m. to 4:45 p.m.

Dated: June 24, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–15296 Filed 6–30–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Announcement of Workshops for the Development of New Antibacterial Products

AGENCY: National Institutes of Health, Department of Health and Human Services.

ACTION: Notice of Public Workshop.

SUMMARY: The National Institutes of Health (NIH), Office of the Director, Office of Science Policy, and the Food and Drug Administration (FDA), Office of the Commissioner, are announcing a public workshop titled ''The Development of New Antibacterial Products: Charting a Course for the Future.'' The workshop is being held to: (1) Examine key issues and challenges related to antibacterial product development, (2) discuss regulatory pathways for bringing new antibacterial drugs to market, (3) identify strategies for promoting clinical trials for antibacterial drugs, and (4) encourage partnerships to accelerate the development of new antibacterial drugs. The workshop is open to the public and is free of charge.

DATES: The workshop will be held on July 30 and 31, 2014, from 8:00 a.m. to 5:15 p.m. and from 8:00 a.m. to 1:00 p.m., respectively. The registration deadline is July 14, 2014.

ADDRESSES: The workshop will be held at the Bethesda North Marriott Hotel and Conference Center, 5701 Marinelli Road, North Bethesda, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Kelly Fennington, NIH, Office of Science Policy, 6705 Rockledge Drive, Room 750, Bethesda, MD 20892–7985; 301–496–9838; email: *FenningK@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: Specific issues to be discussed at this workshop include: (1) Priorities and strategic approaches to conducting clinical trials for antibacterial drugs; (2) regulatory pathways, including streamlined programs for the development of antibacterial drugs for patients with limited or no treatment options; (3) clinical trial design, including the development of a common clinical protocol, use of common control groups, statistical design, data sharing across trial, clinical trial endpoints, and lessons learned from other therapeutic areas; and (4) the role of public-private partnerships in advancing the development of antibacterial drugs. Participants will include individuals

from the professional and scientific societies, academia, patient communities, pharmaceutical and biotechnology sectors, diagnostic development community, foundations, NIH, FDA, Biomedical Advanced Research and Development Authority (BARDA), and the general public.

The meeting agenda can be accessed at *http://osp.od.nih.gov/office-biotechnology-activities/event/2014-07-30-120000-2014-07-31-170000/development-new-antibacterial-products-charting-course-future.*

You are encouraged to pre-register for the meeting due to space limitations at *http://palladianpartners.cvent.com/AMRWorkshopJuly2014*, and the deadline for registration is July 14, 2014. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person listed above in advance of the meeting.

Dated: June 25, 2014.

Lawrence A. Tabak,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2014–15436 Filed 6–30–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; 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 Child Health and Human Development Special Emphasis Panel.

Date: July 24, 2014.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Michele C. Hindi-Alexander, Ph.D., Scientific Review Branc, National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 1600 Executive Boulevard, Rm. 5B01, Bethesda, MD 20892, (301) 435–8382, *hindialm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS).

Dated: June 25, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–15294 Filed 6–30–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel; BrainSpan RNA-seq Browser (R24).

Date: July 22, 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: David W. Miller, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–9734, *millerda@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS).

Dated: June 25, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–15298 Filed 6–30–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); and on April 30, 2010 (75 FR 22809).

A notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the Internet at *http://www.workplace.samhsa.gov.*

FOR FURTHER INFORMATION CONTACT: Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, Room 7–1051, One Choke Cherry Road, Rockville, Maryland 20857; 240–276–2600 (voice), 240–276–2610 (fax).

SUPPLEMENTARY INFORMATION: The Mandatory Guidelines were initially

developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. The ''Mandatory Guidelines for Federal Workplace Drug Testing Programs,'' as amended in the revisions listed above, requires strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on urine specimens for federal agencies.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated November 25, 2008 (73 FR 71858), the following HHS-certified laboratories and IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

HHS-Certified Instrumented Initial Testing Facilities:

Gamma-Dynacare Medical Laboratories, 6628 50th Street NW., Edmonton, AB Canada T6B 2N7, 780–784–1190

HHS-Certified Laboratories:

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 585–429–2264

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400, (Formerly: Aegis Sciences Corporation, Aegis Analytical Laboratories, Inc., Aegis Analytical Laboratories)

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130, (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Baptist Medical Center—Toxicology Laboratory, 11401 I–30, Little Rock, AR 72209–7056, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Reference Lab, 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609

Fortes Laboratories, Inc., 25749 SW Canyon Creek Road, Suite 600, Wilsonville, OR 97070, 503–486–1023

Gamma-Dynacare Medical Laboratories *, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845, (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.)

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088

National Toxicology Laboratories, Inc.,1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515

One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7

Phamatech, Inc., 10151 Barnes Canyon Road, San Diego, CA 92121, 858–643–5555

Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 8401 Fallbrook Ave., West Hills, CA 91304, 818–737–6370, (Formerly: SmithKline Beecham Clinical Laboratories)

Redwood Toxicology Laboratory, 3700650 Westwind Blvd., Santa Rosa, CA 95403, 800–255–2159

Southwest Laboratories, 4625 E. Cotton Center Boulevard, Suite 177, Phoenix, AZ 85040, 602–438–8507/800–279–0027

STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800–442–0438

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance

testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on April 30, 2010 (75 FR 22809). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Janine Denis Cook,

Chemist, Division of Workplace Programs, Center for Substance Abuse Prevention, SAMHSA.

[FR Doc. 2014–15350 Filed 6–30–14; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2014–033]

Agency Information Collection Activities: Regional Equipment and Capabilities Exchange, DHS Form 10090 and DHS Form 10089

AGENCY: Domestic Nuclear Detection Office, DHS.

ACTION: 60-day notice and request for comments; New Collection, 1601–NEW.

SUMMARY: The Department of Homeland Security, Domestic Nuclear Dectection Office, will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted until September 2, 2014.

ADDRESSES: You may submit comments, identified by docket number DHS–2014–0033, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.
- *Email: jillian.mears@associates.hq.dhs.gov.* Please include docket number DHS–2014–0033 in the subject line of the message.

SUPPLEMENTARY INFORMATION: The Joint Analysis Center (JAC), of the Operation Support Division, is responsible for providing awareness of the Global Nuclear Detection Architecture (GNDA), and functions as a central point of the GNDA providing awareness of nuclear threats to the Domestic Nuclear Detection Office (DNDO). The JAC plans to implement a Regional Equipment and Capabilities Exchange (RECE) to identify and compare existing information referencing the domestic nuclear radiological detection capabilities of all participating stakeholders.

The circumstances that make the RECE necessary is the need for a database that accurately reflects the current R/N detection capabilities federal, state, tribal, territorial, and local (FSTTL) stakeholders.

The RECE will recognize a standard process and procedure that the JAC facilitates to ensure a collaborative and coordinated data collection methodology is followed for fidelity of information. The successful implementation of the RECE will aid DNDO in achieving specific objectives mandated in National Security Presidential Directive (NSPD)–43/Homeland Security Presidential Directive (HSPD)–14, and codified in Title 6, United States Code (U.S.C.) 592. Attached is the HSPD14/NSPD43, please reference the following sections within NSPD–43/HSPD–14:

Subject: Domestic Nuclear Detection

(1) (b) Continue to enhance the effective integration of nuclear and radiological detection capabilities across Federal, State, local, and tribal governments and the private sector for a managed, coordinated response;

(2) (b) Enhance and coordinate the nuclear detection efforts of Federal, State, local, and tribal governments and the private sector to ensure a managed, coordinated response;

(2) (f) Support and enhance the effective sharing and use of appropriate information generated by the intelligence community, law enforcement agencies, counterterrorism community, other government agencies, and foreign governments, as well as provide appropriate information to these entities; and

DNDO needs the information to be collected by the RECE to enhance and coordinate the rad/nuc detection efforts of Federal, State, local and tribal governments, and to effectively share the resources information with all interested entities.

Although not legal justification to collect information, the 2010 GNDA Strategic Plan goals are provided as additional information that serves as examples for how this collection effort supports internal DNDO initiatives.

The RECE directly relates to the following specific goals within the 2010 GNDA Strategic Plan:

- Goal 3: Communicate—Exchange relevant data, by receiving information from and disseminating information to relevant authorities and the general public, as appropriate.
- Goal 4: Coordinate—Ensure that stakeholders with GNDA functions minimize gaps and unintended overlaps in roles and responsibilities, including through collaboration and cooperation.

Additionally, the RECE helps DNDO meet DHS' lead and supporting roles in the following 2010 GNDA Strategic Plan Objectives:

- Objective 4: Assist state, local, and tribal governments in detecting and reporting on any unauthorized nuclear and radiological materials within their jurisdictions.
- Objective 5: Develop or enhance the federal interior detection architectures and strategies.
- Objective 7: Receive information from, and disseminate information to relevant authorities and the general public.
- Objective 8: Ensure that Stakeholders with GNDA functions minimize gaps and unnecessary overlaps in roles, responsibilities, and activities.
- Objective 9: Ensure that the GNDA can adapt and react in response to changes in technology, protocols, and adversary capabilities.

Information collected is the type used in the ordinary course of business (official business Points of Contact; names, addresses, emails, office phone number to call.) The purpose of the RECE form (DHS Form 10089) is to collect and warehouse relevant data for federal, state, tribal, territorial, and local (FSTTL) authorities to minimize gaps and unintended overlaps in roles and responsibilities for radiological or nuclear (R/N) detection capabilities. The primary purpose of the RECE Questionnaire form is to collect data on current stakeholder (primarily directed at state and local) radiological or nuclear (R/N) detection equipment inventories and resources to streamline access to a real-time depiction of R/N detection capabilities and serve as a warehouse for the data. Data collected will be available via the Joint Analysis Center Collaborative Information System (JACCIS). The Adobe Active ''fillable'' form focuses on the specific information regarding the respective R/N detection program plans, assets, and status of equipment. As part of the overall mission of the JAC, the RECE presents an opportunity to extend access to stakeholders with a RND

mission, program, or equipment but not reflected in an accessible database.

The JAC aims to provide assistance to State or Local entities with limited access to resources as part of the RECE, and establish a standing collection strategy. Information can be submitted through use of a questionnaire (hard/soft copy transmittal), or scripted phone interviews. The questionnaire will be distributed in compatible file format Adobe PDF Fill-able Form. All emails and phone interviews will not deviate from the scope or content of the DHS Form 10089. Phone interviews will be conducted on an as needed basis for the purposes of non-submittals or to address questions related to answers of information provided within the form.

All data submitted will be processed and stored in a Microsoft Excel spreadsheet for review prior to Joint Analysis Center Collaborative Information System (JACCIS) integration. The RECE will help to accurately reflect the current domestic radiological and detection capabilities within JACCIS. The JACCIS Dashboard provides a secure web interface to collaborate with mission partners and includes a GIS that allows users to view detection information, detectors, situational awareness reports, and other overlays (critical infrastructure, etc.) in a geospatial viewer. Web Service interfaces to other mission partner's systems and content routers provide linkages to detection assets around the country in real-time.

The information collected will be used to provide a more accurate or real-time depiction of the GNDA.

Information can be submitted through use of a questionnaire (hard/soft copy transmittal), email *DNDO.JAC2@HQ.DHS.GOV* or phone interviews 1–877–363–6522. Use of these threes methods of information submittals provides flexibility to the targeted collection audience which may have limited access to technological collection. All data submitted will be processed and stored in an excel spreadsheet, saved in a designated folder within a non-public DHS network share drive folder. Following review of spreadsheet information, data will be integrated into JACCIS in accordance with agreed distribution or sharing regulations; each questionnaire participant will be encouraged to acquire a JACCIS account, and point of contact information for JACCIS account acquisition are included within DHS Form 10089 RECE Questionnaire Directives. Information already available cannot be used or modified for use because it extremely dated, and lacks the specificity required for accurate accountability. To provide real-time depiction of the GNDA, there needs to be accountability of current resources available at all levels. RND equipment varies greatly between States, Territories and Local jurisdictions, and it is often not controlled or regulated by a single entity.

Efforts to identify duplication have included coordination with Federal stakeholders such as FEMA, CBP, and the FBI; each engagement revealed none of these agencies were in possession of a comprehensive complete data source which included specific domestic (United States) R/N detection capabilities for all States, Territories or Local jurisdictions.

In 2007 and 2009 COL Brent Bredehoft Deputy Assistant Director (in 2007/2009) of the Joint Analysis Center (JAC) directed his staff to conduct an informal information data call to federal entities only. In 2007 State and Local data was collected by the FBI (2006/2007) and provided to the JAC. Neither data collection was for JACCIS, but a plan was developed to put data collected in JACCIS after receiving. This information was neither consistent nor comprehensive and largely inaccurate since much of the information was haphazardly compiled with limited distribution. Additionally the FBI has not updated or made available a revised version of the 2006/2007 data call.

Additionally the RECE is organizing and analyzing relevant data from domestic Preventative Radiological Nuclear Detection (PRND) reports, specifically the National Capabilities Effort (NCE), but many of these NCE reports are extremely dated (greater than 5 years old), do not provide definitive identification details regarding equipment, therefore there is no way to de-conflict with existing equipment data. The NCE reports were a contracted effort through Defense Threat Reduction Agency (DTRA), and due to proprietary limitations when distributed to DNDO were not accompanied by the related raw data collection. Additionally, the NCE reports were created through informal collection techniques, and are largely inconsistent.

Lastly, in the years since the NCE reports and JACCIS informal data calls many States, Territories and Local jurisdictions have made significant advancements and or efforts towards acquiring R/N detection capability. With that said, State, Territories and Local jurisdictions are not subjected to any standing reporting requirement regarding R/N detection equipment or capabilities, which precludes DNDO or any other Federal Agency from providing a real-time and accurate accountability to decision-makers regarding available domestic R/N detection assets.

There is no assurance of confidentiality provided to respondents. There will be no collection of trade secret or business proprietary information. Furnishing this information is voluntary; however, failure to furnish the requested information may prevent a user from contributing radiological or nuclear detection information to RECE. This could cause a hindrance when attempting to allocate resources during a global nuclear detection architecture related threat incident.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Analysis

Agency: Domestic Nuclear Detection Office

Title: Regional Equipment and Capabilities Exchange

OMB Number: 1601–NEW

Frequency: Annually

Affected Public: State, Local, Tribal Governments

Number of Respondents: 102

Estimated Time per Respondent: 1 hour

Total Burden Hours: 102

Dated: June 12, 2014.

Margaret H. Graves,

Deputy Chief Information Officer.

[FR Doc. 2014–15366 Filed 6–30–14; 8:45 am]

BILLING CODE 9110–09–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2014–0515]

Public Workshop Related to the International Maritime Organization's Development of a Mandatory Code for Ships Operating in Polar Waters.

AGENCY: Coast Guard, DHS.

ACTION: Notice of meeting; request for comments.

SUMMARY: The Coast Guard will hold a public workshop in Seattle, WA on topics related to the development of a mandatory code for ships operating in polar waters (Polar Code) by the International Maritime Organization (IMO). Various topics will be discussed including application and certification under the Polar Code; and regulations for hull design, equipment, operations, and environmental protection. This workshop is intended to be an interactive exchange of information between policymakers, industry experts, and interested members of the public.

DATES: The public workshop will be held on Thursday, August 14, 2014 from 9 a.m. to 4 p.m., Pacific Time. This workshop is open to the public. Please note that the workshop has a limited number of seats and may close early if all business is finished.

The comment period for the docket closes September 1, 2014. All comments and related material submitted after the meeting must either be submitted to our online docket via *http://www.regulations.gov* on or before September 1, 2014, or reach the Docket Management Facility by that date.

ADDRESSES: The public workshop will be held at the Henry M. Jackson Federal Building, 915 2nd Avenue, North Auditorium, 4th floor, Seattle, WA 98174–1076. Due to building security requirements, each visitor must present a valid government-issued photo identification (for example, a driver's license) in order to gain entrance to the building. To facilitate the security process related to building access, or to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, Lieutenant Andrew Gibbons (see **FOR FURTHER INFORMATION CONTACT**) not later than August 1, 2014. The Coast Guard may not be able to accommodate requests made after August 1, 2014.

Submit comments using one of the listed methods, and see **SUPPLEMENTARY INFORMATION** for more information on public comments.

- *Online—http://www.regulations.gov* following Web site instructions.
- *Fax*—202–493–2251.
- *Mail or hand deliver*—Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Hours for hand delivery are 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays (telephone 202–366–9329).

FOR FURTHER INFORMATION CONTACT: If you have questions concerning the workshop, please call or email Lieutenant Andrew Gibbons, U.S. Coast Guard; telephone 202–372–1485, email *Andrew.T.Gibbons@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, toll free 1–800–647–5527.

SUPPLEMENTARY INFORMATION:

Discussion

This workshop is intended to be an interactive exchange of information between policymakers, industry experts, and interested members of the public. The primary topics that will be considered at the public meeting include:

- General overview of the draft Polar Code;
- Overview of draft amendments to the International Convention for the Safety of Life at Sea (SOLAS);
- Overview of draft amendments to the International Convention for the Prevention of Pollution from Ships (MARPOL);
- Application, certification, and documentation.

This workshop is scheduled following progress at IMO during recent meetings of the Maritime Safety Committee (MSC); Marine Environment Protection Committee (MEPC); and subcommittees on the Human Element, Training, and Watchkeeping; Navigation, Communication, and Search and Rescue; and Ship Design and Construction. The public workshop will also provide the opportunity for comment as the Coast Guard prepares for upcoming meetings in October 2014 and November 2014 of MEPC and MSC at IMO.

You may view the draft Polar Code, draft SOLAS amendments, draft MARPOL amendments, and public comments submitted thus far in our online docket. Please see below for more information on viewing comments and documents. Comments submitted to the docket and informal public comments during the workshop are encouraged.

Please note that the workshop has a limited number of seats and may close early if all business is finished.

Members of the public may attend this workshop up to the seating capacity of the room. To facilitate the security process related to building access, or to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, Lieutenant Andrew Gibbons (see **FOR FURTHER INFORMATION CONTACT**) not later than Friday August 1, 2014. We may not be able to accommodate requests made after August 1, 2014.

Members of the public are encouraged to participate and join in discussions, subject to the discretion of the moderator. If you bring written comments to the meeting, you may submit them to Coast Guard personnel specified at the meeting to receive written comments. These comments will be submitted to our online public docket.

Comments should be marked with docket number USCG–2014–0515 and should provide a reason for each suggestion or recommendation. You should provide personal contact information so that we can contact you if we have questions regarding your comments; but please note that all comments will be posted to the online docket without change and that any personal information you include can be searchable online (see the **Federal Register** Privacy Act notice regarding our public dockets, 73 FR 3316, Jan. 17, 2008).

Mailed or hand-delivered comments should be in an unbound 8½ x 11 inch format suitable for reproduction. The Docket Management Facility will acknowledge receipt of mailed comments if you enclose a stamped, self-addressed postcard or envelope with your submission.

Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following the Web site's instructions. You can also view the docket at the Docket Management Facility (see the mailing address under **ADDRESSES**) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Lieutenant Andrew Gibbons (see **FOR FURTHER INFORMATION CONTACT**).

This notice is issued under the authority of 5 U.S.C. 552(a).

Dated: June 25, 2014.

J. G. Lantz,

Director of Commercial Regulations and Standards, U.S. Coast Guard.

[FR Doc. 2014–15457 Filed 6–30–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2014–N130; FXES11130200000C2–112–FF02ENEH00]

Endangered and Threatened Wildlife and Plants; Texas Ayenia Draft Recovery Plan; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment; correction.

SUMMARY: On June 25, 2014, we, the U.S. Fish and Wildlife Service, announced the availability of our draft recovery plan for the Texas ayenia, which is listed as endangered under the Endangered Species Act of 1973, as amended (Act). However, we printed the incorrect Internet address for reviewers to use to download the draft recovery plan. This notice provides the correct Internet address.

DATES: To ensure consideration, we must receive any written comments on or before August 25, 2014. However, we will accept information about any species at any time.

ADDRESSES: If you wish to review the draft recovery plan, you may obtain a copy by any one of the following methods:

Internet: Access the file at *www.fws.gov/southwest/es/Documents/R2ES/TexasAyenia_DraftRecoveryPlan_Final_June2014.pdf;*

U.S. mail: U.S. Fish and Wildlife Service, 6300 Ocean Drive, USFWS Unit 5837, Corpus Christi, TX 78412–5837; or

Telephone: (361) 994–9005.

If you wish to comment on the draft recovery plan, you may submit your comments in writing by any one of the following methods:

- *U.S. mail:* Field Supervisor, at the above address;
- *Hand-delivery:* Texas Coastal Ecological Services Office, at the above address;
- *Fax:* (361) 994–8262; or
- *Email: chris_best@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Chris Best, State Botanist, at the above address and phone number, or by email at *chris_best@fws.gov.*

SUPPLEMENTARY INFORMATION:

Background

On June 25, 2014, we, the U.S. Fish and Wildlife Service, published a **Federal Register** notice to announce the availability of our draft recovery plan for the Texas ayenia, a plant that is listed as endangered under the Act (16 U.S.C. 1531 *et seq.*) (79 FR 36087). We opened a comment period, which will last through August 25, 2014. However, we printed the incorrect Internet address for reviewers to use to download the draft recovery plan. This notice provides the correct Internet address, which can be found in the **ADDRESSES** section of this notice.

We request review and comment on this plan from local, State, and Federal agencies; Tribes; and the public. We will also accept any new information on the status of the Texas ayenia throughout its range to assist in finalizing the recovery plan.

Background

The Texas ayenia (also referred to as the Tamaulipan kidneypetal) is currently found in southern Texas and northern Mexico. The draft recovery plan includes specific recovery objectives and criteria to be met in order to enable us to remove this species from the list of endangered and threatened wildlife and plants. For more information, and areas to focus on when providing public comments, see our earlier notice (79 FR 36087).

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Comments and materials we receive will be available, by appointment, for public inspection during normal business hours at our office (see **ADDRESSES**).

Authority

We developed our draft recovery plan under the authority of section 4(f) of the Act, 16 U.S.C. 1533(f). We publish this notice under section 4(f) Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: June 25, 2014.

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region, Albuquerque, New Mexico.

[FR Doc. 2014–15383 Filed 6–30–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–ES–2013–N157; FWS–R6–ES–FF06E23000]

Endangered and Threatened Wildlife and Plants; Permits; Safe Harbor Agreement and Candidate Conservation Agreement With Assurances for the Colorado Pikeminnow, Razorback Sucker, Roundtail Chub, Flannelmouth Sucker, and Bluehead Sucker in the Middle Duchesne River Watershed, Utah

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from the Associated Water Users of the Duchesne and Strawberry Rivers (DSWUA) for an enhancement of survival permit (permit) pursuant to the Endangered Species Act of 1973, as amended (Act). The permit application includes a proposed Safe Harbor Agreement (SHA) for the Colorado pikeminnow and razorback sucker, and a proposed Candidate Conservation Agreement with Assurances (CCAA) for the roundtail chub, flannelmouth sucker, and bluehead sucker in the middle Duchesne River watershed, Utah.

DATES: We must receive comments no later than July 31, 2014.

ADDRESSES: Address all written comments to ''Myton CCAA/SHA Comments,'' by mail to Utah Field Office, U.S. Fish and Wildlife Service, 2369 West Orton Circle, Suite 50, West Valley City, UT 84119, or by facsimile to 801–975–3331, or by email to *Myton_CCAA_SHA_comments@fws.gov*. Documents can be viewed online at *www.fws.gov/utahfieldoffice/myton_ccaa_sha.html*.

FOR FURTHER INFORMATION CONTACT: Larry Crist, Utah Field Office Supervisor, at 801–975–3330. If you use a telecommunications device for the deaf, you may call the Federal Information Relay Service at 800–877–8339. Documents can be viewed online at *www.fws.gov/utahfieldoffice/myton_ccaa_sha.html*.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), have received an application from the DSWUA for a permit pursuant to section 10(a)(1)(A) of the Act (16 U.S.C. 1531 et seq.) The permit application includes a proposed SHA for the Colorado pikeminnow (*Ptychocheilus lucius*) and razorback sucker (*Xyrauchen texanus*), and a proposed Candidate Conservation Agreement with Assurances (CCAA) for roundtail chub (*Gila robusta*), flannelmouth sucker (*Catostomus latipinnis*), and bluehead sucker (*Catostomus discobolus*) in the middle Duchesne River watershed, Utah.

The purposes of the SHA and the CCAA are for the Service to join with the DSWUA, the Utah Division of Wildlife Resources (UDWR), the Ute Tribe, and participating non-Federal water users (Participating Water Users) to provide instream flows for five listed and sensitive fish species, and to construct a fish passage structure at the Myton Diversion on the Duchesne River in a manner that is consistent with the Service's Policy on Candidate Conservation Agreements with Assurances (64 FR 32726), the Service's Policy on Safe Harbor Agreements (64 FR 32717), and other applicable regulations. This SHA/CCAA has two conservation goals. The first is to allow water managed by the Department of the Interior to provide instream flows for the covered species by bypassing local water users' canals. The second is to construct and operate a fish passage structure at the Myton Diversion, allowing native fish species to access approximately 38.5 miles of now-inaccessible habitat. These two goals will increase the quantity and quality of habitat for the five listed and sensitive fish species within their historic range.

The SHA/CCAA project area is the wetted areas of the Duchesne River between Myton and Knight Diversions, the wetted areas of the Strawberry River between the confluence with the Duchesne River and Starvation Dam, all wetted tributaries to these two rivers with confluences above Myton Diversion and below Starvation Dam or Knight Diversion, and the entirety of the canal systems that have intake facilities between the Myton diversion, Starvation Dam, and the Knight Diversion.

We have made a preliminary determination that the proposed SHA/CCAA and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). The basis for our preliminary determination is contained in an Environmental Action Statement. We are accepting comments on the permit application, the proposed SHA and CCAA, and the Environmental Action Statement.

The CCAA portion of this agreement will cover three non-listed species of special concern in the State of Utah: The flannelmouth sucker, the roundtail chub, and the bluehead sucker. Under a Candidate Conservation Agreement with Assurances (CCAA), participating landowners voluntarily undertake management activities on their properties to enhance, restore, or maintain habitat benefiting species that are proposed for listing or candidates for listing under the Endangered Species Act of 1973, as amended (the Act), or those species that may become candidates. Candidate Conservation Agreements with Assurances, and the subsequent permits that are issued pursuant to section 10(a)(1)(A) of the Act (16 U.S.C. 1531 et seq.), encourage private and other non-Federal property owners to implement conservation efforts for species by assuring property owners that they will not be subjected to increased land use restrictions as a result of efforts to attract or increase the numbers or distribution of a listed species on their property, if that species becomes listed under the Act in the future. Candidate Conservation Agreement with Assurances permit application requirements and issuance criteria are found in 50 CFR 17.22(d) and 17.32(d).

This proposed CCAA represents a significant milestone in the cooperative conservation efforts for native species in the Duchesne River and is consistent with section 2(a)(5) of the Act, which encourages creative partnerships among public, private, and government entities to conserve imperiled species and their habitats. As identified in our CCAA Final Policy (64 FR 32726), and regulations at 50 CFR 17.22, to enter into a CCAA and issue a permit and assurances, we must determine that the conservation measures and expected benefits, when combined with those benefits that would be achieved if it is assumed that similar conservation measures were also implemented on other necessary properties, would preclude or remove the need to list flannelmouth sucker, bluehead sucker, and roundtail chub. Consistent with the CCAA policy, meeting the CCAA standard does not depend on the number of acres enrolled, and adoption of the CCAA and enrollment of property owners does not guarantee that listing will be unnecessary. Through a separate finding, we have determined that this CCAA meets the standard specified in the CCAA policy and regulations.

The SHA portion of the agreement will cover two federally listed species: The Colorado pikeminnow and the razorback sucker. As described in our Safe Harbor Agreement Final Policy, we must determine that the effect of the proposed voluntary conservation measure for a species covered by a SHA would produce a net conservation benefit to the species. Net conservation benefits must contribute to the recovery of the covered species. This contribution towards recovery may vary and may not be permanent. The benefits to the species depend on the nature of the conservation measures, the activities to be undertaken, where they are undertaken, and their duration. We conclude that this SHA meets the SHA standard, because the conservation actions improve habitat conditions, support a larger forage base, and provide connectivity to new habitat. Specifically, the proposed SHA would contribute to the recovery of the Colorado pikeminnow and razorback sucker by contributing to Management Action A–1 (Provide flows necessary for all life stages of Colorado pikeminnow and razorback sucker to support recovered populations) and Management Action A–2 (Provide passage for Colorado pikeminnow and razorback sucker within occupied habitat to allow adequate movement and, potentially, range expansion) as described in the ''Colorado Pikeminnow Recovery Goals'' and ''Razorback Sucker Recovery Goals.''

This SHA/CCAA will provide protection and incentives to enrolled Participating Water Users to allow DOI water to bypass their canals in support of fish habitat and to support federally protected species colonizing new habitat in the vicinity of their irrigation canals. Given the legal mechanisms concerning water development in the State of Utah, conservation flows would not be possible in the Duchesne River basin without the cooperation of local water users. The local water users, in order to facilitate recovery and avoid further restrictions on water development, have agreed to assist in bypassing water downstream for use as fish habitat. This SHA/CCAA formalizes a process where local water users allow fish conservation water to bypass their canal intakes, thus providing higher flows for fish species.

Secondly, a fish passage structure at the Myton Diversion will allow native fish downstream of the Diversion (both listed and nonlisted) to access a higher proportion of their native habitat for breeding, feeding, and sheltering. Specifically, it will allow native fish downstream of the diversion to enter

into the approximately 38.5 miles of newly accessible habitat. These individuals can then reproduce with individuals found upstream (facilitating genetic mixing), forage in habitats that are currently unavailable to them, and extend their home range to a larger area (providing additional habitat in times of stress, satisfying migratory needs, and offering rearing and refuge habitat that is largely unaffected by certain problematic nonnative species).

When determining whether to issue the permit, we will consider a number of factors and information sources, including biological information, any public comments received, and the application requirements and issuance criteria for CCAAs and SHAs contained in 50 CFR part 17.22(d) and part 17.32(d). We will also evaluate whether issuance of the permit complies with section 7 of the Act by conducting an intra-Service consultation. The results of this consultation, in combination with the above findings, regulations, and public comments, will determine whether or not we issue the permit. The proposed SHA/CCAA also provides Participating Water Users with regulatory assurances, that in the event of unforeseen circumstances, we would not require additional conservation measures or the commitment of additional land, water, or resource use restrictions beyond the level obligated in the proposed SHA/CCAA, without the consent of the Participating Water User and the DSWUA.

We have made a preliminary determination that the proposed SHA/CCAA and permit issuance are eligible for categorical exclusion under NEPA. The basis for this determination is the Environmental Action Statement, which is available for public review (see **ADDRESSES**).

If you wish to comment on the proposed SHA/CCAA and associated documents, you may submit your comments to the Service (see **ADDRESSES**). Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

We will evaluate this permit application, associated documents, and comments submitted thereon to determine whether the permit application meets the requirements of section 10(a) of the Act and NEPA regulations at 40 CFR 1506.6. If we determine that the requirements are met, we will sign the both the proposed SHA and the CCAA and issue a permit under section 10(a)(1)(A) of the Act to the Applicants for take of the covered species in accordance with the terms of the SHA and the CCAA. We will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

Authority

The Service provides this notice under section 10(c) of the Act and implementing regulations for NEPA (40 CFR 1506.6; 43 CFR 46).

Dated: June 23, 2014.

Larry Crist,

Field Supervisor, Utah Ecological Services Field Office, Salt Lake City, Utah.

[FR Doc. 2014–15428 Filed 6–30–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–ES–2014–N117; FXES11150500000]

Application for Enhancement of Survival Permit and Proposed Candidate Conservation Agreement With Assurances for the New England Cottontail; Maine Department of Inland Fisheries and Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application; request for comments.

SUMMARY: The Maine Department of Inland Fisheries and Wildlife (MDIFW) has applied to the U.S. Fish and Wildlife Service (Service) for an Enhancement of Survival Permit under the Endangered Species Act of 1973 (ESA), as amended. The requested permit would authorize take of the New England cottontail (NEC) resulting from certain habitat improvement and land use activities, should the species be listed as endangered or threatened in the future. The permit application includes a proposed Candidate Conservation Agreement with Assurances (CCAA) between the MDIFW and the Service. In accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), we have prepared a draft categorical exclusion of the impacts of the requested permit. We are accepting comments on the permit application, proposed CCAA, and draft NEPA document.

DATES: Written comments on the permit application, draft CCAA, and draft NEPA document must be received on or before July 31, 2014.

ADDRESSES: Address any written comments concerning this notice to Anthony Tur, New England Field Office, U.S. Fish and Wildlife Service, 70 Commercial Street, Suite 300, Concord, NH 03301; alternatively, fax written comments to 603–224–0104, or email comments to *Anthony_Tur@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Anthony Tur, at the New England Field Office (see **ADDRESSES** above); 603–223–2541 (phone), 603–223–0104 (fax), or *Anthony_Tur@fws.gov* (email). If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION: We furnish this notice to provide the public, other State and Federal agencies, and interested Tribes an opportunity to review and comment on the permit application, proposed CCAA, and draft NEPA document. We specifically request information, views, and opinions from the public on the proposed Federal action of issuing a permit. Further, we solicit information regarding the adequacy of the permit application, including the proposed CCAA, as measured against our permit issuance criteria found in the Code of Federal Regulations (CFR) at 50 CFR 17.22(d) and 17.32(d).

Document Availability

Copies of the permit application, proposed CCAA, and draft NEPA document are available for public inspection, by appointment, at the New England Field Office (see **ADDRESSES**), or you may view them on the Internet at *http://www.fws.gov/newengland/.* Copies of these documents can also be obtained by contacting the office and personnel listed in the **ADDRESSES** section.

Public Availability of Comments

Before including your address, telephone number, email address, or other personal identifying information in your comment, be advised that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Background

Permits for enhancement of survival through CCAAs encourage non-Federal property owners to implement conservation measures for species that are, or are likely to become, candidates for Federal listing as endangered or threatened by assuring property owners they will not be subjected to increased property use restrictions if the covered species becomes listed in the future. Application requirements and issuance criteria for permits for enhancement of survival through CCAAs are in the Code of Federal Regulations (CFR) at 50 CFR 17.22(d) and 17.32(d). See also our policy on CCAAs (64 FR 32726; June 17, 1999).

Proposed Candidate Conservation Agreement With Assurances

The CCAA that is the subject of this notice is a programmatic agreement between the Service and the MDIFW to further the conservation of the NEC (*Sylvilagus transitionalis*). Under the CCAA, the MDIFW would establish a program in which individual property owners can enroll. To enroll in the program, a property owner would enter into a cooperative agreement with the MDIFW that contains a site-specific management plan for the enrolled lands, and the MDIFW would then issue the property owner a Certificate of Inclusion. The site-specific management plan will specify conservation measures to address known threats to the NEC; those measures may include, but are not limited to, cutting vegetation to promote establishment of shrubland habitat, maintaining existing shrubland habitat, planting seeds and seedlings, controlling invasive plants species, removing non-native eastern cottontails should they occur in Maine in the future, and translocating NEC to newly created habitats. The plan will also specify measures to minimize the incidental take of NEC that might occur as a result of implementing the conservation measures or conducting other covered activities. The Certificate of Inclusion issued to the property owner will authorize this incidental take of the NEC if the species becomes listed under the ESA in the future.

The MDIFW seeks to enroll up to 12,000 acres (ac) (4,856 hectares (ha)) of private and State-owned land for NEC habitat management in York, Cumberland, Androscoggin, Sagadahoc, Lincoln, Knox, Oxford, Kennebec, and Waldo Counties in Maine. Lands targeted for NEC habitat management are generally those for which the current land use maintains or is capable of maintaining suitable NEC habitat with minimal take of NECs. Site potential for enrolled lands will be evaluated through a Habitat Suitability Index. Because resources for implementing conservation measures on enrolled lands are limited, sites with the highest potential value will be prioritized for enrollment based on proximity to existing occupied sites, along with other habitat parameters. Also eligible for enrollment are those lands under the same ownership that are adjacent to lands being managed for the benefit of NEC (hereafter referred to as ''adjacent lands''). These adjacent lands include areas where otherwise lawful ongoing and future activities (e.g., hay production and timber harvesting) may result in inadvertent take of NEC. Although the amount of adjacent acreage that a property owner will enroll under this CCAA will depend on the circumstances specific to the property and property owner, we estimate that the typical property owner will enroll an area of adjacent lands about equal to five times the area of the lands managed for NEC. Therefore, about 60,000 ac (24,000 ha) of adjacent lands are associated with the 12,000 ac (4,856 ha) targeted for NEC habitat management. If we were to reach our target of 12,000 ac (4,856 ha) managed for NEC under this CCAA, then we estimate a total of about 72,000 ac (29,000 ha) would be enrolled under this CCAA.

As required by NEPA, we evaluated the effects to the environment that would result from issuance of the requested permit, and we do not foresee any significant effects. Therefore, we are proposing to categorically exclude this action from further analysis under NEPA. Entering into a cooperative agreement is strictly voluntary for property owners, and the activities to be covered under the permit are generally activities already occurring on these properties.

Next Steps

We will evaluate the permit application, associated documents, and comments we receive to determine whether the permit application meets the requirements of the ESA, NEPA, and implementing regulations. If we determine that all requirements are met, we will sign the proposed CCAA and issue a permit under section 10(a)(1)(A) of the ESA to the MDIFW for take of NEC. We will not make our final decision until after the end of the 30-day public comment period, and we will fully consider all comments we receive during the public comment period.

Dated: May 27, 2014.

Paul R. Phifer,

Assistant Regional Director, Ecological Services, Northeast Region.

[FR Doc. 2014–15365 Filed 6–30–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[AAK4004200/A0R5C4040.9999.00/134A2100DD]

Proclaiming Certain Lands as Reservation for the Shakopee Mdewakanton Sioux Community of Minnesota

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Reservation Proclamation.

SUMMARY: This notice informs the public that the Assistant Secretary—Indian Affairs proclaimed approximately 569.01 acres, more or less, as an addition to the Reservation for the Shakopee Mdewakanton Sioux Community of Minnesota on June 20, 2014.

FOR FURTHER INFORMATION CONTACT: Robin A. White, Bureau of Indian Affairs, Division of Real Estate Services, MS–4642–MIB, 1849 C Street NW., Washington, DC 20240, at (202) 207–1110.

SUPPLEMENTARY INFORMATION: This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by part 209 of the Departmental Manual.

A proclamation was issued according to the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), for the land described below. The land was proclaimed to be an addition to the Shakopee Mdewakanton Sioux Community Reservation for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or tribal membership.

Reservation of the Shakopee Mdewakanton Sioux Community, Township of Shakopee, County of Scott and State of Minnesota

Parcel Number 1 MWCC

Legal Description excluding land transferred to Scott County
Containing 569.01 acres, more or less

Parcel 1: Tax PID# 279150050

The West Half of the Southwest Quarter (W½ of the SW¼) and the Southwest Quarter of the Northwest

Quarter (SW¼ of the NW¼) of Section 15, Township 115 North, Range 22 West of the 5th Principal Meridian, Scott County, Minnesota.

Also

Those parts of Government Lots 4 and 5 in Section 15, Township 115 North, Range 22 West of the 5th Principal Meridian, Scott County, Minnesota, lying southerly of the southerly right of way line of County Road 16 as described in the Land Exchange and Conveyance Agreement, filed as Document No. 728960 and of record in the Office of the County Recorder in said Scott County, said southerly right of way line being more particularly described as follows: Commencing at the Southeast corner of said Government Lot 4; thence N. 00°13′28″ W., along the east line of said Government Lot 4, a distance of 830.62 feet to southerly right of way line of County Road 16 and the POINT OF BEGINNING; thence N. 69°45′59″ W., along said southerly right of way line, a distance of 1,372.72 feet; thence continuing along said southerly right of way line northwesterly along a tangential curve, concave to the north, a distance of 896.88 feet, a radius of 3,917.72 feet, and a delta angle of 13°07′00″; thence continuing along said southerly right of way line N. 56°38′59″ W., tangent to last described curve, a distance of 494.50 feet; thence continuing along said southerly right of way line northwesterly along a tangential curve, concave to the south, a distance of 122.17 feet, a radius of 4,032.00 feet, a delta angle of 01°44′10″, a chord bearing of N. 57°31′04″ W., and a chord distance of 122.17 feet to the west line of said Government Lot 5 and the POINT OF TERMINATION, said point being southerly 616.83 feet from the northwest corner of said Government Lot 5.

Parcel 2: Tax PID# 279160010

The South Half of the Northeast Quarter (S½ of the NE¼) and the North Half of the Southeast Quarter (N½ of the SE¼) EXCEPT the Westerly 100 feet thereof, and the Southeast Quarter of the Southeast Quarter (SE¼ of the SE¼), all in Section 16, Township 115 North, Range 22 West of the 5th Principal Meridian, Scott County, Minnesota.

Also

That part of the Northeast Quarter of the Northeast Quarter (NE¼ of the NE¼) in Section 16, Township 115 North, Range 22 West of the 5th Principal Meridian, Scott County, Minnesota, lying northerly of the northerly right of way line of County Road 16 as described in the Land Exchange and Conveyance Agreement, filed as Document No. 728960 and of record in the Office of the County Recorder in said Scott County, being more particularly described as follows: BEGINNING at the Northeast corner of said Northeast Quarter of the Northeast Quarter, thence S. 00°42′26″ W., along the east line of said Northeast quarter of the Northeast quarter, a distance of 343.57 feet to the northerly right of way line of County Road 16; thence along said northerly right of way line northwesterly along a non-tangential curve, concave to the south, a distance of 274.52 feet, a radius of 1,764.54 feet, a delta angle of 8°54′50″, a chord bearing N. 69°32′38″ W., and a chord distance of 274.24 feet; thence continuing along said northerly right of way line N. 74°00′04″ W., a distance of 398.96 feet; thence Northwesterly along a non-tangential curve, concave to the south, a distance of 497.59 feet, a radius of 4182.00 feet, a delta angle of 6°49′02″, a chord bearing N. 72°44′04″ W., and a chord distance of 497.30 feet to the north line of the Northeast Quarter of the Northeast Quarter; thence S. 89°29′43″ E., along said north line, a distance of 1,119.63 feet to the POINT OF BEGINNING.

Also

That part of the Northeast Quarter of the Northeast Quarter (NE¼ of the NE¼) in Section 16, Township 115 North, Range 22 West of the 5th Principal Meridian, Scott County, Minnesota, lying southerly of the southerly right of way line of County Road 16 as described in the Land Exchange and Conveyance Agreement, filed as Document No. 728960 and of record in the Office of the County Recorder in said Scott County, and said southerly right of way line being more particularly described as follows: Commencing at the Southeast corner of Government Lot 4 of Section 15 in said Township 115 North, Range 22 West; thence N. 00°13′28″ W., along said east line of Government Lot 4, a distance of 830.62 feet to southerly right of way line of County Road 16; thence N. 69°45′59″ W., along said southerly right of way line, a distance of 1,372.72 feet; thence continuing along said southerly right of way line northwesterly along a tangential curve, concave to the north, a distance of 896.88 feet, a radius of 3,917.72 feet, and a delta angle of 13°07′00″; thence continuing along said southerly right of way line N. 56°38′59″ W., tangent to last described curve, a distance of 494.50 feet; thence continuing along said southerly right of way line northwesterly along a tangential curve, concave to the south, a distance of 122.17 feet, a radius of 4,032.00 feet, a delta angle of 01°44′10″, a chord bearing of N. 57°31′04″ W., and a chord distance of 122.17 feet to the east line of said Northeast Quarter of the Northeast Quarter and the POINT OF BEGINNING; thence continuing northwesterly, along the last described curve and said southerly right of way line, a distance of 1,427.23 feet, a radius of 4,032.00 feet, a delta angle of 20°16′52″, a chord bearing of N. 68°31′35″ W., and a chord distance of 1,419.79 feet to the west line of the Northeast Quarter of the Northeast Quarter of Section 16 and the POINT OF TERMINATION, said point being southerly 108.74 feet from the northwest corner of said Northeast Quarter of the Northeast Quarter.

Parcel 3: Tax PID# 279210050

The Northeast Quarter of the Northeast Quarter (NE¼ of the NE¼) of Section 21, Township 115 North, Range 22 West of the 5th Principal Meridian, Scott County, Minnesota.

Parcel 4: Tax PID# 279220010

The Northwest Quarter of the Northwest Quarter (NW¼ of the NW¼) of Section 22, Township 115 North, Range 22 West of the 5th Principal Meridian, Scott County, Minnesota.

Parcel 5: Tax PID# 279150050

The South Three-fourths of the East Half of the Southwest Quarter (S¾ of the E½ of the SW¼) of Section 15, Township 115 North, Range 22 West of the 5th Principal Meridian, Scott County, Minnesota.

Parcel 6: Tax PID# 279220010

The Northeast Quarter of the Northwest Quarter (NE¼ of the NW¼) of Section 22, Township 115 North, Range 22 West of the 5th Principal Meridian, Scott County, Minnesota, EXCEPTING THEREFROM the following described tract: Commencing at the Northeast corner of said Northeast Quarter of the Northwest Quarter of Section 22; thence S. 01°08′57″ W., along the said east line, a distance of 621.16 feet to the POINT OF BEGINNING; thence continuing along the said east line S. 1°08′57″ W., a distance of 349.75 feet; thence N. 88°39′13″ W., a distance of 501.20 feet; thence N. 03°09′13″ W., a distance of 326.00 feet; thence N. 88°39′00″ E., a distance of 526.16 feet to the POINT OF BEGINNING.

Dated: June 20, 2014.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2014–15470 Filed 6–30–14; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO921000–L51100000–GA0000–LVEMC1300020, COC–75916]

Notice of Competitive Coal Lease Sale COC–75916, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Competitive Coal Lease Sale.

SUMMARY: Notice is hereby given that certain Federal coal reserves in the Spruce Stomp Tract described below in Delta County, Colorado, will be offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended.

DATES: The lease sale will be held at 10 a.m. on July 30, 2014. Sealed bids must be submitted on or before 9:30 a.m., July 30, 2014.

ADDRESSES: The lease sale will be held in the Fourth Floor Conference Room of the Bureau of Land Management (BLM) Colorado State Office, 2850 Youngfield Street, Lakewood, CO 80215. Sealed bids must be submitted to the Cashier, BLM Colorado State Office, at the address given above.

FOR FURTHER INFORMATION CONTACT: Kyle Free, Solid Minerals Engineer, by telephone at 303–239–3774, or by email at *kfree@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This coal lease sale is being held in response to a lease by application (LBA) filed by Bowie Resources, LLC. The Federal coal reserves to be offered consist of all reserves recoverable by underground mining methods in the following described lands located in Delta County, Colorado:

Sixth Principal Meridian

T. 12 S., R. 91 W., 6th P.M.,
Sec. 31, lots 11 to 26, inclusive;
Sec. 32, lots 10 to 15, inclusive.

T. 12 S., R. 92 W., 6th P.M.,
Sec 36, S½.

T. 13 S., R. 91 W., 6th P.M.,
Sec. 5, lots 2, 3, 4, 10, and 11, E½SW¼NE¼, N½NW¼SW¼NE¼, N½N½ SE¼ NW¼, N½NE¼NE¼SE¼, NE¼NW¼NE¼SE¼, W½W½NE¼SE¼, E½NW¼SE¼;
Sec. 6, lots 1 to 4, inclusive.

T. 13 S., R. 92 W., 6th P.M.,
Sec. 1, lots 5 to 8, inclusive.

These lands contain 1,790.20 acres, more or less.

The tracts contain an estimated 8.02 million tons of recoverable coal reserves. The underground minable coal is ranked as B bituminous coal. The estimated coal quality on an as-received basis for the Tracts is as follows:

British Thermal Unit (BTU)	12,896 BTU/lb.
Volatile Matter	23.23%
Moisture	3.38%
Fixed Carbon	62.16%
Sulfur Content	0.63%
Ash Content	10.60%

The tracts will be leased to the qualified bidder of the highest cash amount provided that the high bid meets or exceeds the BLM's estimate of the fair market value of the tract. The minimum bid for the tracts is $100 per acre or fraction thereof. No bid that is less than $100 per acre, or fraction thereof, will be considered. The minimum bid is not intended to represent fair market value. The fair market value will be determined by the authorized officer after the sale.

The sealed bids should be sent by certified mail, return-receipt requested, or be hand delivered to the Cashier, BLM Colorado State Office, at the address given above and clearly marked ''Sealed Bid for COC–75916 Coal Sale—Not to be opened before 10 a.m., July 30, 2014.'' The cashier will issue a receipt for each hand-delivered bid. Bids received after 9:30 a.m. on July 30, 2014 will not be considered. If identical high bids are received, the tying high bidders will be requested to submit follow-up sealed bids until a high bid is received. All tie-breaking, sealed-bids must be submitted within 15 minutes following the sale official's announcement at the sale that identical high bids have been received. A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre, or fraction thereof, and a royalty payable to the United States in the amount of 8 percent of the value of coal mined by underground methods.

Prior to lease issuance, the high bidder, if other than the applicant, must pay the BLM the cost recovery fees in the amount of $48,015.20 in addition to all processing costs the BLM incurs after the date of this sale notice (43 CFR 3473.2).

Bidding instructions for the LBA tracts offered and the terms and conditions of the proposed coal lease are included in the Detailed Statement of Lease Sale and available from the BLM Colorado State Office at the address above. Case file documents, COC–75916, are available for inspection at the BLM Colorado State Office Public Room.

Ruth Welch,

BLM Colorado State Director.

[FR Doc. 2014–15496 Filed 6–27–14; 11:15 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CACA 63162, LLCAD06000.L51010000.ER0000.13X.LVRWB13B541]

Notice of Intent To Prepare a Joint Environmental Impact Statement and Environmental Impact Report for the West of Devers Upgrade Project, Riverside and San Bernardino Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) Palm Springs/South Coast Field Office intends to prepare a joint Environmental Impact Statement and Environmental Impact Report (EIR/EIS) in cooperation with the California Public Utilities Commission (CPUC) in order to analyze Southern California Edison's proposal for the West of Devers Upgrade Project (WOD UP) in Riverside and San Bernardino Counties. This notice announces the beginning of the scoping process to solicit public comments and identify issues.

DATES: Comments on issues may be submitted in writing until July 31, 2014. The date(s) and location(s) of any scoping meetings will be announced at least 15 days in advance through local news media, newspapers and the BLM Web site at: *http://www.blm.gov/ca/st/en/fo/cdd.html* and at the CPUC Web site at: *http://www.cpuc.ca.gov/environment/info/aspen/westofdevers/westofdevers.htm.* In order to be included in the analysis, all comments must be received prior to the close of the 30-day scoping period or 15 days

after the last public meeting, whichever is later. We will provide additional opportunities for public participation as appropriate.

ADDRESSES: You may submit comments on issues related to the West of Devers Upgrade Project by any of the following methods:

- *Web site: http://www.blm.gov/ca/st/en/fo/palmsprings/transmission/WestOfDeversProject.html.*
- *Email: blm_ca_west_of_devers@blm.gov.*
- *Fax:* 951–697–5299.
- *Mail:* ATTN: Field Manager; Palm Springs-South Coast Field Office, 1201 Bird Center Drive, Palm Springs, CA 92262.

Documents pertinent to this proposal may be examined at the BLM California Desert District Office and the Palm Springs/South Coast Field Office during regular business hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays, and may be published as part of the EIS/EIR.

FOR FURTHER INFORMATION CONTACT: R. Brian Paul; telephone 760–337–4445; address ATTN: Field Manager; Palm Springs-South Coast Field Office, 1201 Bird Center Drive, Palm Springs, CA 92262; email *rpaul@blm.gov.* Contact Mr. Paul to have your name added to our mailing list. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact Mr. Paul during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question for Mr. Paul. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Southern California Edison (SCE) is proposing to upgrade and adjust the routes of the following existing 220 kV transmission lines within SCE's existing West of Devers right-of way corridor in incorporated and unincorporated areas of Riverside and San Bernardino Counties: Devers-El Casco (30 miles), El Casco-San Bernardino (14 miles), Devers-San Bernardino (43 miles), Devers-Vista No. 1 and No. 2 (45 miles), Etiwanda-San Bernardino (3.5 miles), and San Bernardino-Vista (3.5 miles). Of the overall 48-mile length of the transmission corridor, approximately 6 miles would cross the reservation Trust Lands (Reservation) of the Morongo Band of Mission Indians and approximately 1 mile is on BLM-administered public lands. The BLM lands are located east of the City of Banning and west of the City of Desert Hot Springs in Riverside County.

In addition to the transmission line improvements, substation equipment at Devers, El Casco, Etiwanda, San Bernardino, Timoteo and Tennessee and Vista Substations would be upgraded to accommodate the project changes to transmission and subtransmission systems. Construction of WOD UP would facilitate the full deliverability of new renewable energy generation resources now being developed in eastern Riverside County, including the BLM's Riverside East Solar Energy Zone into the Los Angeles area.

The WOD UP would facilitate progress towards meeting California's Renewable Portfolio Standard goals requiring utilities to produce 33 percent of their electricity sales from renewable energy sources by 2020. Large-scale renewable energy projects in eastern Riverside County play an important role in meeting California's renewable energy goals, allowing for immediate and sizeable deployment, driving costs down, and taking advantage of the state's best renewable energy resources. Additionally, these upgrades are required to comply with transmission reliability standards and will support integration of small scale electricity generation.

This document provides notice that the Palm Springs/South Coast BLM Field Office, Palm Springs, California, intends to prepare a joint EIS/EIR with the California Public Utilities Commission for the WOD UP, announces the beginning of the scoping process, and seeks public input on environmental issues and planning criteria. The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the planning process. Preliminary issues for the EIR/EIS have been identified by BLM personnel; Federal, State, and local agencies; and other stakeholders. The issues include: Air quality and greenhouse gas emissions, biological resources including special status species, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use, noise, recreation, traffic, visual resources, cumulative effects, and areas with high potential for renewable energy development, and identification of opportunities to apply mitigation hierarchy strategies for on-site, regional, and compensatory mitigation.

The BLM will use the NEPA public participation requirements to assist the agency in satisfying the public involvement requirements under Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. 470(f)) pursuant to 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources in the context of both NEPA and Section 106 of the NHPA.

The BLM will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with tribes and other stakeholders that may be interested in or affected by the proposed action are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a cooperating agency.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1501.7.

Thomas Pogacnik,

Deputy State Director.

[FR Doc. 2014–15410 Filed 6–30–14; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–PWR–PWRO–15353; PPPWSEKI00/PX.P0206452A.00.1]

Draft Environmental Impact Statement for the Wilderness Stewardship Plan, Sequoia and Kings Canyon National Parks, California

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: The National Park Service announces the availability of a Draft Environmental Impact Statement for the Wilderness Stewardship Plan, Sequoia and Kings Canyon National Parks, California. The plan is needed to provide management direction for two designated wilderness areas, several potential wilderness additions, and an area of proposed wilderness. The plan

provides the long-term vision for protecting wilderness character, incorporates new research findings, and uses a new interagency planning framework for preservation of wilderness character. The plan also replaces the current plans-of-record, the 1986 *Backcountry Management Plan* and its accompanying 1986 *Stock Use and Meadow Management Plan.*

DATES: All written comments must be postmarked or transmitted not later than 60 days from the date of publication in the **Federal Register** of the Environmental Protection Agency's notice of filing and release of the DEIS. Upon confirmation of this date, we will notify all entities on the project mailing list, and public announcements about the DEIS review period will be posted on the project Web site *http://park planning.nps.gov/seki* and distributed via local and regional press media.

ADDRESSES: Printed copies of the Draft Environmental Impact Statement for the Wilderness Stewardship Plan (DEIS/WSP) will be available at local public libraries (including Three Rivers, Visalia, Fresno, Bakersfield, Bishop and Lone Pine) and in electronic format online at *http://parkplanning.nps.gov/seki*. Written comments may be submitted directly to this Web site, or may be submitted by mail, hand delivered, or faxed to: Superintendent, Sequoia and Kings Canyon National Parks, Attn: DEIS/WSP, 47050 Generals Highway, Three Rivers, CA 93271, Fax: (559) 565–4202.

FOR FURTHER INFORMATION CONTACT: Please contact the Sequoia and Kings Canyon National Parks Office of Environmental Compliance and Planning at (559) 565–3102 to speak with an individual.

SUPPLEMENTARY INFORMATION: The DEIS/WSP provides direction for management of visitors and administrative activities within the parks' wilderness. The framework of this WSP is founded on defining the goals and objectives for wilderness management, defining wilderness character for the parks, describing future desired conditions for wilderness, developing visitor use capacity, and determining the types and levels of commercial activities that support wilderness purposes.

The DEIS/WSP addresses visitor capacity, wilderness permitting, group size limits for people and stock, campfire regulations, camping locations and regulations, food storage requirements, human waste management, pack and saddle-stock regulations, stock grazing, maintenance of facilities and trails, and management of frontcountry facilities that support wilderness use. The DEIS/WSP also analyzes and determines the types and extent of commercial services that are ''necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas,'' as required by § 4(d)(5) of the Wilderness Act. The DEIS/WSP identifies and evaluates the environmental impacts of five alternatives: the no action alternative; and four action alternatives including a preferred alternative. Upon approval, the Final WSP/Final EIS would be implemented over a period of 15–20 years. The NPS is inviting public review of the DEIS to solicit feedback on the proposed alternatives and to gather ideas and concerns for consideration in the Final EIS.

Email comments will not be accepted. Comments in any format (hard copy or electronic) submitted on behalf of others will not be accepted. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment-including your personal identifying information-may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we would be able to do so. All submissions from organizations and businesses, and individuals identifying themselves as representatives or officials of organizations or businesses, are made available for public inspection in their entirety.

The DEIS/WSP identifies five alternatives: the no action alternative (*Alternative 1*) is the continuation of the existing management direction as provided by the 1986 *Backcountry Management Plan* and its accompanying 1986 *Stock Use and Meadow Management Plan;* Alternatives 2, 3, 4, and 5 (action alternatives) describe a range of reasonable and feasible approaches to meet the purpose and need for action and to achieve the DEIS/WSP objectives. The main variations across the alternatives lie in the key aspects of wilderness management—use levels, access and trails, stock use and grazing, and recreational and administrative infrastructure—which are driven by the different approach to management in each alternative. Each alternative serves visitor and/or operational needs in different ways.

Alternative 2, the management preferred alternative, recognizes that Sequoia and Kings Canyon National Parks wilderness can be broadly categorized as: day use areas close to the frontcountry; popular overnight areas like the High Sierra, John Muir, and Pacific Crest trails; and low-use overnight areas like the Middle Fork of the Kings and the Hockett Plateau areas. It further recognizes that current and projected visitor use levels pose few threats to wilderness character in the low-use areas under current management, but there may be threats in the popular areas or in areas with sensitive resources that can be mitigated through targeted improvements to current management.

Alternative 3 increases opportunities for primitive recreation by allowing additional use, which is mostly expected to occur at the most popular areas; however, allowing increased use could result in decreased opportunities for solitude wilderness-wide. In addition, the highest use areas would require additional development and restrictions on visitor behavior in order to preserve the natural quality of wilderness.

Alternative 4 emphasizes the undeveloped and non-commercial qualities of Sequoia and Kings Canyon National Parks wilderness. The removal of development and reduction of commercial services would increase the self-reliant nature of wilderness recreation. In order to preserve the natural quality of wilderness, the amount of commercial use would be reduced.

Alternative 5 enhances the quality of solitude available in Sequoia and Kings Canyon National Parks wilderness. The total numbers of permitted visitors and group sizes would be reduced. Reduced use would allow for a reduction in the levels of development and fewer restrictions on visitor behavior.

Decision Process: All comments received on the DEIS/WSP will be duly considered in preparing the Final EIS, which at this time is expected to be available in early 2015. A Record of Decision would be prepared no sooner than 30 days after release of the Final EIS. Because this is a delegated EIS, the official responsible for approval of the Wilderness Stewardship Plan is the Regional Director, Pacific West Region, National Park Service; subsequently the official responsible for implementation of the approved Wilderness Stewardship Plan is the Superintendent, Sequoia and Kings Canyon National Parks.

Dated: May 5, 2014.

Christine S. Lehnertz,

Regional Director, Pacific West Region.

[FR Doc. 2014–15363 Filed 6–30–14; 8:45 am]

BILLING CODE 4312–FF–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Control Number 1010—New; MMAA104000]

Proposed Information Collection; Atlantic Offshore Wind Energy Development: Public Attitudes, Values, and Implications for Tourism and Recreation; Comment Request

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: 60-day notice.

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Ocean Energy Management (BOEM) is inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) concerns a new survey on the potential impacts of Atlantic offshore wind energy development on coastal tourism and recreation.

DATES: Submit written comments by September 2, 2014.

ADDRESSES: Please send your comments on this ICR to Arlene Bajusz, Information Collection Clearance Officer, Bureau of Ocean Energy Management, 381 Elden Street, HM–3127, Herndon, VA 20170 (mail); or *arlene.bajusz@boem.gov* (email); or 703–787–1209 (fax). Please reference 1010—New in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Arlene Bajusz, Office of Policy, Regulations, and Analysis at *arlene.bajusz@boem.gov* or (703) 787–1025 for a copy of the survey questions. For more information on the survey, contact Brian Krevor, Office of Renewable Energy Programs at *brian.krevor@boem.gov* or (703) 787–1340.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1010-New.

Title: Atlantic Offshore Wind Energy Development: Public Attitudes, Values, and Implications for Tourism and Recreation.

Abstract: Under the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331–1356), BOEM is responsible for conducting OCS lease sales and for monitoring and mitigating adverse impacts that might be associated with offshore energy development. The Energy Policy Act of 2005 (42 U.S.C. 13201 *et seq.*) authorizes the Secretary of the Interior to issue leases, easements, and rights-of-way for offshore renewable energy activities in Federal waters, such as offshore wind power development. In fulfilling these responsibilities, BOEM must take into consideration the impacts of OCS activities on recreational and cultural resources. While we have seen significant interest in offshore wind power development in recent years, the absence of baseline data for specific areas along the Atlantic coast and the absence of a broader regional study on tourism and wind power have made it difficult to identify and analyze the potential impacts of offshore wind development on coastal tourism and recreation. Additional information on these potential impacts will contribute to better planning and decision-making for BOEM and other stakeholders, including other Federal agencies and State and local governments.

Under a cooperative agreement awarded by the Department of the Interior, the University of Delaware will conduct a survey to assess the impact of offshore wind power projects on coastal recreation and tourism from Massachusetts to South Carolina. The survey will gauge public perceptions of offshore wind energy projects and how development could impact future recreation and visitation choices. BOEM will use this information, along with other economic and environmental information, in our offshore wind decision-making process and marine spatial planning efforts. States and coastal communities will use the information for local coastal planning efforts.

The data collection will be done by an internet-based survey. There are two versions of the survey: One for participants (people who have visited an East coast beach in the last 3 years) and one for nonparticipants (those who have not visited a beach within the last 3 years). The nonparticipant survey is a subset of the participant survey. The survey includes questions about wind projects being located at a beach as well as demographic questions.

Frequency: One time.

Obligation to Respond: Voluntary.

Description of Respondents: Individuals.

Estimated Number of Annual Respondents and Hour Burden: 527.

Activity	Annual number of responses	Completion time per response (minutes)	Total annual burden hours
Participant Survey	1,400	20	467
Nonparticipant Survey	360	10	60
Totals	1,760		527

Estimated Reporting and Recordkeeping Nonhour Cost Burden: None.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Availability of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time.

While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: June 23, 2014.

Deanna Meyer-Pietruszka,

Chief, Office of Policy, Regulations, and Analysis.

[FR Doc. 2014–15346 Filed 6–30–14; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–457 and 731–TA–1153 (Review)]

Certain Tow-Behind Lawn Groomers and Parts Thereof From China; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping and countervailing duty orders on certain tow-behind lawn groomers and parts thereof from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is July 31, 2014. Comments on the adequacy of responses may be filed with the Commission by September 15, 2014. For further information concerning the conduct of this proceeding and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* July 1, 2014.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), 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 proceeding may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On August 3, 2009, the Department of Commerce issued antidumping and countervailing duty orders on imports of certain tow-behind lawn groomers and parts thereof from China (74 FR 38395–38397 and 74 FR 38399–38401). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Country* in these reviews is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, the Commission defined a single *Domestic Like Product* encompassing the continuum of certain tow-behind lawn groomers and parts thereof within Commerce's scope of the investigations.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the *Domestic Industry* as all domestic producers of certain tow-behind lawn groomers and parts thereof. The Commission also determined that circumstances warranted the exclusion of certain domestic producers from the *Domestic Industry* as a related party.

(5) The *Order Date* is the date that the antidumping and countervailing duty orders under review became effective. In these reviews, the *Order Date* is August 3, 2009.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 14–5–316, expiration date June 30, 2017. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is July 31, 2014. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is September 15, 2014. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the revised Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov.* Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information To Be Provided in Response To This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2013, except as noted (report quantity data in units and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit,

(iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2013 (report quantity data in units and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2013 (report quantity data in units and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: June 25, 2014.

Jennifer D. Rohrbach,

Supervisory Attorney.

[FR Doc. 2014–15230 Filed 6–30–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–Ta–907]

Certain Vision-Based Driver Assistance System Cameras and Components Thereof; Commission Determination To Review in Part an Initial Determination Granting Complainant's Motion To Amend Complaint and Notice of Investigation and Partially Terminate the Investigation, and on Review To Modify the Initial Determination

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part an initial determination (''ID'') (Order No. 6) issued by the presiding administrative law judge (''ALJ'') granting complainant's motion to amend complaint and notice of investigation and to partially terminate the investigation. On review, the Commission has modified the ID to specify the claims of the patents that have been added to the investigation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3115. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on January 28, 2014, based on a complaint filed by Magna Electronics Inc. of Auburn Hills, Michigan (''Magna,'' or Complainant). *See* 79 FR 4490–91 (Jan. 28, 2014). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C.

1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain vision-based driver assistance system cameras and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 8,116,929 and 8,593,521 (''the '521 patent''). The complaint further alleges the existence of a domestic industry. The respondent named in the Commission's notice of investigation is TRW Automotive U.S., LLC of Livonia, Michigan (''TRW,'' or Respondent). A Commission investigative attorney (''the IA'') is participating in the investigation.

On April 10, 2014, Complainant Magna filed a motion to amend the complaint and notice of investigation to add U.S. Patent Nos. 8,686,840 (''the '840 patent'') and 8,692,659 (''the '659 patent''). Magna's motion also included a conditional element whereby if the motion to amend is granted, then Magna moves to terminate the investigation in part as to all claims of the '521 patent. On April 21, 2014, Respondent filed a response opposing the motion. On the same day, the IA filed a response to Magna's motion stating that she does not oppose the motion.

On May 27, 2014, the ALJ issued the subject ID finding that good cause exists to grant Complainant's motion to amend the complaint and notice of investigation to add the '840 and '659 patents to this investigation and to terminate the investigation as to the '521 patent. On June 4, 2014, Respondent filed a timely petition for review of ALJ Order No. 6. On June 11, 2014, Complainant and the IA timely filed their respective responses opposing the petition.

Having examined the record in this investigation, including the subject ID, the petition for review, and the responses thereto, the Commission has determined to review the ID in part. Specifically, the Commission determined to review the first paragraph on page 7 of the subject ID and, on review, to modify it by clarifying that the notice of investigation is modified by adding claims 30 and 36 of the '840 patent and claims 3, 37, 80, and 92 of the '659 patent, as well as by terminating the investigation as to all claims of the '521 patent. The Commission has determined not to review the remainder of the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR Part 210).

By order of the Commission.

Issued: June 26, 2014.

Lisa R. Barton,

Secretary to the Commission

[FR Doc. 2014–15413 Filed 6–30–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1140–0076]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Relief of Disabilities and Application for Restoration of Explosives Privileges

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 60-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.

DATES: Comments are encouraged and will be accepted for 60 days until September 2, 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 William Joa at *William.Joa@atf.gov* or Bureau of Alcohol, Tobacco, Firearms and Explosives, Redstone Arsenal, Bldg. 3750, Huntsville, AL 35898.

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;
- 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 1140–0076:

1. *Type of Information Collection:* Revision of an existing collection.

2. *The Title of the Form/Collection:* Relief of Disabilities and Application for Restoration of Explosives Privileges.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: ATF Form 5400.29.

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: Individual or households.

Abstract: Any person prohibited from shipping or transporting any explosive in or affecting interstate or foreign commerce or from receiving or possessing any explosive which has been shipped or transported in or affecting interstate or foreign commerce may make application for relief from disabilities. ATF F 5400.29 is required in order to determine whether or not explosives privileges may be restored.

The form is used to conduct an investigation to establish if it is likely that the applicant will act in a manner dangerous to public safety or contrary to public interest.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 231 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 116 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 25, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–15306 Filed 6–30–14; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0309]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection: International Terrorism Victim Expense Reimbursement Program Application

AGENCY: Office for Victims of Crime, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Office for Victims of Crime, 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 September 2, 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 Chandria Slaughter, Office for Victims of Crime, 810 Seventh Street NW., Washington, DC 20531; by facsimile at (202) 305–2440 or by email, to *ITVERP@usdoj.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 Office for Victims of Crime, 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 currently approved collection.

2 *The Title of the Form/Collection:* International Terrorism Victim Expense Reimbursement Program (ITVERP) Application.

3 *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is 1121–0309. The applicable component within the Department of Justice is the Office for Victims of Crime, in the Office of Justice Programs.

4 *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals victims, surviving family members or personal representatives.

Other: Federal Government. This application will be used to apply for the expense reimbursement by U.S. nationals and U.S. Government employees who are victims of acts of international terrorism that occur(red) outside of the United States. The application will be used to collect necessary information on the expenses incurred by the applicant, as associated with his or her victimization, as well as other pertinent information, and will be used by OVC to make an award determination.

5 *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 100 respondents will complete the certification in approximately 45 minutes.

6 *An estimate of the total public burden (in hours) associated with the collection:* The estimated total 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., Room 3E.405B, Washington, DC 20530.

Dated: June 25, 2014.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2014–15322 Filed 6–30–14; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Comment Request for Information Collection for ETA 581, Contribution Operations (OMB Control No. 1205–0178), Extension Without Revision

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. 3506(c)(2)(A)] (PRA). The PRA helps ensure that respondents can provide requested data in the desired format with minimal reporting burden (time and financial resources), collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, ETA is soliciting comments concerning the collection process for data on unemployment insurance (UI) contribution operations, which expires February 28, 2015.

DATES: Submit written comments to the office listed in the addresses section below on or before September 2, 2014.

ADDRESSES: Send comments to Alexander R. Farach, U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue NW., Room S–4524, Washington, DC 20210, telephone number (202) 693–3741 (this is not a toll-free number) or by email: *Farach.Alexander.R@dol.gov.* To obtain a copy of the proposed information collection request (ICR), please contact the person listed above.

SUPPLEMENTARY INFORMATION:

I. Background

State UI agencies report data on the ETA 581 report in order to measure performance, accuracy and promptness in employer registrations, timeliness of filing contribution and wage reports by employers, collections (accounts receivable), and field audits of employers. Data on the report also measures state efforts to detect employer tax avoidance schemes, which is known as State Unemployment Tax Act (SUTA) Dumping. Section 303(k) of the Social Security Act requires states to detect SUTA Dumping. ETA uses the information reported on the report to monitor and measure program performance and make projections and forecasts in conjunction with the budgetary process.

II. Review Focus

The Department is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Type of Review: Extension without revisions.

Title: Report ETA 581, Contribution Operations.

OMB Number: 1205–0178.

Affected Public: State governments.

Estimated Total Annual Respondents: 53 respondents.

Estimated Total Annual Responses: 53 respondents submit quarterly reports (212 reports are submitted annually).

Estimated Total Annual Burden Hours: 1,802 hours.

Total Estimated Annual Other Costs Burden: -0-.

We will summarize and/or include in the request for OMB approval of the ICR, the comments received in response to this comment request; they will also become a matter of public record.

Portia Wu,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2014–15293 Filed 6–30–14; 8:45 am]

BILLING CODE 4510–FW–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Arts Advisory Panel Meeting

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that 19 meetings of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference at the National Endowment for the Arts, Constitution Center, 400 7th St. SW., Washington, DC 20506 as follows (all meetings are Eastern time and ending times are approximate):

Theater & Musical Theater (application review): This meeting will be closed.

Dates: July 2, 2014. 12:00 p.m. to 2:00 p.m.

Theater & Musical Theater (application review): This meeting will be closed.

Dates: July 2, 2014. 3:00 p.m. to 5:00 p.m.

Presenting & Multidisciplinary Works (application review): This meeting will be closed.

Dates: July 8, 2014. 2:00 p.m. to 4:00 p.m.

Artist Communities (application review): This meeting will be closed.

Dates: July 9, 2014. 2:00 p.m. to 4:00 p.m.

Music (application review): This meeting will be closed.

Dates: July 9, 2014. 12:00 p.m. to 2:00 p.m.

Music (application review): This meeting will be closed.

Dates: July 9, 2014. 3:00 p.m. to 5:00 p.m.

Arts Education (application review): This meeting will be closed.

Dates: July 10, 2014. 1:45 p.m. to 3:15 p.m.

Music (application review): This meeting will be closed.

Dates: July 10, 2014. 12:00 p.m. to 2:00 p.m.

Music (application review): This meeting will be closed.

Dates: July 10, 2014. 3:00 p.m. to 5:00 p.m.

Presenting & Multidisciplinary Works (application review): This meeting will be closed.

Dates: July 15, 2014. 2:00 p.m. to 4:00 p.m.

Presenting & Multidisciplinary Works (application review): This meeting will be closed.

Dates: July 16, 2014. 2:00 p.m. to 4:00 p.m.

Museums (application review): This meeting will be closed.

Dates: July 17, 2014. 2:30 p.m. to 5:00 p.m.

Museums (application review): This meeting will be closed.

Dates: July 18, 2014. 11:30 a.m. to 2:00 p.m.

Museums (application review): This meeting will be closed.

Dates: July 18, 2014. 2:30 p.m. to 5:00 p.m.

Media Arts (application review): This meeting will be closed.

Dates: July 21, 2014. 2:00 p.m. to 4:30 p.m.

Media Arts (application review): This meeting will be closed.

Dates: July 22, 2014. 2:00 p.m. to 4:30 p.m.

Arts Education (application review): This meeting will be closed.

Dates: July 24, 2014. 12:45 p.m. to 3:00 p.m.

Arts Education (application review): This meeting will be closed.

Dates: July 30, 2014. 2:00 p.m. to 3:30 p.m.

Arts Education (application review): This meeting will be closed.

Dates: July 31, 2014. 2:00 p.m. to 3:30 p.m.

FOR FURTHER INFORMATION CONTACT: Further information with reference to these meetings can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; *plowitzk@arts.gov*, or call 202/682–5691.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of February 15, 2012, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of Title 5, United States Code.

Dated: June 25, 2014.

Kathy Plowitz-Worden,

Panel Coordinator, National Endowment for the Arts.

[FR Doc. 2014–15335 Filed 6–30–14; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Committee Management; Renewals

The National Science Foundation (NSF) management officials having responsibility for the advisory committees listed below have determined that renewing these groups for another two years is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), by 42 U.S.C. 1861 et seq. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Committees

Advisory Committee for Computer and Information Science and Engineering #1115
Advisory Committee for Mathematical and Physical Sciences #66
Advisory Committee for Social, Behavioral, and Economic Sciences #1171
Business and Operations Advisory Committee #9556
Committee on Equal Opportunities in Sciences and Engineering #1173
Proposal Review Panel for Astronomical Sciences #1186
Proposal Review Panel for Chemical, Bioengineering, Environmental, and Transport Systems #1189
Proposal Review Panel for Chemistry #1191
Proposal Review Panel for Civil, Mechanical, and Manufacturing Innovation #1194
Proposal Review Panel for Computer and Network Systems #1207
Proposal Review Panel for Computing & Communication Foundations #1192
Proposal Review Panel for Cyberinfrastructure #1185
Proposal Review Panel for Electrical, Communications, and Cyber Systems #1196
Proposal Review Panel for Engineering Education and Centers #173
Proposal Review Panel for Graduate Education #57
Proposal Review Panel for Human Resource Development #1199
Proposal Review Panel for Information and Intelligent Systems #1200
Proposal Review Panel for Materials Research #1203
Proposal Review Panel for Mathematical Sciences #1204
Proposal Review Panel for Physics #1208
Proposal Review Panel for Polar Programs #1209
Proposal Review Panel for Undergraduate Education #1214

Effective date for renewal is July 2, 2014. For more information, please contact Crystal Robinson, NSF, at (703) 292–8687.

Dated: June 25, 2014.

Suzanne Plimpton,

Acting, Committee Management Officer.

[FR Doc. 2014–15333 Filed 6–30–14; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, July 15, 2014.

PLACE: NTSB Conference Center, 429 L'Enfant Plaza SW., Washington, DC 20594.

STATUS: The one item is open to the public.

MATTERS TO BE CONSIDERED:

8509A—Highway Accident Report—Collapse of the Interstate 5 Skagit River Bridge, Mount Vernon, Washington, May 23, 2013

NEWS MEDIA CONTACT: Telephone: (202) 314–6100.

The press and public may enter the NTSB Conference Center one hour prior to the meeting for set up and seating.

Individuals requesting specific accommodations should contact Rochelle Hall at (202) 314–6305 or by email at *Rochelle.Hall@ntsb.gov* by Wednesday, July 9, 2014.

The public may view the meeting via a live or archived Web cast by accessing a link under ''News & Events'' on the NTSB home page at *www.ntsb.gov.*

Schedule updates, including weather-related cancellations, are also available at *www.ntsb.gov*.

FOR MORE INFORMATION CONTACT: Candi Bing, (202) 314–6403 or by email at *bingc@ntsb.gov*.

FOR MEDIA INFORMATION CONTACT: Peter Knudson, (202) 314–6100 or by email at *peter.knudson@ntsb.gov*.

Dated: June 27, 2014.

Candi R. Bing,

Federal Register Liaison Officer.

[FR Doc. 2014–15529 Filed 6–27–14; 4:15 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0001]

Sunshine Act Meeting Notice

DATE: Weeks of June 30, July 7, 14, 21, 28, August 4, 2014.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of June 30, 2014

There are no meetings scheduled for the week of June 30, 2014.

Week of July 7, 2014—Tentative

There are no meetings scheduled for the week of July 7, 2014.

Week of July 14, 2014—Tentative

Tuesday, July 15, 2014

9:00 a.m. Briefing on Nuclear Power Plant Decommissioning (Public Meeting) (Contact: Louise Lund, 301–415–3248)

This meeting will be Web cast live at the Web address—*http://www.nrc.gov/*.

Thursday, July 17, 2014

9:00 a.m. Briefing on Radiation Source Protection and Security (Part 1) (Public Meeting) (Contact: Kim Lukes, 301–415–6701)

This meeting will be Web cast live at the Web address—*http://www.nrc.gov/*.

10:35 a.m. Briefing on Radiation Source Protection and Security (Part 2) (Closed—Ex. 9) (Contact: Kim Lukes, 301–415–6701)

Week of July 21, 2014—Tentative

There are no meetings scheduled for the week of July 21, 2014.

Week of July 28, 2014—Tentative

Tuesday, July 29, 2014

9:30 a.m. Briefing on Human Capital and Equal Employment Opportunity (EEO) (Public Meeting) (Contact: Kristin Davis, 301–287–0707)

This meeting will be Web cast live at the Web address—*http://www.nrc.gov/*.

Thursday, July 31, 2014

9:00 a.m. Briefing on the Status of Lessons Learned from the Fukushima Dai-ichi Accident (Public Meeting) (Contact: Kevin Witt, 301–415–2145)

This meeting will be Web cast live at the Web address—*http://www.nrc.gov/*.

Week of August 4, 2014—Tentative

There are no meetings scheduled for the week of August 4, 2014.

* * * * *

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *Darlene.Wright@nrc.gov.*

Dated: June 26, 2014.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2014–15573 Filed 6–27–14; 4:15 pm]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Information and Instructions on Your Reconsideration Rights

AGENCY: Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an extension, without change, of a currently approved information collection request (ICR) 3206–0237, Information and Instructions on Your Reconsideration Rights. As required by the Paperwork Reduction Act of 1995, as amended by the Clinger-Cohen Act, OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on February 24, 2014, allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: The comments deadline for the information collection request published in the **Federal Register** on February 24, 2014 (79 FR 10201), is reopened. Comments are encouraged and will be accepted until July 31, 2014. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

RI 38–47 outlines the procedures required to request reconsideration of an initial OPM decision about Civil Service or Federal Employees retirement, Federal or Retired Federal Employees Health Benefits requests to enroll or change enrollment or Federal Employees' Group Life Insurance coverage. This form lists the procedures and time periods required for requesting reconsideration.

Analysis:

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Information and Instructions on Your Reconsideration Rights.

OMB Number: 3206–0237.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 3,100.

Estimated Time per Respondent: 45 minutes.

Total Burden Hours: 2,325 hours.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–15359 Filed 6–30–14; 8:45 am]

BILLING CODE P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: We Need the Social Security Number of the Person Named Below, 3206–0144

AGENCY: Office of Personnel Management.

ACTION: 30-Day Notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on an extension, without change, of a currently approved information collection request (ICR) 3206–0144, We Need the Social Security Number of the Person Named Below. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on February 24, 2014 at Volume 79 FR 10203 allowing for a 60-day public comment period. No comments were received for this information collection. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until July 31, 2014.

This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

RI 38–45 is used by the Civil Service Retirement System and the Federal Employees Retirement System to identify the records of individuals with similar or the same names. It is also needed to report payments to the Internal Revenue Service.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: We Need the Social Security Number of the Person Named Below.

OMB Number: 3206–0144.

Frequency: On occasion.

Affected Public: Individual or Households.

Number of Respondents: 3,000.

Estimated Time per Respondent: 5 minutes.

Total Burden Hours: 250 hours.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2014–15357 Filed 6–30–14; 8:45 am]

BILLING CODE 6325–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Application for Reimbursement for Hospital Insurance Services in Canada; OMB 3220–0086.

Under section 7(d) of the Railroad Retirement Act (RRA), the RRB administers the Medicare program for persons covered by the railroad retirement system. Payments are provided under section 7(d)4) of the RRA for medical services furnished in Canada to the same extent as for those furnished in the United States. However, payments for the services furnished in Canada are made from the Railroad Retirement Account rather than from the Federal Hospital Insurance Trust Fund, with the payments limited to the amount by which insurance benefits under Medicare exceed the amount payable under Canadian Provincial plans.

Form AA–104, Application for Canadian Hospital Benefits Under Medicare—Part A, is provided by the RRB to a claimant seeking reimbursement for covered hospital services received in Canada. The form obtains information needed to determine the eligibility of the applicant and the amount of any reimbursement due. One response is requested of each respondent. Completion is required to obtain a benefit. The RRB proposes no changes to Form AA–104.

The estimated annual respondent burden is as follows:

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form number	Annual responses	Time (minutes)	Burden (hours)
AA–104	30	10	5

2. Title and purpose of information collection: Availability for Work; OMB 3220–0164.

Under Section 1(k) of the Railroad Unemployment Insurance Act, unemployment benefits are not payable for any day for which the claimant is not available for work.

Under Railroad Retirement Board (RRB) regulation 20 CFR 327.5, ''available for work'' is defined as being willing and ready for work. A claimant is ''willing'' to work if willing to accept and perform for hire such work as is reasonably appropriate to his or her employment circumstances. A claimant is ''ready'' for work if he or she (1) is in a position to receive notice of work and is willing to accept and perform such work, and (2) is prepared to be present with the customary equipment at the location of such work within the time usually allotted.

Under RRB regulation 20 CFR 327.15, a claimant may be requested at any time to show, as evidence of willingness to work, that reasonable efforts are being made to obtain work. In order to determine whether a claimant is; a) available for work, and b) willing to work, the RRB utilizes Forms UI–38, UI Claimant's Report of Efforts to Find

Work, and UI–38s, School Attendance and Availability Questionnaire, to obtain information from the claimant and Form ID–8k, Questionnaire—Reinstatement of Discharged or Suspended Employee, from the union representative. One response is completed by each respondent. The RRB proposes no changes to the forms in the collection.

The estimated annual respondent burden is as follows:

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form Number	Annual responses	Time (minutes)	Burden (hours)
UI–38s:			
In person	42	6	4
By mail	86	10	14
UI–38	2,048	11.5	392
ID–8k	5,668	5	472
Total	7,844		882

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact 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 emailed to *Charles.Mierzwa@RRB.GOV*. Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Chief of Information Resources Management.

[FR Doc. 2014–15330 Filed 6–30–14; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31133; 812–14277]

USCF Equity Trust, et al.; Notice of Application

June 25, 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 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 series to acquire Shares.

APPLICANTS: USCF Equity Trust (the ''Trust''), USCF Advisers LLC (''Current Adviser''), and ALPS Distributors, Inc. (the ''Distributor'').

DATES: *Filing Dates:* The application was filed on February 13, 2014, and amended on June 6, 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 21, 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: USCF Equity Trust and USCF Advisers LLC, 1999 Harrison Street, Suite 1530, Oakland, CA 94612; ALPS Distributors, Inc., 1290 Broadway, Suite 1100, Denver, CO 80203.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 551–6879, or David P. Bartels, 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 Delaware statutory trust registered under the Act as an open-end management investment company. Applicants state that the Trust intends to offer an initial series (''Initial Fund'') whose performance will correspond generally to the performance of a securities index. Each Fund (defined below) operates or will operate as an exchange-traded fund (''ETF'').

2. The Current Adviser is the investment adviser to the Funds. The Current Adviser is, and any other Adviser (as defined below) will be, registered as an investment adviser under the Investment Advisers Act of 1940 (''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 Distributor serves as the principal underwriter and distributor for each of the Funds. The Distributor is not an affiliated person of the Current Adviser within the meaning of section 2(a)(3)(C) of the Act. Applicants request that the order also apply to any other

future principal underwriter and distributor to Future Funds (defined below) (''Future Distributor''), provided that any such Future Distributor complies with the terms and conditions of the application. The Distributor is not, and no Future Distributor will be, affiliated with any Exchange (defined below).

4. Applicants request that the order apply to the Initial Fund and any additional series of the Trust and any other open-end management investment company or series thereof that may be created in the future (''Future Funds'' and together with the Initial Fund, ''Funds''), each of which will operate as an ETF and will track a specified index comprised of domestic or foreign equity and/or fixed income securities (each, an ''Underlying Index''). Any Future Fund will (a) be advised by the Current Adviser or an entity controlling, controlled by, or under common control with the Current Adviser (each, an ''Adviser'') and (b) comply with the terms and conditions of the application.[1]

5. Each Fund holds or will hold certain securities, currencies, other assets, and other investment positions (''Portfolio Holdings'') selected to correspond generally to the performance of its Underlying Index. The Underlying Indexes will be comprised solely 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 that will be comprised solely 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 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 issue 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 (as 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 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, as defined in section 2(a)(3) of the Act, or an affiliated person of such person (''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'') 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'').[7]

[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.

[6] The licenses for the Self-Indexing Funds will specifically state that the Affiliated Index Provider (as defined below), or in case of a sub-licensing agreement, the Adviser, must provide the use of the Affiliated Indexes (as defined below) and related intellectual property at no cost to the Trust and the Self-Indexing Funds.

[7] 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 subadviser (''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 subadviser (''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

Continued

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.

11. 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 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 also provide an additional mechanism for addressing any such potential conflicts of interest.

12. 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.[8]

13. Each Adviser and any Sub-Adviser has adopted or will adopt, pursuant to Rule 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 Current 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 Current Adviser or an associated person (''Inside Information Policy''). Any other Adviser or Sub-Adviser will be required to adopt and maintain a similar Inside Information Policy. In accordance with the Code of Ethics[9] and Inside Information Policy of each Adviser and Sub-Advisers, personnel of those entities with knowledge about the composition of the Portfolio Deposit[10] 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 or 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.

14. 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, an 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 an 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. Applications for prior orders granted to Self-Indexing Funds have received relief to operate such funds on the basis discussed above.[11]

15. 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'').[12] 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

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.

[8] *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.

[9] 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'').

[10] 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.''

[11] *See, e.g.,* Guggenheim Funds Investment Advisors, LLC, Investment Company Act Release Nos. 30560 (June 14, 2013) (notice) and 30598 (July 10, 2013) (order); Sigman Investment Advisors, LLC, Investment company Act Release Nos. 30559 (June 14, 2013) (notice) and 30597 (July 10, 2013) (order).

[12] 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.

positions)[13] 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[14] (c) TBA Transactions, short positions, derivatives and other positions that cannot be transferred in kind[15] will be excluded from the Deposit Instruments and the Redemption Instruments;[16] (d) to the extent the Fund determines, on a given Business Day, to use a representative sampling of the Fund's portfolio;[17] 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'').

16. 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 (as defined below), the Fund determines to require the purchase or redemption, as applicable, to be made entirely in cash;[18] (d) if, on a given Business Day, 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.[19]

17. Creation Units will consist of specified large aggregations of Shares (e.g., 20,000 Shares) as determined by the Adviser, and it is expected that the initial price of a Creation Unit will range from $1 million to $10 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 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.

18. 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.

19. 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.[20] 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

[13] The portfolio used for this purpose will be the same portfolio used to calculate the Fund's NAV for the Business Day.

[14] A tradeable round lot for a security will be the standard unit of trading in that particular type of security in its primary market.

[15] 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.

[16] 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).

[17] 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 on a given Business Day.

[18] 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 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.

[19] 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).

[20] 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.

Fund to implement the delivery of its Shares.

20. 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.

21. 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.[21] 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.

22. 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.

23. 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.

[21] 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.

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 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 fourteen (14) calendar days. 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 fourteen calendar days following the tender of Creation Units for redemption.[22]

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 fourteen calendar days would not be inconsistent with the spirit and intent of section 22(e). Applicants suggest that a redemption payment occurring within fourteen 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.

[22] 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.

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 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 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''), to acquire Shares beyond the limits of section 12(d)(1)(A) of the Act; and the Funds, and any principal underwriter for the Funds, and/or any Broker registered under the Exchange Act, to sell Shares to Funds of Funds beyond the limits of section 12(d)(1)(B) of the Act.

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 a Fund.[23] To limit the control that a Fund of Funds may have over a 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) a 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 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 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,

[23] 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. A ''Fund Affiliate'' is an investment adviser, promoter, or principal underwriter of a Fund and any person controlling, controlled by or under common control with any of these entities.

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 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 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 a 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 a Fund, in connection with the investment by the Fund of Funds in the 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.[24]

17. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no 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 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 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 Funds and not in any other investment company.

18. Applicants also note that a Fund may choose to reject a direct purchase of Shares in Creation Units by a Fund of Funds. To the extent that a Fund of Funds purchases Shares in the secondary market, a 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

[24] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

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 a Fund that is an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds to sell its Shares to and redeem its Shares from a Fund of Funds, and to engage in the accompanying in-kind transactions with the Fund of Funds.[25] 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 Shares directly from a Fund will be based on the NAV of the Fund.[26] Applicants believe that any proposed transactions directly between the 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 a 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, the 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 to a Self-Indexing Fund, directly or indirectly, will cause any Authorized Participant (or any investor on whose behalf an Authorized Participant may transact with the Self-Indexing Fund) to acquire any Deposit Instrument for the Self-Indexing Fund through a transaction in which the Self-Indexing Fund could not engage directly.

B. Fund of Funds Relief

1. The members of a Fund of Funds' 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 a Fund of Funds' 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 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 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 Fund of Funds' Sub-Advisory Group with respect to a 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 a Fund to influence the terms of any services or transactions between the Fund of Funds or Fund of Funds 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 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 a Fund or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of a Fund exceeds the limits in section 12(d)(1)(A)(i) of the Act, the Board of the Fund, including a majority of the directors or trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (''non-interested Board members''), will determine that any consideration paid by the 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 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 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

[25] Although applicants believe that most Funds of Funds will purchase Shares in the secondary market and will not purchase Creation Units directly from a Fund, a Fund of Funds might seek to transact in Creation Units directly with a Fund that is an affiliated person of a Fund of Funds. To the extent that purchases and sales of Shares occur in the secondary market and not through principal transactions directly between a Fund of Funds 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 a Fund of Funds and redemptions of those Shares. 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 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.

[26] 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 Shares of a 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 a Fund of Funds, may be prohibited by section 17(e)(1) of the Act. The FOF Participation Agreement also will include this acknowledgment.

compensation (including fees received pursuant to any plan adopted by a Fund under rule 12b–l under the Act) received from a 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 Fund, in connection with the investment by the Fund of Funds in the 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 a 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 Fund, in connection with the investment by the Investing Management Company in the 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 a Fund) will cause a Fund to purchase a security in any Affiliated Underwriting.

7. The Board of a Fund, including a majority of the non-interested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Fund in an Affiliated Underwriting, once an investment by a Fund of Funds 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 Fund of Funds 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 ensure 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 a Fund of Funds 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 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 Shares of a Fund in excess of the limit in section 12(d)(1)(A)(i), a Fund of Funds will notify the Fund of the investment. At such time, the Fund of Funds will also transmit to the Fund a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Fund of any changes to the list of the names as soon as reasonably practicable after a change occurs. The 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 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 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 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 Fund acquires securities of another investment company pursuant to exemptive relief from the Commission permitting the 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. 2014–15329 Filed 6–30–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31134; 812–14265]

Rothschild Larch Lane Management Company LLC and The Advisors' Inner Circle Fund III; Notice of Application

June 25, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

SUMMARY OF APPLICATION: Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

APPLICANTS: Rothschild Larch Lane Management Company LLC (the ''Adviser'') and The Advisors' Inner Circle Fund III (the ''Trust'').

DATES: *Filing Dates:* The application was filed January 10, 2014, and amended on April 11, 2014, and May 23, 2014.

HEARING OR NOTIFICATION OF HEARING: An order granting the application 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 21, 2014, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Rothschild Larch Lane Management Company LLC, c/o SEI Corporation, One Freedom Valley Drive, Oaks, PA 19456.

FOR FURTHER INFORMATION CONTACT: Linda A. Schneider, Senior Counsel, at (202) 551–6859, or Holly Hunter-Ceci, Branch Chief, at (202) 551–6869 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is organized as a Delaware statutory trust and is registered under the Act as an open-end management investment company. The Trust is composed of one or more series of shares, each with its own distinct investment objectives, policies and restrictions.[1]

2. The Adviser is, and any other Adviser will be, registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). The Adviser serves as the investment adviser to series of the Trust pursuant to an investment advisory agreement with the Trust (each an ''Investment Advisory Agreement'' and collectively, the ''Investment Advisory Agreements'').[2] Each Investment Advisory Agreement was approved or will be approved by the board of trustees of the Trust (the ''Board''), including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of the Trust or the Adviser (''Independent Trustees'') and by the shareholders of the relevant Subadvised Fund in the manner required by sections 15(a) and 15(c) of the Act and rule 18f–2 under the Act.[3] Applicants are not seeking any exemption from the provisions of the Act with respect to the Investment Advisory Agreement.

3. Under the terms of the Investment Advisory Agreement, the Adviser, subject to the oversight of the Board, furnishes a continuous investment program for each Subadvised Fund and determines the investments to be purchased, held, sold or exchanged by each Subadvised Fund and the portion, if any, of the assets of the Subadvised Fund to be held uninvested. For its services to each Subadvised Fund, the Adviser receives an investment advisory fee from that Subadvised Fund as specified in the Investment Advisory Agreement calculated based on that Subadvised Fund's average daily net assets. The terms of the Investment Advisory Agreements also permit the Adviser, subject to the approval of the Board, including a majority of the Independent Trustees, and the shareholders of the applicable Subadvised Fund (if required by applicable law), to delegate portfolio management responsibilities of all or a portion of the assets of the Subadvised Fund to one or more subadvisers (''Subadvisers''). The Adviser evaluates, selects and recommends Subadvisers to manage the assets (or portion thereof) of Subadvised Funds, monitors and reviews the Subadvisers and their performance and their compliance with that Subadvised Fund's investment policies and restrictions. The Adviser has entered into subadvisory agreements (''Subadvisory Agreements'') with various Subadvisers to serve as Subadvisers to the Subadvised Funds. Each Subadviser is, and each future Subadviser will be, an ''investment adviser,'' as defined in section 2(a)(20) of the Act, and is registered, or will register, as an investment adviser under the Advisers Act, or not subject to such registration. The Adviser may compensate each Subadviser out of the advisory fees paid to the Adviser under the Investment Advisory Agreement, or Subadvised Funds may compensate the Subadvisers directly.

4. Applicants request an order to permit the Adviser, subject to Board approval, to select Subadvisers to manage all or a portion of the assets of a Subadvised Fund pursuant to a Subadvisory Agreement and materially amend Subadvisory Agreements without obtaining shareholder approval. The requested relief will not extend to any Subadviser that is an ''affiliated person,'' as defined in section 2(a)(3) of the Act, of the Trust or a Subadvised Fund or the Adviser, other than by reason of solely serving as a Subadviser to a Subadvised Fund or as an investment adviser or subadviser to any series of the Trust other than the series of the Trust advised by the Adviser (''Affiliated Subadviser'').

5. Applicants also request an order exempting each Subadvised Fund from certain disclosure provisions described below that may require the Subadvised Funds to disclose fees paid to each Subadviser by the Adviser or a Subadvised Fund. Applicants seek an order to permit each Subadvised Fund to disclose (as a dollar amount and a percentage of each Subadvised Fund's net assets) only: (a) The aggregate fees paid to the Adviser and any Affiliated Subadviser; and (b) the aggregate fees paid to Subadvisers other than Affiliated Subadvisers (collectively, the ''Aggregate Fee Disclosure''). A Subadvised Fund that employs an Affiliated Subadviser will provide separate disclosure of any fees paid to the Affiliated Subadviser.

6. The Funds will inform shareholders of the hiring of a new Subadviser pursuant to the following procedures (''Modified Notice and Access Procedures''): (a) Within 90 days after a new Subadviser is hired for any Subadvised Fund, that Subadvised

[1] Applicants request relief with respect to all existing and future series of the Trust and any other existing or future registered open-end management investment company or series thereof that (a) is advised by the Adviser or any entity controlling, controlled by, or under common control with the Adviser or its successors (included in the term ''Adviser''); (b) uses the multi-manager structure described in the application (''Manager of Managers Structure''); and (c) complies with the terms and conditions of the application (each a ''Subadvised Fund'' and collectively, the ''Subadvised Funds''). The only existing registered open-end management investment company that currently intends to rely on the requested order is named as an applicant.

For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization. If the name of any Subadvised Fund contains the name of a Subadviser (as defined below), the name of the Adviser that serves as the primary adviser to the Subadvised Fund, or a trademark or trade name that is owned by the Adviser, will precede the name of the Subadviser.

[2] Each other Subadvised Fund will enter into an investment advisory agreement with its Adviser (included in the term ''Investment Advisory Agreement'').

[3] The term ''Board'' also includes the board of trustees or directors of a future Subadvised Fund, if different.

Fund will send its shareholders either a Multi-manager Notice or a Multi-manager Notice and Multi-manager Information Statement; [4] and (b) the Subadvised Fund will make the Multi-manager Information Statement available on the Web site identified in the Multi-manager Notice no later than when the Multi-manager Notice (or Multi-manager Notice and Multi-manager Information Statement) is first sent to shareholders, and will maintain it on that Web site for at least 90 days.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of a majority of the company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series investment company affected by a matter must approve that matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 19(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to a registered investment company to comply with Schedule 14A under the Exchange Act. Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Regulation S–X sets forth the requirements for financial statements required to be included as part of a registered investment company's registration statement and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b) and (c) of Regulation S–X require a registered investment company to include in its financial statement information about the investment advisory fees.

5. Section 6(c) 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 the Act, or from any rule thereunder, if 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. Applicants state that the requested relief meets this standard for the reasons discussed below.

6. Applicants assert that the shareholders expect the Adviser, subject to the review and approval of the Board, to select the Subadvisers who are best suited to achieve the Subadvised Fund's investment objective. Applicants assert that, from the perspective of the shareholder, the role of the Subadviser is substantially equivalent to the role of the individual portfolio managers employed by an investment adviser to a traditional investment company. Applicants state that requiring shareholder approval of each Subadvisory Agreement would impose unnecessary delays and expenses on the Subadvised Funds and may preclude the Subadvised Funds from acting promptly when the Board and the Adviser believe that a change would benefit a Fund and its shareholders. Applicants note that the Investment Advisory Agreements and any subadvisory agreement with an Affiliated Subadviser (if any) will continue to be subject to the shareholder approval requirements of section 15(a) of the Act and rule 18f–2 under the Act.

7. Applicants assert that the requested disclosure relief would benefit shareholders of the Subadvised Funds because it would improve the Adviser's ability to negotiate the fees paid to Subadvisers. Applicants state that the Adviser may be able to negotiate rates that are below a Subadviser's ''posted'' amounts if the Adviser is not required to disclose the Subadvisers' fees to the public. Applicants submit that the requested relief will encourage Subadvisers to negotiate lower subadvisory fees with the Adviser if the lower fees are not required to be made public.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions: [5]

1. Before a Subadvised Fund may rely on the order, the operation of the Subadvised Fund in the manner described in the application will be approved by a majority of the Subadvised Fund's outstanding voting securities as defined in the Act or, in the case of a Subadvised Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder before such Subadvised Fund's shares are offered to the public.

2. The prospectus for each Subadvised Fund will disclose the existence, substance, and effect of any order granted pursuant to the application. In addition, each Subadvised Fund will hold itself out to the public as employing a Manager of Managers Structure. The prospectus will prominently disclose that the Adviser has the ultimate responsibility, subject to oversight by the Board, to oversee the Subadvisers and recommend their hiring, termination, and replacement.

3. A Subadvised Fund will inform shareholders of the hiring of a new Subadviser within 90 days after the hiring of the new Subadviser pursuant to the Modified Notice and Access Procedures.

4. The Adviser will not enter into a Subadvisory Agreement with any Affiliated Subadviser without that agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Subadvised Fund.

5. At all times, at least a majority of the Board will be Independent Trustees, and the selection and nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

6. Independent legal counsel, as defined in rule 0–1(a)(6) under the Act, has been and will continue to be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then-existing Independent Trustees.

7. Whenever a Subadviser change is proposed for a Subadvised Fund with an Affiliated Subadviser, the Board,

[4] A ''Multi-manager Notice'' will be modeled on a Notice of Internet Availability as defined in rule 14a–16 under the Securities Exchange Act of 1934 (''Exchange Act''), and specifically will, among other things: (a) Summarize the relevant information regarding the new Subadviser; (b) inform shareholders that the Multi-manager Information Statement is available on a Web site; (c) provide the Web site address; (d) state the time period during which the Multi-manager Information Statement will remain available on that Web site; (e) provide instructions for accessing and printing the Multi-manager Information Statement; and (f) instruct the shareholder that a paper or email copy of the Multi-manager Information Statement may be obtained, without charge, by contacting the Subadvised Funds. A ''Multi-manager Information Statement'' will meet the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act for an information statement, except as modified by the requested order to permit Aggregate Fee Disclosure. Multi-manager Information Statements will be filed electronically with the Commission via the EDGAR system.

[5] Applicants will comply with conditions 6, 8, 11 and 13 only if they rely on the relief that would allow them to provide Aggregate Fee Disclosure.

including a majority of the Independent Trustees, will make a separate finding, reflected in the Board minutes, that the change is in the best interests of the Subadvised Fund and its shareholders, and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

8. Whenever a Subadviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the profitability of the Adviser.

9. The Adviser will provide general management services to each Subadvised Fund, including overall supervisory responsibility for the general management and investment of the Subadvised Fund's assets and, subject to review and approval of the Board, will: (i) Set the Subadvised Fund's overall investment strategies; (ii) evaluate, select, and recommend Subadvisers to manage all or a portion of the Subadvised Fund's assets; (iii) allocate and, when appropriate, reallocate the Subadvised Fund's assets among Subadvisers; (iv) monitor and evaluate the Subadvisers' performance; and (v) implement procedures reasonably designed to ensure that Subadvisers comply with the Subadvised Fund's investment objective, policies and restrictions.

10. No Trustee or officer of the Trust or of a Subadvised Fund or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person) any interest in a Subadviser except for (i) ownership of interests in the Adviser or any entity that controls, is controlled by or is under common control with the Adviser; or (ii) ownership of less than 1% of the outstanding securities of any class of equity or debt of any publicly traded company that is either a Subadviser or an entity that controls, is controlled by or is under common control with a Subadviser.

11. Each Subadvised Fund will disclose in its registration statement the Aggregate Fee Disclosure.

12. In the event the Commission adopts a rule under the Act providing substantially similar relief to that in the order requested in the Application, the requested order will expire on the effective date of that rule.

13. The Adviser will provide the Board, no less frequently than quarterly, with information about the profitability of the Adviser on a per Subadvised Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Subadviser during the applicable quarter.

14. Any new Subadvisory Agreement or any amendment to a Subadvised Fund's existing Investment Advisory Agreement or Subadvisory Agreement that directly or indirectly results in an increase in the aggregate advisory fee rate payable by the Subadvised Fund will be submitted to the Subadvised Fund's shareholders for approval.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15332 Filed 6–30–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72468; File No. SR–CBOE–2014–039]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Approving a Proposed Rule Change as Modified by Amendment No. 1 To Amend Certain Margin Rules for Volatility Index Options

June 25, 2014.

I. Introduction

On April 28, 2014, the Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend certain margin rules for volatility index options. The proposed rule change was published for comment in the **Federal Register** on May 13, 2014.[3] The Commission received no comment letters regarding the proposed rule change. On June 10, 2014, CBOE filed Amendment No. 1 to the proposed rule change.[4] This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change

CBOE proposes to amend certain margin rules for volatility index options. Over the past decade, CBOE has received approval from the Commission to list options on different types of volatility indexes, including volatility indexes comprised of options on: (1) Broad-based indexes, (2) individual stocks; and (3) exchange traded funds (''ETFs''). For each volatility index comprised of broad-based index options, the Exchange received approval from the Commission to classify each respective volatility index as a ''broad-based index'' for margin purposes.[5] For stock and ETF-based volatility indexes, the margin requirements were set at the same levels that apply to equity options.[6]

The Exchange is proposing to amend CBOE Rules 12.3 (Margin Requirements) and 12.4 (Portfolio Margin) to increase the minimum margin requirements for certain 30-day volatility index options and for options on the VXST Index, which is designed to reflect investors' consensus view of 9-day expected stock market volatility.[7] To affect these changes as new minimum margin requirements going forward, the Exchange is proposing to add the proposed margin levels to the text of CBOE Rules 12.3 and 12.4. Specifically, CBOE believes the proposal rule changes will make the rule text more ''user-friendly'' by enumerating ''Volatility Indexes'' and identifying specific classes in the appropriate places.

Proposed Changes to CBOE Rule 12.3(c)(5)

CBOE Rule 12.3(c)(5) sets forth the initial and maintenance margin

---

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72115 (May 7, 2014), 79 FR 27358 (''Notice'').

[4] In Partial Amendment No. 1, CBOE requested that the implementation date for the rule be 30 days from the date of this approval order (''Amendment No. 1''). Amendment No. 1 does not change any of the proposed rule text that was submitted in the original filing. Amendment No. 1 is technical in nature and, therefore, the Commission is not publishing it for comment.

[5] *See* Securities Exchange Act Release Nos. 49563 (April 14, 2004), 69 FR 21589 (April 21, 2004) (order approving SR–CBOE–2003–40 to list options on the CBOE Volatility Index (''VIX''), the CBOE Nasdaq 100 Index Volatility Index (''VXN'') and the CBOE Dow Jones Industrial Index (''VXD'')), 55425 (March 8, 2007), 72 FR 12238 (March 15, 2007) (order approving SR–CBOE–2006–73 to list options on the CBOE Russell 2000 Volatility Index (''RVX'')), and 71764 (March 21, 2014), 79 FR 17212 (March 27, 2014) (order approving SR–CBOE–2014–003 to list options on the CBOE Short-Term Volatility Index (''VXST'')).

[6] *See* Securities Exchange Act Release Nos. 62139 (May 19, 2010), 75 FR 29597 (May 26, 2010) (order approving SR–CBOE–2010–018 to list options on the CBOE Gold ETF Volatility Index (''GVZ''), and 64551 (May 26, 2011), 76 FR 32000 (June 2, 2011) (order approving SR–CBOE–2011–026 to list options on the CBOE Equity VIX on Apple (''VXAPL''), the CBOE Equity VIX on Amazon (''VXAZN''), the CBOE Equity VIX on Goldman Sachs (''VXGS''), the CBOE Equity VIX on Google (''VXGOG''), the CBOE Equity VIX on IBM (''VXIBM''), the CBOE Crude Oil ETF Volatility Index (''OVX''), the CBOE Emerging Markets ETF Volatility Index (''VXEEM''), the CBOE China ETF Volatility Index (''VXFXI''), the CBOE Brazil ETF Volatility Index (''VXEWZ''), the CBOE Gold Miners ETF Volatility Index (''VXGDX'') and the CBOE Energy Sector ETF Volatility Index (''VXXLE'')).

[7] *See Notice, supra* note 3, at 27358.

requirements for short options held in a customer account. As stated above, when the Commission approved the VIX, VXN, VXD, RVX and VXST options for trading, the Exchange was permitted to margin these products as ''broad-based index'' options. The first chart in CBOE Rule 12.3(c)(5) sets forth at paragraph 3 that the initial and/or maintenance margin required for broad-based index options is the greater of: 100% of the current market value of the option plus 15% of the current underlying component value less any out-of-the-money amount or 100% of the current market value of the option plus 10% of the current underlying component value.[8] The ''underlying component value'' for broad-based index options is the product of the current index group value and the applicable index multiplier. The Exchange believes that the 15% initial and/or maintenance margin component should be increased to 20% for 30-day volatility index options and to 40% for 9-day volatility index options (VXST), which were approved to be treated as ''broad-based index'' options for margin purposes. For 9-day volatility index options (VXST), the Exchange also believes that the 10% minimum margin required should be increased to 20%.[9] The Exchange is not proposing to increase the 10% minimum margin required for 30-day volatility index options.[10]

To affect this change, the Exchange proposes to amend existing paragraph 15 to the first chart set forth in CBOE Rule 12.3(c)(5). Paragraph 15 currently sets forth the initial and/or maintenance margin required and minimum margin required for individual stock or ETF-based volatility indexes (whose margin requirements the Exchange is not proposing to change). The Exchange is proposing to amend paragraph 15 to expand its application to all volatility indexes. Specifically, the Exchange proposes to set forth ''Volatility Indexes'' as the type of option and to set forth below that heading the specific volatility index option classes that are currently listed for trading (*i.e.,* VIX, RVX, VXST, GVZ, OVX, VXEEM and VXEWZ).[11]

The Exchange also proposes to include a category under ''Volatility Indexes'' labeled, ''Other Volatility Indexes identified in Rules 24.9(a)(3) and 24.9(a)(4)''[12] because the Exchange has received approval to trade options on certain volatility indexes, which are not currently listed for trading. The Exchange also proposes to amend the definition for ''index value'' for volatility indexes in Row IV (Underlying Component Value) to the first chart in CBOE Rule 12.3(c)(5) in order to be more clear. Specifically, the Exchange proposes to add the descriptive phrase, ''current (spot or cash)'' so that the CBOE Rule 12.3(c)(5) is clear on its face that the current (spot or cash) value for a volatility index is used to calculate margin requirements.[13]

The Exchange is also proposing to delete ''Individual Stock or ETF Based'' from the Option or Warrant Issue column from the second chart in CBOE Rule 12.3(c)(5) and replace it with ''Volatility Indexes.'' In addition, the Exchange is proposing to add the descriptive phrase ''(spot or cash)'' before the references to ''current index value'' in the Call and Put rows. These changes conform to the changes described above regarding the new category of ''Volatility Indexes'' and provide clarity as to what is meant by ''current index value'' for volatility index options.

Proposed Changes to CBOE Rule 12.4

As an alternative to the margin requirements set forth in CBOE Rule 12.3, CBOE Rule 12.4 (Portfolio Margin) permits Trading Permit Holder organizations to compute a margin requirement for option positions carried for customers using a portfolio (or risk-based) approach. CBOE proposes to amend CBOE Rule 12.4 to identify ''Volatility Index (30-day implied)'' and ''Volatility Index (9-day implied)'' as portfolio types in the chart set forth in CBOE Rule 12.4 and to specify ''+/−20%'' and ''+/−40%) as the respective applicable up/down market move (high & low valuation points).[14] The Exchange believes that specifying ''Volatility Index (30-day implied)'' and ''Volatility Index (9-day implied)'' as portfolio types would make finding the applicable portfolio margin levels easier for users of CBOE's rulebook. The Exchange notes that this proposed change would increase the applicable up/down market move (high & low valuation points) for all of its volatility index options.[15]

The Exchange is proposing to delete the four footnote 1 references and the text of footnote 1 from the chart set forth in CBOE Rule 12.4. The text of the footnote reads, ''In accordance with sub-paragraph (b)(1)(i)(B) of Rule 15c3–1a under the Securities Exchange Act of 1934.''[16] The Exchange also proposes to amend subparagraph (a)(9) to CBOE Rule 12.4, which sets forth the definition for ''underlying instrument'' as meaning ''a security or security index upon which any listed option, unlisted derivative, security futures product or related instrument is based. The term underlying instrument shall not be deemed to include, futures contracts, options on futures contracts or underlying stock baskets.'' The Exchange proposes to amend that definition by adding the following phrase at the end of the definition, ''except that, for the purpose of calculating theoretical gains and losses for a listed option, unlisted derivative, or security futures product overlying a volatility index pursuant to this Rule, the price of a futures contract referencing the same volatility index may be utilized in lieu of the current (spot or cash) index value.'' The Exchange is proposing to make this change because a more accurate theoretical price for a volatility index option is obtained, and thus a more accurate portfolio margin requirement is derived, by using the price of a futures contract that references the same volatility index. Market participants price volatility index options in view of the price a futures contract that references the same volatility index, rather than using the cash or spot index value.[17]

In addition, the Exchange proposes to amend subparagraph (d)(3)(ii) to CBOE Rule 12.4 to add volatility index options to the list of eligible positions for portfolio margin. Finally, the Exchange proposes to make a technical change earlier in Rule 12.4(a)(5) to delete the

[8] There is one difference in the case of a put option. For the 10% minimum only, 10% of the put's exercise price is required rather than 10% the current underlying component value.

[9] Prior to the April 10, 2104 launch of trading in VXST options, the Exchange exercised its authority under CBOE Rules 12.3(h) and 12.10 to impose higher initial and maintenance margin requirements for short, uncovered VXST options. *See* CBOE Regulatory Circular *RG14–040* (Margin Requirements for VXST Options).

[10] *See* Notice, *supra* note 3, at 27358.

[11] *See* Notice, *supra* note 3, at 27359.

[12] CBOE Rules 24.9(a)(3) (European-style index options approved for trading) and 24.9(a)(4) (A.M.-settled index options approved for trading) identify, among other indexes, all other volatility indexes that have approved for options trading but which are not currently listed for trading.

[13] *See* Notice, *supra* note 3, at 27359.

[14] Prior to the April 10, 2104 launch of trading in VXST options, the Exchange exercised its authority under CBOE Rule 12.10 to provide that the magnitude of the valuation point range under CBOE Rule 12.4 for VXST options held in a portfolio margin is +/−40% and that the price of the VXST futures contract with a corresponding expiration will be used to calculate theoretical gains and losses for VXST options. *See* CBOE Regulatory Circular RG14–056 (Margin Requirements for VXST Options).

[15] *See* Notice, *supra* note 3, at 27359.

[16] *See id.* at 27359.

[17] *See id.*

unnecessary word ''and'' from the definition of ''option series.'' [18]

Ongoing Analysis Regarding Margin Levels

The Exchange will continue to analyze and review the appropriate minimum margin levels for volatility index option. Specifically, the Exchange will continue to review market data in order to determine whether the proposed margin levels should remain or be adjusted. Among other things, CBOE may propose an alternate methodology for determining margin levels or CBOE may subsequently change margin levels after having time to study the impact of the proposed rule change. Any such change would be accomplished by way of a rule filing with the Commission.[19]

Implementation Date

CBOE filed Amendment No. 1 to request a 30-day implementation period for the proposed rule that would commence upon approval of the proposed rule change.[20] The Exchange believes that this is an appropriate timeframe for Trading Permit Holder organizations and their customers to prepare for the proposed margin increases.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[21] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[22] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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 believes that increasing the minimum margin requirements (including the portfolio margin requirements) for certain volatility index options will protect the integrity of the marketplace by setting margin at a level that is appropriate for the given instrument. The proposed changes also will benefit investors and other market participants by making some clarifying changes to CBOE's margin rules, and by making CBOE's rules more user-friendly in that the applicable margin levels will be easier to locate in CBOE's rulebook.

Finally, the implementation date of the proposed rule change will be 30 days from the effective date of this approval order. The Commission believes that a 30-day implementation date is an appropriate timeframe for broker-dealers and their customers to prepare for the proposed margin increases.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[23] that the proposed rule change (SR–CBOE–2014–039), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15327 Filed 6–30–14; 8:45 am]

BILLING CODE 8011–01–P

[18] *See id.*

[19] *See id.* at 27359–60.

[20] *See* Amendment No. 1.

[21] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78f(b)(5).

[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72465; File No. SR–CME–2014–26]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Modifications to Its OTC IRS Fee Schedule

June 25, 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 18, 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)(2) [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 modify the fee schedule applicable to its over-the-counter (''OTC'') interest rate swap (''IRS'') clearing offering.

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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

CME is registered as a derivatives clearing organization with the Commodity Futures Trading Commission (''CFTC'') and currently offers clearing services for many different futures and swaps products. With this filing, CME proposes to modify the fee schedule (the ''Fee Schedule'') that applies to over-the-counter (''OTC'') Interest Rate Swaps (''IRS'') cleared at CME.

The proposed fee change relates to the charges for customer back-loaded trades. The proposed change applies to the OTC IRS Customer Fee Schedule. The proposed modification would specify that certain qualifying back-loaded trades would be eligible for rebated clearing fees provided that certain conditions and criteria are met. In order to be eligible for the clearing fee rebate, the following criteria would have to be satisfied: The entire back-loaded portfolio must have an aggregate gross notional equal to or greater than $500 billion (or U.S. Dollar equivalent); the customer notifies CME at least five (5) days in advance by contacting *OTCFees@cmegroup.com;* the participating back-loaded trades are back-loaded within a period of twenty (20) business days or less; and, finally,

[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)(2).

the back-loaded trades result in a net increase in customer open interest during the specified back-loading period.

In addition, the proposed modification to the OTC IRS Fee Schedule also includes certain corrections to the current Fee Schedule for IRS Clearing Members dealing with end of day offsets for currencies. These corrections are intended to adjust the standard day offsets that are used to coincide more closely with market standard settlement conventions.

The change that is described in this filing impacts fees that are limited to CME's business as a derivatives clearing organization clearing products under the exclusive jurisdiction of the CFTC and does not materially impact CME's security-based swap clearing business in any way. The fee change would become effective immediately but would be operationalized on July 1, 2014. CME notes that it has already submitted the proposed rule changes that is the subject of this filing to its primary regulator, the CFTC, in CME Submission 14–239.

CME believes the proposed rule change is consistent with the requirements of the Exchange Act including Section 17A of the Exchange Act.[5] More specifically, the proposed rule changes establish or change a member due, fee or other charge imposed by CME under Section 19(b)(3)(A)(ii)[6] of the Exchange Act and Rule 19b–4(f)(2)[7] thereunder. CME believes that the proposed fee change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder and, in particular, to Section 17A(b)(3)(D) of the Exchange Act,[8] because the proposed fee changes apply equally to all OTC IRS customers clearing IRS at CME and therefore the proposed changes provide for the equitable allocation of reasonable dues, fees and other charges among participants. CME also notes that it operates in a highly competitive market in which market participants can readily direct business to competing venues. As such, the proposed change is appropriately filed pursuant to Section 19(b)(3)(A)[9] of the Act and Rule 19b–4(f)(2)[10] 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. The fee change provides a waiver of fees for certain large qualifying back-loaded IRS legacy portfolios. Back-loaded transactions are defined as where the trade date for the transaction is prior to the cleared date and, thus, by definition, are transactions which have already occurred well before clearing. Back-loaded transactions promote the general goal of increasing central clearing of OTC derivatives products. Further, OTC IRS are swaps under the exclusive jurisdiction of the CFTC, and, as such, these proposed fee change does not affect the security-based swap clearing activities of CME in any way and therefore does not impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

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 upon filing pursuant to Section 19(b)(3)(A)[11] of the Act and Rule 19b–4(f)(2)[12] 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 Comment

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–2014–26 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–2014–26. 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–2014–26 and should be submitted on or before July 22, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15324 Filed 6–30–14; 8:45 am]

BILLING CODE 8011–01–P

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

[8] 15 U.S.C. 78q–1(b)(3)(D).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72464; File No. SR–NYSEArca-2014–45]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Approving a Proposed Rule Change Governing the Continued Listing and Trading of Shares of the PowerShares Insured California Municipal Bond Portfolio, PowerShares Insured National Municipal Bond Portfolio, and PowerShares Insured New York Municipal Bond Portfolio

June 25, 2014.

I. *Introduction*

On April 25, 2014, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Exchange Act'') [2] and Rule 19b–4 thereunder,[3] a proposed rule change relating to the listing and trading of shares (''Shares'') of the following series of Investment Company Units (''Units''): PowerShares Insured California Municipal Bond Portfolio (''CA Portfolio''); PowerShares Insured National Municipal Bond Portfolio (''National Portfolio''); and PowerShares Insured New York Municipal Bond Portfolio (''NY Portfolio,'' and collectively ''Municipal Bond Portfolios'' or ''Funds''). The proposed rule change was published for comment in the **Federal Register** on May 15, 2014.[4] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The Funds are series of the PowerShares Exchange-Traded Fund Trust II (''Trust'').[5] Invesco PowerShares Capital Management LLC is the investment adviser (''Adviser'') for the Funds. Invesco Distributors, Inc. is the Funds' distributor. The Bank of New York Mellon is the administrator, custodian and fund accounting and transfer agent for each Fund.

Currently, the Exchange lists and trades the Shares under NYSE Arca Equities Rule 5.2(j)(3), Commentary .02, which governs the listing and trading of Units based on fixed income securities indexes. As described further below, the Exchange states that it recently became aware that the indexes underlying the Funds do not meet all of the generic listing criteria applicable to these Units. Accordingly, by this proposed rule change, NYSE Arca seeks to permit the continued listing and trading of the Shares. Additionally, and as discussed further below, in the future, the Exchange expects that the indexes underlying the Funds will be changed again, and the Exchange states that those new indexes also fail to meet the generic listing criteria of NYSE Arca Equities Rule 5.2(j)(3), Commentary .02. Accordingly, by this proposed rule change, NYSE Arca also seeks to permit the listing and trading of the Shares once the Funds transition to the new underlying indexes.

The Funds' Current Underling Indexes

The Exchange states that, on May 28, 2009, the municipal bond indexes underlying the CA Portfolio; the National Portfolio; and the NY Portfolio were changed to the Merrill Lynch California Insured Long-Term Core Plus Municipal Securities Index, the Merrill Lynch National Insured Long-Term Core Plus Municipal Securities Index, and the Merrill Lynch New York Insured Long-Term Core Plus Municipal Securities Index, respectively.[6] According to the Exchange, on September 25, 2009, the names of the indexes underlying the Municipal Bond Portfolios again were changed to the BofA Merrill Lynch California Insured Long-Term Core Plus Municipal Securities Index (''CA Index''), the BofA Merrill Lynch National Insured Long-Term Core Plus Municipal Securities Index (''National Index''), and the BofA Merrill Lynch New York Insured Long-Term Core Plus Municipal Securities Index, respectively [7] (''NY Index'', and collectively, ''Municipal Bond Indexes'').[8]

According to the Exchange, the Municipal Bond Indexes meet all of the applicable requirements for the generic listing under NYSE Arca Equities Rule 5.2(j)(3) except for the requirement of Commentary .02(a)(2), which requires that components that in the aggregate account for 75% or more of the weight of the index or portfolio each have a minimum original principal amount outstanding of $100 million or more. Specifically, as of March 6, 2014, approximately 34.84%, and 37.16%, and 59.22% of the weight of the components of the CA Index, National Index and NY Index, respectively, had a minimum original principal amount outstanding of $100 million or more.[9]

The CA Portfolio

The CA Portfolio seeks investment results that generally correspond (before fees and expenses) to the price and yield performance of the CA Index.[10] The CA Index is designed to track the performance of U.S. dollar-denominated, investment grade, tax-exempt debt publicly issued by California or U.S. territories (including Puerto Rico), or their political subdivisions, in the U.S. domestic market and includes approximately 267 bonds (as of January 31, 2014). The CA Index is adjusted monthly.

As of January 31, 2014, the total dollar amount outstanding of issues in the CA Index was approximately $17.201 billion and the average dollar amount outstanding of issues in the CA Index was approximately $64.42 million. The most heavily weighted component

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 72139 (May 9, 2014), 79 FR 27950 (''Notice'').

[5] On February 27, 2014, the Trust filed a post-effective amendment on Form 485 under the Securities Act of 1933 (15 U.S.C. 77a) (''1933 Act'') to its registration statement on Form N–1A under the 1933 Act and the Investment Company Act of 1940 (''1940 Act'') (15 U.S.C. 80a–1) (File Nos. 333–138490 and 811–21977) (the ''Registration Statement''). In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 27841 (May 25, 2007) (File No. 812–13335) (''Exemptive Order'').

[6] *See* Notice, *supra* note 4, 79 FR at 27951. The changes to the indexes underlying the Municipal Bond Portfolios were reflected in a supplement on Form 497 under the 1933 Act, dated May 28, 2009 (''May 28, 2009 Supplement'') to the Municipal Bond Portfolios' prospectus dated February 27, 2009. *See* Notice, *supra* note 4, 79 FR at 27951, n.7. The previous names of the indexes underlying the Municipal Bond Portfolios were the Merrill Lynch California Insured Long-Term Core Municipal Securities Index, Merrill Lynch National Insured Long-Term Core Municipal Securities Index, and Merrill Lynch New York Insured Long-Term Core Municipal Securities Index, respectively. *See* Notice, *supra* note 4, 79 FR at 27951, n.7.

[7] BofA Merrill Lynch is the index provider (''Index Provider'') with respect to the Municipal Bond Indexes and the ''New Municipal Bond Indexes,'' which are described below. The Index Provider is a broker-dealer and has implemented a firewall with respect to and will maintain procedures designed to prevent the use and dissemination of material non-public information regarding the Municipal Bond Indexes and New Municipal Bond Indexes. *See* Notice, *supra* note 4, 79 FR at 27951, n.8.

[8] The September 25, 2009, name changes were reflected in a supplement dated September 25, 2009 to the Municipal Bond Portfolios' prospectus dated February 27, 2009. *See* Notice, *supra* note 4, 79 FR at 27951, n.9.

[9] *See id.*

[10] Normally, the CA Portfolio invests at least 80% of its total assets in the securities that compose the CA Index and generally expects to so invest at least 90% of its total assets. The CA Portfolio reserves the right to invest up to 20% of its assets in certain futures, options and swap contracts, cash and cash equivalents, including money market funds, as well as in municipal securities not included in the CA Index to the extent that the Adviser believes investment in such instruments will facilitate the CA Portfolio's ability to achieve its investment objective.

represented 3.53% of the weight of the CA Index and the five most heavily weighted components represented 9.94% of the weight of the CA Index. The CA Index is composed of approximately 267 issues and 127 unique issuers. In addition, the average daily notional trading volume for CA Index components for the calendar year 2013 was approximately $27.45 million and the sum of the notional trading volumes for the same period was approximately $6.9 billion.

The National Portfolio

The National Portfolio seeks investment results that generally correspond (before fees and expenses) to the price and yield performance of the National Index. The National Index is designed to track the performance of U.S. dollar-denominated investment grade insured tax-exempt debt publicly issued by U.S. states and territories (including Puerto Rico), or their political subdivision, in the U.S. domestic market and includes approximately 1,238 bonds (as of January 31, 2014). The National Index is adjusted monthly.[11]

As of January 31, 2014, the total dollar amount outstanding of issues in the National Index was approximately $78.69 billion and the average dollar amount outstanding of issues in the National Index was approximately $63.56 million. Further, the most heavily weighted component represented 0.88% of the weight of the National Index and the five most heavily weighted components represented 3.51% of the weight of the National Index. The National Index is composed of approximately 1,238 issues and 521 unique issuers. In addition, the average daily notional trading volume for National Index components for the calendar year 2013 was approximately $101.99 million and the sum of the notional trading volumes for the same period was approximately $25.7 billion.

The NY Portfolio

According to the Registration Statement, the NY Portfolio seeks investment results that generally correspond (before fees and expenses) to the price and yield performance of the NY Index. The NY Index is designed to track the performance of U.S. dollar-denominated, investment grade, tax-exempt debt publicly issued by New York or U.S. territories (including Puerto Rico), or their political subdivisions, included in the U.S. domestic market and includes approximately 130 bonds (as of January 31, 2014). The NY Index is adjusted monthly.[12]

As of January 31, 2014, the total dollar amount outstanding of issues in the NY Index was approximately $17.76 billion and the average dollar amount outstanding of issues in the NY Index was approximately $90.58 million. Further, the most heavily weighted component represented 6.14% of the weight of the NY Index and the five most heavily weighted components represented 20.15% of the weight of the NY Index. The NY Index is composed of approximately 130 issues and 25 unique issuers. In addition, the average daily notional trading volume for NY Index components for the calendar year 2013 was approximately $19.41 million and the sum of the notional trading volumes for the same period was approximately $4.89 billion.

Future Changes to the Funds and the Indexes Underlying the Funds

As stated above, currently the Municipal Bond Indexes underlie the Municipal Bond Portfolios. The Trust has proposed to its shareholders to, among other things, change the indexes underlying the Funds (and the name of the Funds). On May 10, 2013, the Trust filed with the Commission on Schedule 14A a definitive proxy statement and notice of shareholders meeting calling a meeting on June 20, 2013 (''Proxy Statement'').[13] According to the shareholder proposal, each Fund would change its underlying index to one that is composed of both insured and uninsured municipal securities. Following such change, the proposed underlying indexes for the Funds would be: the BofA Merrill Lynch California Long-Term Core Plus Municipal Securities Index (''New CA Index''); BofA Merrill Lynch National Long-Term Core Plus Municipal Index (''New National Index''); and BofA Merrill Lynch New York Long-Term Core Plus Municipal Securities Index (''New NY Index,'' and collectively, ''New Municipal Bond Indexes,'' and together with the Municipal Bond Indexes, the ''Underlying Indexes'').

In addition, each Fund would change its name by removing the word ''Insured'' and adding the term ''AMT-Free'' to reflect that the proposed underlying indexes would include primarily municipal securities that are exempt from the alternative minimum tax.[14] After such change, the names of the Funds would be PowerShares California AMT-Free Municipal Bond Portfolio (''New CA Portfolio''), PowerShares National AMT-Free Municipal Bond Portfolio (''New National Portfolio'') and PowerShares New York AMT-Free Municipal Bond Portfolio (''New NY Portfolio''), respectively. All components of each of the Municipal Bond Indexes and New Municipal Bond Indexes currently are rated as investment grade (A3 or higher by Moody's Investors Service).[15]

The shareholders of each Fund have approved these changes contingent upon approval of this proposed rule change.[16]

Currently, the New Municipal Bond Indexes do not meet the generic listing criteria of NYSE Arca Equities Rule 5.2(j)(3). Accordingly, the Exchange submitted this proposed rule change to permit the continued listing and trading the Shares in the event they overlie the New Municipal Bond Indexes. Specifically, the Exchange states that the New Municipal Bond Indexes meet all of the requirements of the generic listing criteria of NYSE Arca Equities Rule 5.2(j)(3), except for those set forth in Commentary .02(a)(2);[17] as of January 31, 2014, approximately 59.51%, 46.90%, and 60.63% of the weight of the components of the New CA Index, New National Index and New NY Index,

[11] Generally, the National Portfolio will invest at least 80% of its total assets in the securities that compose the National Index and generally expects to so invest at least 90% of its total assets. The National Portfolio reserves the right to invest up to 20% of its assets in certain futures, options and swap contracts, cash and cash equivalents, including money market funds, as well as in municipal securities not included in the National Index to the extent that the Adviser believes such investments will facilitate the National Portfolio's ability to achieve its investment objective.

[12] Normally, the NY Portfolio will invest at least 80% of its total assets in the securities that compose the NY Index. The NY Portfolio reserves the right to invest up to 20% of its assets in certain futures, options and swap contracts, cash and cash equivalents, including money market funds, as well as in municipal securities not included in the NY Index to the extent that the Adviser believes such investments will facilitate the NY Portfolio's ability to achieve its investment objective.

[13] *See* Definitive Proxy Statement dated May 10, 2013 on Schedule 14A (Proxy Statement Pursuant to Section 14(a) of the Act) (File No. 811–21977).

[14] In connection with the addition of the term ''AMT-Free'' to each Fund's name, the Trust's Board of Trustees has adopted a non-fundamental investment policy for each Fund normally to invest at least 80% of its net assets, including the amount of any borrowings for investment purposes, in municipal securities that are exempt from the federal alternative minimum tax.

[15] *See* Notice, *supra,* note 4 at 27955.

[16] The changes described herein with respect to use of the New Municipal Bond Indexes would be effective upon filing with the Commission of another amendment to the Trust's Registration Statement, or a prospectus supplement reflecting these changes. The Adviser represents that the Adviser and Sub-Adviser have managed and will continue to manage the Funds in the manner described in the Registration Statement and will not implement the changes described herein until this proposed rule change is operative.

[17] *See* text following n.8, *supra* (describing the requirement of Commentary .02(a)(2)).

respectively, had a minimum original principal amount outstanding of $100 million or more.

The New CA Portfolio

The New CA Portfolio would generally seek investment results that correspond (before fees and expenses) to the price and yield performance of the New CA Index.[18] The New CA Index is designed to track the performance of U.S. dollar-denominated, investment grade, tax-exempt debt publicly issued by California or U.S. territories (including Puerto Rico), or their political subdivisions, in the U.S. domestic market and includes approximately 1,086 bonds (as of January 31, 2014). The New CA Index is adjusted monthly.

As of January 31, 2014, the total dollar amount outstanding of issues in the New CA Index was approximately $100.76 billion and the average dollar amount outstanding of issues in the Index was approximately $92.81 million. Further, the most heavily weighted component represented 1.39% of the weight of the New CA Index and the five most heavily weighted components represented 5.17% of the weight of the CA Index. The New CA Index is composed of approximately 1,086 issues and 229 unique issuers. In addition, the average daily notional trading volume for New CA Index components for the calendar year 2013 was approximately $364.22 million and the sum of the notional trading volumes for the same period was approximately $91.78 billion.

The New National Portfolio

The New National Portfolio generally would seek investment results that correspond (before fees and expenses) to the price and yield performance of the New National Index.[19] The New National Index is designed to track the performance of U.S. dollar-denominated investment grade tax-exempt debt publicly issued by U.S. states or U.S. territories (including Puerto Rico), or its political subdivision, in the U.S. domestic market and includes approximately 5,476 bonds (as of January 31, 2014). The New National Index is adjusted monthly.

As of January 31, 2014, the total dollar amount outstanding of issues in the New National Index was approximately $ 394.04 billion and the average dollar amount outstanding of issues in the New National Index was approximately $71.96 million. Additionally, the most heavily weighted component represented 0.34% of the weight of the New National Index and the five most heavily weighted components represented 1.47% of the weight of the New National Index. The New National Index is composed of approximately 5,476 issues and 1,259 unique issuers. Further, the average daily notional trading volume for New National Index components for the calendar year 2013 was approximately $1.26 billion and the sum of the notional trading volumes for the same period was approximately $317.73 billion.

The New NY Portfolio

The New NY Portfolio would seek investment results that correspond (before fees and expenses) generally to the price and yield performance of the New NY Index.[20] The New NY Index is designed to track the performance of U.S. dollar-denominated, investment grade, tax-exempt debt publicly issued by New York or U.S. territories (including Puerto Rico), or their political subdivisions, included in the U.S. domestic market includes approximately 952 bonds (as of January 31, 2014).

As of January 31, 2014, the total dollar amount outstanding of issues in the New NY Index was approximately $86.75 billion and the average dollar amount outstanding of issues in the New NY Index was approximately $91.13 million. Further, the most heavily weighted component represents 1.61% of the weight of the New NY Index and the five most heavily weighted components represented 5.07% of the weight of the New NY Index. The New NY Index is composed of approximately 952 issues and 67 unique issuers. In addition, the average daily notional trading volume for New NY Index components for the calendar year 2013 was approximately $334.68 million and the sum of the notional trading volumes for the same period was approximately $84.34 billion.

Additional information regarding the Trust, the Funds, the Underlying Indexes, and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions, and taxes, among other things, is included in the Notice and Registration Statements, as applicable.[21]

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to continue listing and trading the Shares is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[22] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,[23] 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 remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission finds that the proposal to continue trading the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Exchange Act,[24] 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 is available via the Consolidated Tape Association (''CTA'') high-speed line.[25] The values of Underlying Indexes are calculated and disseminated at least once daily,

[18] Normally, the New CA Portfolio would invest at least 80% of its total assets in the securities that compose the New CA Index, and generally expects to so invest at least 90% of its total assets. The New CA Portfolio reserves the right to invest up to 20% of its assets in certain futures, options and swap contracts, cash and cash equivalents, including money market funds, as well as in municipal securities not included in the New CA Index to the extent that the Adviser believes investment in such instruments would facilitate the New CA Portfolio's ability to achieve its investment objective.

[19] Normally, the New National Portfolio would invest at least 80% of its total assets in the securities that compose the New National Index and generally expects to so invest at least 90% of its total assets. The New National Portfolio reserves the right to invest up to 20% of its assets in certain futures, options and swap contracts, cash and cash equivalents, including money market funds, as well as in municipal securities not included in the New National Index to the extent that the Adviser believes such investments would facilitate the New National Portfolio's ability to achieve its investment objective.

[20] Normally, the New NY Portfolio would invest at least 80% of its total assets in the securities that compose the New NY Index. The New NY Portfolio reserves the right to invest up to 20% of its assets in certain futures, options and swap contracts, cash and cash equivalents, including money market funds, as well as in municipal securities not included in the New NY Index to the extent that the Adviser believes such investments will facilitate the New NY Portfolio's ability to achieve its investment objective.

[21] *See* Notice and Registration Statement, *supra* notes 4 and 5, respectively.

[22] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[25] *See* Notice, *supra* note 4 at 27957.

and the components of the Underlying Indexes and their respective percentage weightings are available from major market data vendors.[26] The intraday indicative values (''IIVs'') for the Shares are disseminated by one or more major market data vendors and updated at least every 15 seconds during the Exchange's Core Trading Session, as required by NYSE Arca Equities Rule 5.2(j)(3), Commentary .02(c).[27] Information regarding market price and trading volume of the Shares is continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services.[28] The Funds' Web site (*www.invescopowershares.com*) includes a form of the prospectus for the Funds, information relating to net asset value (''NAV''), and other applicable quantitative information.[29] The Funds' portfolio holdings are disclosed on the Funds' Web site daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day.[30]

The Commission believes that the proposal is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange states that the Index Provider is a broker-dealer and has implemented a firewall and will maintain procedures designed to prevent the use and dissemination of material, non-public information regarding the Underlying Indexes.[31]

With respect to trading halts, if the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.[32] In addition, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Funds.[33] Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.[34] The Exchange represents that, if the IIV or the values of the Underlying Indexes are not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the applicable IIV or values of the Underlying Indexes occurs.[35] If the interruption to the dissemination of the applicable IIV or values of the Underlying Indexes persists past the trading day in which it occurred, the Exchange will halt trading.[36] Moreover, trading in the Shares will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 7.34, which sets forth circumstances under which Shares may be halted.[37]

The Exchange states that it has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.[38] The Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[39] Based on the Exchange's representations regarding the number of issues and issuers in each index, the total and average dollar amount outstanding of the index components, the average daily notional trading volume for the index components in 2013, the total notional trading volume for the index components in 2013, and the concentration of the components in each index, the Commission believes that the Underlying Indexes are sufficiently broad-based and liquid to deter potential manipulation.

In support of this proposal, the Exchange has made additional representations, including:

(1) Except for Commentary .02(a)(2) to NYSE Arca Equities Rule 5.2(j)(3), the Shares of the Funds currently satisfy all of the generic listing standards under NYSE Arca Equities Rule 5.2(j)(3).

(2) The continued listing standards under NYSE Arca Equities Rules 5.2(j)(3) and 5.5(g)(2) applicable to Units shall apply to the Shares of the Funds.

(3) The Shares will comply with all other requirements applicable to Units including, but not limited to, requirements relating to the dissemination of key information such as the value of the Underlying Indexes and the applicable value of the IIV, rules governing the trading of equity securities, trading hours, trading halts, surveillance, information barriers, and the Information Bulletin to Equity Trading Permit Holders (each as described in more detail herein and in the Notice and Registration Statements, as applicable), as set forth in Exchange rules applicable to Units and prior Commission orders approving the generic listing rules applicable to the listing and trading of Units.

(4) For continued listing of the Shares, the Trust is required to comply with Rule 10A–3 under the Exchange Act.

(5) Each Fund generally will invest at least 80% of its assets in the securities that compose each Fund's respective underlying index.

(6) Each Fund may at times invest up to 20% of its assets in certain futures, options and swap contracts, cash and cash equivalents, including money market funds, as well as in municipal securities not included in a Fund's respective underlying index to the extent that the Adviser believes investment in such instruments will facilitate the Fund's ability to achieve its investment objective.

This order is based on all of the Exchange's representations, including those set forth above and in the Notice.

Lastly, the Commission notes that the approval of this proposed rule change permits only the prospective continued listing of the Shares. No retroactive relief is granted to the Exchange regarding its listing and trading of the Shares during the time period in which not all of the generic listing criteria in Commentary .02 to NYSE Arca Equities Rule 5.2(j)(3) were satisfied.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the Exchange Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[40] that the proposed rule change (SR–NYSEArca–2014–45), be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[41]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15323 Filed 6–30–14; 8:45 am]

BILLING CODE 8011–01–P

[26] *See id.*

[27] *See id.* at 27956.

[28] *See id.* at 27958.

[29] *See id.* at 27957.

[30] *See id.*

[31] *See id.* at 27956.

[32] *See id.*

[33] *See id.*

[34] *See id.*

[35] *See id.*

[36] *See id.*

[37] *See id.*

[38] *See id.*

[39] *See id.*

[40] 15 U.S.C. 78s(b)(2).

[41] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72467; File No. SR–ISE–2014–33]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Price Improvement Mechanism Pilot Program

June 25, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 20, 2014, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to extend two pilot programs related to its Price Improvement Mechanism (''PIM''). The text of the proposed rule change is available on the Exchange's Web site *www.ise.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently has two pilot programs related to its PIM.[3] The current pilot period provided in paragraphs .03 and .05 of the Supplementary Material to Rule 723 is set to expire on July 18, 2014.[4] Paragraph .03 provides that there is no minimum size requirement for orders to be eligible for the Price Improvement Mechanism. Paragraph .05 concerns the termination of the exposure period by unrelated orders. In accordance with the Approval Order, the Exchange has continually submitted certain data in support of extending the current pilot programs. The Exchange proposes to extend these pilot programs in their present form, through July 17, 2015, to give the Exchange and the Commission additional time to evaluate the effects of these pilot programs before the Exchange requests permanent approval of the rules. To aid the Commission in its evaluation of the PIM Functionality, ISE will also continue to provide additional PIM-related data as requested by the Commission.

2. Basis

The basis under the Securities Exchange Act of 1934 (the ''Exchange Act'') for this proposed rule change is found in Section 6(b)(5), in that the proposed rule change is designed to promote just and equitable principles of trade, 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. In particular, the Exchange believes the pilot programs are consistent with the Exchange Act because they provide opportunity for price improvement for all orders executed in the Exchange's Price Improvement Mechanism. Further, the Exchange believes that the data demonstrates that there is sufficient investor interest and demand to extend the pilot programs for an additional twelve months. The Exchange further believes it is appropriate to extend the pilot programs to provide the Exchange and Commission more data upon which to evaluate the rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. Specifically, the Exchange believes that, by extending the expiration of the pilot programs, the proposed rule change will allow for further analysis of the PIM. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[5] and subparagraph (f)(6) of Rule 19b–4 thereunder.[6]

A proposed rule change filed under Rule 19b–4(f)(6)[7] normally does not become operative for 30 days after the date of filing. However, pursuant to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 50819 (December 8, 2004), 69 FR 75093 (December 15, 2004) (SR–ISE–2003–06) (Approving the PIM pilot (the ''Approval Order'')); 52027 (July 13, 2005), 70 FR 41804 (July 20, 2005) (SR–ISE–2005–30); 54146 (July 14, 2006), 71 FR 41490 (July 21, 2006) (SR–ISE–2006–39); 56106 (July 19, 2007), 72 FR 40914 (July 25, 2007) (SR–ISE–2007–64); 56156 (July 27, 2007), 72 FR 43305 (August 3, 2007) (SR–ISE–2007–66); 58197 (July 18, 2008), 73 FR 43810 (July 28, 2008) (SR–ISE–2008–60); 60333 (July 17, 2009), 74 FR 36792 (July 24, 2009) (SR–ISE–2009–52); 62513 (July 16, 2010), 75 FR 43221 (July 23, 2010) (SR–ISE–2010–75); 64931 (July 20, 2011), 76 FR 44642 (July 26, 2011) (SR–ISE–2011–41); and 67202 (June 14, 2012), 77 FR 36589 (June 19, 2012) (SR–ISE–2012–54).

[4] *See* Securities Exchange Act Release No. 69853 (June 25, 2013), 78 FR 39390 (July 1, 2013) (SR–ISE–2013–41).

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 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.

[7] 17 CFR 240.19b–4(f)(6).

Rule 19b–4(f)(6)(iii)[8] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay. The Exchange noted that such waiver will permit the pilot programs to continue without interruption.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot programs to continue uninterrupted, thereby avoiding any potential investor confusion that could result from a temporary interruption in the pilot program. Further, the Commission notes that, because the filing was submitted for immediate effectiveness on June 20, 2014, the fact that the current rule provisions do not expire until July 18, 2014 will afford interested parties the opportunity to comment on the proposal before the Exchange requires it to become operative. For this reason, the Commission designates the proposed rule change to be operative on July 17, 2014.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–ISE–2014–33 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2014–33. 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 Commissions Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2014–33 and should be submitted by July 22, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15326 Filed 6–30–14; 8:45 am]

BILLING CODE 8011–01–P

[8] 17 CFR 240.19b–4(f)(6)(iii).

[9] For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72466; File No. SR–ISE Gemini–2014–17]

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Price Improvement Mechanism Pilot Program

June 25, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 20, 2014, ISE Gemini, LLC (the ''Exchange'' or ''ISE Gemini'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I and II below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ISE Gemini proposes to extend two pilot programs related to its Price Improvement Mechanism (''PIM''). The text of the proposed rule change is available on the Exchange's Web site *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently has two pilot programs related to its PIM.[3] The current pilot period provided in paragraphs .03 and .05 of the Supplementary Material to Rule 723 is set to expire on July 18, 2014.[4] Paragraph .03 provides that there is no minimum size requirement for orders to be eligible for the PIM. Paragraph .05 concerns the termination of the exposure period by unrelated orders. The Exchange has continually submitted certain data in support of the current pilot programs. The Exchange proposes to extend these pilot programs in their present form, through July 17, 2015, to give the Exchange and the Commission additional time to evaluate

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 70050 (July 26, 2013), 78 FR 46622 (August 1, 2013) (Order Granting the Application of Topaz Exchange, LLC for Registration as a National Securities Exchange).

[4] *See* Exchange Act Release No. 70636 (October 9, 2013), 78 FR 62838 (October 22, 2013) (SR–TOPAZ–2013–05).

the effects of these pilot programs before the Exchange requests permanent approval of the rules. To aid the Commission in its evaluation of the PIM Functionality, ISE Gemini will also continue to provide additional PIM-related data as requested by the Commission.

2. Basis

The basis under the Securities Exchange Act of 1934 (the ''Exchange Act'') for this proposed rule change is found in Section 6(b)(5), in that the proposed rule change is designed to promote just and equitable principles of trade, 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. In particular, the Exchange believes the pilot programs are consistent with the Exchange Act because they provide opportunity for price improvement for all orders executed in the Exchange's PIM. Since the PIM has only been operating on ISE Gemini for less than one year, the Exchange believes it is appropriate to extend the pilot periods for an additional twelve months to provide the Exchange and the Commission more data upon which to evaluate the rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. Specifically, the Exchange believes that, by extending the expiration of the pilot programs, the proposed rule change will allow for further analysis of the PIM. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[5] and subparagraph (f)(6) of Rule 19b–4 thereunder.[6]

A proposed rule change filed under Rule 19b–4(f)(6)[7] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii)[8] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay. The Exchange noted that such waiver will permit the pilot programs to continue without interruption.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the pilot programs to continue uninterrupted, thereby avoiding any potential investor confusion that could result from a temporary interruption in the pilot program. Further, the Commission notes that, because the filing was submitted for immediate effectiveness on June 20, 2014, the fact that the current rule provisions do not expire until July 18, 2014 will afford interested parties the opportunity to comment on the proposal before the Exchange requires it to become operative. For this reason, the Commission designates the proposed rule change to be operative on July 17, 2014.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 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.

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 240.19b–4(f)(6)(iii).

[9] For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–ISE Gemini–2014–17 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE Gemini-2014–17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE Gemini–2014–17 and should be submitted by July 22, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15325 Filed 6–30–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72469; File No. SR–NYSEMKT–2014–52]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Amex Options Fee Schedule by Adopting Fees and Rebates for a New Electronic Crossing Mechanism Called the CUBE Auction

June 25, 2014.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 12, 2014, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Amex Options Fee Schedule (''Fee Schedule'') by adopting fees and rebates for a new electronic crossing mechanism called the CUBE Auction. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.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 the 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to adopt fees and rebates for ATP Holders who participate in an electronic crossing mechanism known as a Customer Best Execution Auction (''CUBE Auction'' or ''Auction'') pursuant to Rule 971.1NY.[4] The Exchange anticipates that the CUBE Auction mechanism will be implemented in June 2014[5] and therefore proposes to add the CUBE Auction fees and rebates to the Fee Schedule effective with this filing so that such fees and rebates will be in place once the CUBE Auction mechanism is implemented.

The CUBE Auction allows an ATP Holder to guarantee the execution of a limit order it represents as agent on behalf of a public customer, broker dealer, or any other entity via the CUBE Auction. This agency order is referred to as the CUBE Order.[6] The ATP Holder that submits the CUBE Order (the ''Initiating Participant'') agrees to guarantee the execution of the CUBE Order by submitting a contra-side order (''Contra Order'') representing principal interest or interest it has solicited to trade with the CUBE Order.[7]

Although the Contra Order would guarantee the CUBE Order an execution, the purpose of the Auction is to provide the opportunity for price improvement for the CUBE Order as well as the opportunity for other market participants to interact with the CUBE Order. Accordingly, the Exchange will notify market participants when an Auction is occurring so that they may have an opportunity to participate.

Once initiated, a CUBE Auction is announced via a broadcast message, known as a Request For Response (''RFR'').[8] Any ATP Holder may respond to the RFR, either as principal or on an agency basis, provided that such response is properly marked specifying price, size, and side of the market (''RFR Response'') and is submitted during the Response Time Interval. RFR Responses include GTX Orders, which are non-displayed orders with a time-in-force condition for the Response Time Interval of the CUBE Auction, as well as any other quote or order on the opposite side of the market in the same series as the CUBE Order that is not marked GTX, is received during the Response Time Interval, and is eligible to participate within the range of permissible executions specified for that Auction.[9]

As described above, there are three ways to participate in a CUBE Auction: (i) As an agency order, which is known as the CUBE Order; (ii) As the order guaranteeing the execution of the CUBE Order, which is known as the Contra Order; and (iii) any other interest that is eligible to participate in the Auction, which is known as an RFR Response. The Exchange is proposing to charge for participation in the CUBE Auction based on the following schedule of fees:

	Rate per contract standard options
CUBE Order Fee Customer—both Penny Pilot and Non-Penny Pilot	$0.00
CUBE Order Fee Non-Customer—both Penny Pilot and Non-Penny Pilot	0.20
Contra Order Fee—both Penny Pilot and Non-Penny Pilot[10]	0.05
RFR Response Fee Customer—both Penny Pilot and Non-Penny Pilot	0.00
RFR Response Fee Non-Customer—Penny Pilot	0.55
RFR Response Fee Non-Customer—Non-Penny Pilot	0.90

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 72025 (April 25, 2014) (SR–NYSEMKT–2014–17) (Order approving adoption of new Rule 971.1NY).

[5] The Exchange will not implement the CUBE Auction mechanism until the proposed rule changes to Rule 971.1NY set forth in SR–NYSEMKT–2014–51 are operative.

[6] *See* Rule 971.1NY(a).

[7] *Id.*

[8] *See* Rule 971.1NY(c)(2)(A).

[9] *See* Rule 971.1NY(c)(2)(C).

[10] As Exchange noted in its recent filing related to the CUBE Auction (*see* SR–NYSEMKT–2014–51), the Exchange intends to issue guidance advising ATP Holders that Contra Orders for the account of a Customer may not be entered into a CUBE Auction, which guidance is consistent with how other markets operate electronic auction mechanisms. *See id.,* n. 9. As such, the Contra Order Fee will only apply to Non-Customers.

The Exchange is also proposing to adopt rebates to be paid to Initiating Participants for each CUBE Order contract that does not trade with the Contra Order. The proposed rebates are shown below:

CUBE Auction rebates—paid to the initiating participant on each CUBE order contract that does not trade with the Contra order	Per contract rebate standard options
CUBE Auction Rebate—Penny Pilot	$0.40
CUBE Auction Rebate—Non—Penny Pilot	0.80

As the CUBE Auction is an entirely new mechanism designed to compete with existing functionality on other exchanges,[11] the Exchange is seeking to attract new business to the Exchange. As such, the Exchange does not believe that execution volume attributable to the CUBE Auction should be included within the existing NYSE Amex Options Market Maker volume tiers or fee caps, within the MAC Subsidy, or within the existing OFP Electronic ADV Tiers, which were established in acknowledgement of volumes that the Exchange could not attract absent the ability to offer an electronic crossing mechanism. As such, the Exchange proposes to amend the appropriate sections of the Fee Schedule and their associated endnotes, specifically endnotes 5 and 17, to exclude any volumes attributable to the CUBE Auction.

Lastly, the Exchange is proposing to add text to existing endnote 9 on marketing charges to clarify that CUBE Order executions will not result in the collection of marketing charges

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) [12] of the Act, in general, and Section 6(b)(4) and (5) [13] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers, or dealers.

The Exchange believes the proposed fees for CUBE Orders executed in the CUBE Auction where Customers are charged $0.00 per contract and non-Customers are charged $0.20 per standard option contract are reasonable, equitable and not unfairly discriminatory for the following reasons. First, allowing Customers to trade for free while charging non-Customers has long been viewed as reasonable, equitable and not unfairly discriminatory. The Exchange notes that this pricing differentiation between Customers and non-Customers is evidenced in multiple places within the existing fee schedule of the Exchange, such as for fees applicable to Qualified Contingent Cross (''QCC) Orders.[14] Further, the Exchange notes that charging the agency side of a crossing order a different rate based on capacity (i.e., Customer vs. non-Customer) is also common among other exchanges that offer similar electronic crossing mechanisms. For example, the ISE, in Select and Non-Select Symbols, charges Priority Customer Crossing Orders $0.00 per contract while charging non-Priority Customer Crossing Orders $0.20 per contract.[15] Additionally, BOX Options Exchange charges Customer PIP Orders $0.00 per contract while charging Professional Customer and Broker Dealer PIP Orders $0.37 per contract and Market Maker PIP Orders a variable rate based on volume from $0.13 to $0.35 per contract.[16] Accordingly, the proposed CUBE Order fees for both Customers and non-Customers are within the range of fees charged to Customers and non-Customers on other exchanges for executions within similar electronic crossing mechanisms.

Similarly, the Exchange believes the proposed fees for Contra Orders executed in the CUBE Auction where non-Customers are charged $0.05 per standard option contract are reasonable, equitable and not unfairly discriminatory for the following reasons. The Exchange notes that charging the contra side of a crossing order that guarantees the execution of the agency order is common among other exchanges that offer similar electronic crossing mechanisms and the rate proposed by the Exchange is comparable to the charged by other exchanges. For example, ISE charges non-Priority Customer Crossing Orders $0.20; [17] the CBOE charges Non-Customer AIM Contra Orders $0.05 per contract and CBOE Market Makers a variable rate between $0.03 and $0.23 based on volume, plus marketing charges of $0.25 in Penny issues and $0.65 in non-Penny issues if they are contra to a Customer order.[18] Accordingly, the Exchange's proposed Contra Order fees for non-Customers are within the range of fees charged to non-Customers on other exchanges for executions within similar electronic crossing mechanisms.[19]

Likewise, the Exchange believes the proposed fees for RFR Responses executed in a CUBE Auction where Customers are charged $0.00 per contract and non-Customers are charged $0.55 per standard option contract in Penny Pilot issues and $0.90 per standard option contract in non-Penny Pilot issues are reasonable, equitable and not unfairly discriminatory for the following reasons. First, allowing Customers to trade for free while charging non-Customers has long been viewed as reasonable, equitable and not unfairly discriminatory. The Exchange notes that this pricing differentiation between Customers and non-Customers is evidenced in multiple places within the existing fee schedule of the Exchange, such as for fees applicable to QCC Orders.[20]

Further, the Exchange notes that charging a participant who responds to an auction a different rate based on capacity (i.e., Customer vs. non-Customer) is also common among other exchanges that offer similar electronic crossing mechanisms. For example, BOX Options Exchange charges Customers who respond to an auction with Improvement Orders $0.50 per contract for Penny issues and Customer Improvement Orders in non-Penny issues are charged $0.90 per contract. At

[11] *See* BOX Options Exchange LLC (''BOX Options Exchange'') Rule 7150, Chicago Board Options Exchange, Incorporated (''CBOE'') Rule 6.74A, International Securities Exchange, LLC (''ISE'') Rule 723, and NASDAQ OMX PHLX LLC (''Phlx'') Rule 1080(n).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] *See* the fee schedule for NYSE Amex Options located here: *https://globalderivatives.nyx.com/sites/globalderivatives.nyx.com/files/nyse_amex_options_fee_schedule_for_6-2-14.pdf,* which charges Customers who participate in a QCC trade $0.00 and non-Customers $0.20 per contract.

[15] *See* the ISE fee schedule dated May 1, 2014 located here: *http://www.ise.com/assets/documents/OptionsExchange/legal/fee/ISE_fee_schedule.pdf.* Note that in Non-Select Symbols, Market Makers are charged a slightly higher rate for Crossing Orders of $0.22 per contract.

[16] *See* BOX Options Exchange fee schedule dated March 2014 located here: *http://boxexchange.com/assets/BOX_Fee_Schedule.pdf.*

[17] *Supra* n. 15.

[18] *See* CBOE fee schedule dated June 3, 2014 located here: *http://www.cboe.com/publish/feeschedule/CBOEFeeSchedule.pdf.*

[19] *See supra* n. 11.

[20] *Supra* n. 14.

the same time, the BOX Options Exchange charges Professional Customers and Broker Dealers who respond to an auction $0.72 per contract in Penny issues and $1.12 per contract in non-Penny issues, while charging BOX Market Makers who respond either $0.65 in Penny issues or $1.05 in non-Penny issues.[21] Additionally, CBOE charges participants who interact with their electronic crossing mechanism for price improvement regular electronic rates. For example, Customers are charged $0.00, CBOE Clearing Trading Permit Holder Proprietary trades are charged $0.35 per contract, CBOE Market Makers pay a variable rate based on volume from $0.03 to $0.23 plus marketing charges of $0.25 in Penny issues and $0.65 in non-Penny issues if they interact with a Customer order in the mechanism, Broker Dealers are charged $0.45 and $0.60 for trading in Penny and non-Penny issues respectively, and finally Professional Customers are charged $0.30.[22] Accordingly, the proposed RFR Response fees for both Customers and non-Customers are within the range of fees charged to Customers and non-Customers on other exchanges for executions within similar electronic crossing mechanisms.

The Exchange believes the proposed rebates paid to Initiating Participants—$0.40 for Penny Pilot issues and $0.80 for non-Penny Pilot issues for each CUBE Order contract that does not trade with the Contra Order in a CUBE Auction are reasonable, equitable and not unfairly discriminatory for the following reasons. First, the Exchange notes that paying the participant who submits orders into an electronic crossing mechanism a rebate is not new or novel. For example, the ISE pays a PIM Break Up Rebate of $0.35 per contract in Select Symbols for contracts submitted to a PIM that do not trade with their contra order. Additionally, ISE pays a volume-based rebate for volumes executed in an electronic crossing mechanism—including PIM—that ranges from $0.00 to $0.11 per contract. This translates to a maximum rebate per contract of $0.46.[23] Similarly, BOX Options Exchange pays a per contract credit to PIP Orders of $0.35 for Penny Issues with a $0.01 MPV and $0.65 for issues that trade with a MPV greater than $0.01. Additionally, BOX Options Exchange has a rebate for all PIP and orders of less than 250 contracts that is payable to the PIP Order which ranges from $0.00 to $0.17 per contract based on PIP volume submitted to the exchange. This translates to a maximum rebate of $0.82.[24] Accordingly, the proposed CUBE Auction rebates for Penny issues and non-Penny issues to be paid to Initiating Participants for each CUBE Order contract that don't trade with the Contra Order are within the range of rebates paid on other exchanges for executions within similar electronic crossing mechanisms.

The Exchange believes that excluding CUBE Auction volumes from specified fee caps, volume tiers, volume thresholds and rebate programs, including: (i) The $350,000 per month NYSE Amex Options Market Maker cap and the associated 50,000 contract ADV threshold and the 3,500,000 contract monthly volume threshold; (ii) the MAC Subsidy; and (iii) the OFP Electronic ADV Tiers, is reasonable, equitable and not unfairly discriminatory for the following reasons. First, the Exchange notes that the specified fee caps, volume thresholds, tiers or rebates were established prior to the introduction of the CUBE Auction electronic crossing mechanism. With the CUBE Auction, the Exchange proposes to target new volume to the Exchange to compete with electronic crossing mechanisms available on other exchanges. Any volume that would be executed as part of the CUBE Auction was not factored into the creation of the Exchange's previously existing fee caps, volume thresholds, tiers, or rebates. As such, the Exchange believes it is reasonable to exclude volumes that will result from the CUBE Auction from the previously established fee caps, volume thresholds, tiers or rebates because market participants would not be using the new CUBE Auction mechanism in order to meet the respective fee caps, volume thresholds, tiers or rebates. Further, such exclusion of volumes resulting from the CUBE Auction from the fee caps, volume thresholds, tiers or rebates established before the implementation of the CUBE Auction is also equitable and not unfairly discriminatory as it applies to all participants uniformly.

The Exchange believes that specifying that CUBE Order executions are not subject to marketing charges is reasonable, equitable and not unfairly discriminatory for the following reasons. First, the Exchange notes that the CUBE Auction is an electronic crossing mechanism, similar to the QCC Order type, with the exception that CUBE Auctions are designed to offer the opportunity for price improvement. The Exchange does not currently collect marketing charges from NYSE Amex Options Market Makers that trade contra to a Customer order as part of a QCC trade. Because the Exchange is seeking to encourage all participants, including NYSE Amex Options Market Makers, to respond to CUBE Auction RFR messages, the Exchange believes that collecting marketing charges from NYSE Amex Options Market Makers may discourage such participation. By encouraging as many participants as possible to respond, the Exchange believes that it will lead to greater opportunities for price improvement for all CUBE Orders, not just those entered on behalf of Customers. For these reasons, the Exchange believes that excluding CUBE Orders from the marketing charges program is reasonable, equitable and not unfairly discriminatory.

The Exchange believes that the proposed fees and rebates for participation in the CUBE Auction are not going to have an impact on intra-market competition based on the total cost for participants to transact as respondents to the Auction as compared to the cost for participants to engage in non-Auction electronic transactions on the Exchange. As noted above (and discussed further below), the Exchange believes that the proposed pricing for the CUBE Auction is comparable to that of other exchanges offering similar electronic crossing mechanisms, and the Exchange believes that, based on experience with electronic price improvement crossing mechanisms on other markets, market participants understand that the price-improving benefits offered by the Auction justify and offset the transaction costs associated with Auction.

For example, NYSE Amex Options Market Makers who trade fewer than 50,000 contracts ADV are currently charged $0.20 per contract. Further, when NYSE Amex Options Market Makers trade electronically against a Customer order they are also potentially subject to incurring Marketing Charges of either $0.25 or $0.65 per contract for Penny and non-Penny Pilot issues for a total charge of either $0.45 or $0.85 per contract. Within the Auction, the same NYSE Amex Options Market Maker would be charged either $0.55 or $0.90 per contract for Penny and non-Penny Pilot issues. The Exchange does not believe this differential—between non-Auction transactions and Auction

[21] *Supra* n. 16. The BOX fee schedule has several parts that must be taken collectively to arrive at the all in cost of responding to an auction. For example, a Customer who responds to an auction with an Improvement Order will pay $0.50 per contract in Penny issues. The $0.50 fee represents the Improvement Order fee of $0.15 from Section I of the fee schedule, plus the $0.35 fee to add liquidity in Penny issues quoted with an MPV of $0.01 from Section II of the schedule.

[22] *Supra* n. 18.

[23] *Supra* n. 15.

[24] *Supra* n. 16.

transactions—will cause participants to refrain from responding to Auctions. The Exchange notes that there is a difference in the risk to a participant between quoting as a Market Maker and in responding to an Auction. In the former, a Market Maker may be at risk in hundreds of thousands of series in which they may be obligated to provide firm quotes, any of which may result in a trade at any time.[25] By way of comparison, when responding to an Auction, the Market Maker—or any ATP Holder for that matter—has a greater certainty of execution that has a maximum execution size, based on the number of contracts in the Auction, and a defined time for execution, which will occur within a maximum of 750 milliseconds. By contrast, a Market Maker has no way of knowing when any one of the quotes they have in the market place might trade. Given this reality, the Exchange expects to see robust competition within the Auction, despite the apparent difference in non-Auction versus Auction pricing. The Exchange has primarily focused on Market Makers in this discussion as Market Makers are the largest source of liquidity on the Exchange and the Exchange believes that Market Makers would be most likely to submit RFR Responses to a CUBE Auction.

As stated above, the Exchange also notes that differentials between non-auction and auction pricing exist on other exchanges that offer comparable electronic crossing mechanisms. For example, on the ISE, Market Maker Plus participants can earn a rebate of between $0.20 and $0.25 per contract as a ''maker'' of liquidity where they post quotes that subsequently get traded against. That same participant who responds to a ''Crossing Order'' will pay $0.45 per contract. Thus, the difference between non-auction and auction transaction pricing can be as high as $0.70 per contract (calculated as the difference between earning a $0.25 credit and paying a Response Fee For Crossing Orders of $0.45), compared to the $0.10 price differential per contract proposed for NYSE Amex Options Market Makers, as discussed above.[26] Given these facts, the Exchange believes that the differential between non-Auction and Auction pricing will not prove to be a burden on competition within the Exchange and the cost of participating in the Auction is such that there will be robust competition for all size orders within the Auction.

The Exchange believes that the proposed fees and rebates for participation in the CUBE Auction are reasonable because they are designed to attract new volume to the Exchange, which will benefit all participants by offering greater price discovery, increased transparency, and an increased opportunity to trade on the Exchange. Further, as the relative level of the fees and/or rebates are consistent with the range of similar fees and rebates throughout the industry, the Exchange believes such fees and rebates are also equitable and not unfairly discriminatory.

The Exchange also believes that fees and rebates for participation in the CUBE Auction are reasonable because they are designed to enhance the competitiveness of the Exchange, particularly with respect to those exchanges that offer their own electronic crossing mechanism.[27]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed change will enhance the competiveness of the Exchange relative to other exchanges that offer their own electronic crossing mechanism.[28] The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[29] of the Act and subparagraph (f)(2) of Rule 19b–4[30] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[31] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–NYSEMKT–2014–52 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–NYSEMKT–2014–52. 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

[25] *See* Rules 925NY and 925.1NY.

[26] *Supra* n. 15.

[27] *Supra* n. 11.

[28] *Id.*

[29] 15 U.S.C. 78s(b)(3)(A).

[30] 17 CFR 240.19b–4(f)(2).

[31] 15 U.S.C. 78s(b)(2)(B).

10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2014–52, and should be submitted on or before July 22, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15354 Filed 6–30–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72473; File No. SR–Phlx–2014–34]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Withdrawal of Proposed Rule Change To Delete the PHOTO Historical Data Product From Section IX of the Exchange's Options Fee Schedule

June 25, 2014.

On May 9, 2014, NASDAQ OMX PHLX LLC (the ''Exchange'' or ''Phlx'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to delete the PHOTO Historical data product from Section IX of the Exchange's Options Fee Schedule. The proposed rule change was published for comment in the **Federal Register** on May 29, 2014.[3] The Commission has not received any comment letters on the proposal. On June 24, 2014, the Exchange withdrew the proposed rule change (SR–Phlx–2014–34).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[4]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–15328 Filed 6–30–14; 8:45 am]

BILLING CODE 8011–01–P

[32] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72225 (May 22, 2013), 79 FR 30917.

[4] 17 CFR 200.30–3(a)(31).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #13950 and #13951]

Indiana Disaster Number IN–00054

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Indiana (FEMA–4173–DR), dated 04/22/2014.

Incident: Severe winter storm and snowstorm.

Incident Period: 01/05/2014 through 01/09/2014.

Effective Date: 06/23/2014.

Physical Loan Application Deadline Date: 06/23/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 01/22/2015.

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 INDIANA, dated 04/22/2014, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Allen

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Joseph P. Loddo,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2014–15345 Filed 6–30–14; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 8785]

Bureau of Political-Military Affairs; Administrative Debarment of Carlos Dominguez, Elint, S.A., Spain Night Vision, S.A., and SNV, S.A. Under the Arms Export Control Act and the International Traffic in Arms Regulations; Correction

ACTION: Notice; Correction.

SUMMARY: The Department of State published a **Federal Register** document on June 19, 2014, concerning the administrative debarment pursuant to Section 127.7(a) of the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 to 130) of Carlos Dominguez (individually and in his capacity as principal of the following entities); Elint, S.A.; Spain Night Vision, S.A.; and SNV, S.A. (including successors, assignees, and aliases). The document contained an incorrect period of debarment. This document corrects document 2014–14152 by changing the period of debarment and the date after which the Department will consider reinstatement from June 4, 2014, to June 4, 2017.

DATES: *Effective Date:* June 4, 2014 (*Date of signature of the Order*)

FOR FURTHER INFORMATION CONTACT: Sue Gainor, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State (202) 632–2798.

Correction

In the **Federal Register** of June 19, 2014, in FR Doc. 2014–14152, on page 35211, in the second column, correct lines 22 through 24 to read: ''for a period of three years, until June 4, 2017; reinstatement after June 4, 2017, is not automatic.'' For clarity, the complete text including corrections is hereby reproduced in full, below.

The International Traffic in Arms Regulations (''ITAR''), the implementing regulations of Section 38 of the Arms Export Control Act, as amended, (''AECA'') (22 U.S.C. 2778), regulate the export and temporary import of defense articles and defense services. Section 127.7(a) of the ITAR authorizes the Assistant Secretary of State for Political-Military Affairs to debar any person who has been found, pursuant to Part 128 of the ITAR, to have committed a violation of the AECA or the ITAR of such a character as to provide a reasonable basis for the Directorate of Defense Trade Controls to believe that the violator cannot be relied upon to comply with the AECA or ITAR in the future. Such debarment prohibits the subject from participating directly or indirectly in any activities that are subject to the ITAR.

Debarred persons are generally ineligible to participate in activity regulated under the ITAR (see e.g., sections 120.1(c) and (d), 126.7, 127.1(d), and 127.11(a)). The Department of State applies a presumption of denial for licenses or other approvals involving such persons as described in ITAR Section 127.11.

Pursuant to Section 38 of the AECA and Section 128.3 of the ITAR, on

February 14, 2014, the Department of State initiated administrative proceedings, by means of a charging letter, against Carlos Dominguez (individually and in his capacity as principal of the following entities); Elint, S.A.; Spain Night Vision, S.A.; and SNV, S.A. (including successors, assignees, and aliases) (Respondents) to impose debarment in accordance with Section 127.7 of the ITAR. (The United States Department of State, Docket #14–DOS–0001). Respondents were charged with 366 violations related to the unauthorized re-export and retransfer of night vision devices and related technical data, conspiracy to and causing of the re-export and retransfer of defense articles without authorization, the violation of terms and conditions of Department authorizations, the continued engagement in U.S. defense trade despite ineligibility, the knowing and willful causation and the commission of prohibited acts, and the falsification, misrepresentation and omission of material facts on an export control document, all in violation of Section 38 of the AECA and Section 127 of the ITAR.

Since at least 2008, Respondents have re-exported and retransferred hundreds of night vision devices in violation of Department authorizations and falsified export control documents. After multiple unfavorable responses to 'Blue Lantern' end-use inquiries and subsequent compliance reviews, DTCC notified Respondents Dominguez and Elint in September 2009 that they were ineligible to engage in defense trade. Shortly thereafter, Dominguez and Elint changed or established new business names and engaged third-party purchasers in order to conceal their activities and evade detection. Further re-exports and retransfers of previously exported defense articles continued under these new business names, in violation of the AECA and ITAR.

Due to Respondents' failure to answer the charges as provided in Section 128.5(a) of the ITAR, the Department referred the case to an Administrative Law Judge for consideration, in accordance with Section 128.4 of the ITAR. Pursuant to Section 128.3 of the ITAR and the Default Order of the Administrative Law Judge, dated April 23, 2014, Respondents' failure to answer the charges constituted an admission of the truth of the charges.

Section 128.4 of the ITAR provides for a respondent's ability to petition to set aside defaults upon showing good cause; however, the filing of such a petition does not in any manner affect an order entered upon default and such order continues in full force and effect unless a further order is made modifying or terminating it.

On June 4, 2014, as the result of the established violations and pursuant to Section 127.7 of the ITAR, Carlos Dominguez (individually and in his capacity as principal of the following entities); Elint, S.A.; Spain Night Vision, S.A.; and SNV, S.A. (including successors, assignees, and aliases) were administratively debarred by the Assistant Secretary of State for Political-Military Affairs for a period of three years, until June 4, 2017; reinstatement after June 4, 2017, is not automatic. At the end of the debarment period, Respondents may apply for reinstatement. Until licensing privileges are reinstated, Carlos Dominguez (individually and in his capacity as principal of the following entities); Elint, S.A.; Spain Night Vision, S.A.; and SNV, S.A. (including successors, assignees, and aliases) will remain debarred. No civil penalties have been imposed at this time.

This notice is provided to make the public aware that the persons listed above are prohibited from participating directly or indirectly in any brokering activities and in any export from or temporary import into the United States of defense articles, related technical data, or defense services in all situations covered by the ITAR.

Further, pursuant to Section 120.1(d) of the ITAR, persons with knowledge that another person is ineligible must obtain authorization from the Directorate of Defense Trade Controls prior to, directly or indirectly and in any manner or capacity, applying for, obtaining, or using any export control document for such ineligible person, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing or participating in any manner in any transaction that may involve any defense article, which includes technical data, defense services, or brokering activities, where such ineligible person may obtain any benefit therefrom or have any direct or indirect interest therein.

Exceptions may be made to this denial policy on a case-by-case basis at the discretion of the Directorate of Defense Trade Controls. However, such an exception would be granted only after a full review of all circumstances, paying particular attention to the following factors: whether an exception is warranted by overriding U.S. foreign policy or national security interests; whether an exception would further law enforcement concerns that are consistent with foreign policy or national security interests of the United States; or whether other compelling circumstances exist that are consistent with the foreign policy or national security interests of the United States, and law enforcement concerns.

This notice involves a foreign affairs function of the United States encompassed within the meaning of the military and foreign affairs exclusion of the Administrative Procedures Act. Because the exercise of this foreign affairs function is highly discretionary, it is excluded from review under the Administrative Procedures Act.

Dated: June 23, 2014.

Kenneth B. Handelman,

Deputy Assistant Secretary for Defense Trade Controls, Bureau of Political-Military Affairs, Department of State.

[FR Doc. 2014–15398 Filed 6–30–14; 8:45 am]

BILLING CODE 4710–25–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: February 1 through February 28, 2014.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423, ext. 1306; fax: (717) 238–2436; email: *rcairo@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(f) for the time period specified above.

Approvals by Rule Issued Under 18 CFR 806.22(f)

1. Seneca Resources, Pad ID: Rich Valley Pad G, ABR–201402001, Shippen Township, Cameron County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: February 3, 2014.

2. Seneca Resources, Pad ID: Rich Valley Pad F, ABR–201402002, Shippen Township, Cameron County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: February 3, 2014.

3. Southwestern Energy Production Company, Pad ID: WY O5 DZIUBA BENJAMIN PAD, ABR–201402003, Eaton Township, Wyoming County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: February 7, 2014.

4. Cabot Oil & Gas Corporation, Pad ID: HullR P1, ABR–20090702.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 7, 2014.

5. Cabot Oil & Gas Corporation, Pad ID: Heitsman P1A, ABR–20090703.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 7, 2014.

6. Cabot Oil & Gas Corporation, Pad ID: Gesford P2, ABR–20090705.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 7, 2014.

7. Cabot Oil & Gas Corporation, Pad ID: HunsingerA P1, ABR–20090736.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 7, 2014.

8. Cabot Oil & Gas Corporation, Pad ID: BrooksJ P1, ABR–20090733.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 7, 2014.

9. Cabot Oil & Gas Corporation, Pad ID: Elk Lake School District P1, ABR–20090737.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 7, 2014.

10. Cabot Oil & Gas Corporation, Pad ID: ChudleighW P1, ABR–20090738.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 7, 2014.

11. Talisman Energy USA Inc., Pad ID: 07–038 Kropiewnicki J, ABR–201402004, Apolacon Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.000 mgd; Approval Date: February 10, 2014.

12. Talisman Energy USA Inc., Pad ID: 07–088 York R, ABR–201402005, Little Meadows Borough and Apolacon Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.000 mgd; Approval Date: February 10, 2014.

13. Range Resources—Appalachia, LLC, Pad ID: Cornwall 1H–5H, ABR–201402006, Lewis Township, Lycoming County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 10, 2014.

14. Southwestern Energy Production Company, Pad ID: WY O2 HARDING PAD, ABR–201402007, Tunkhannock Township, Wyoming County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: February 10, 2014.

15. Talisman Energy USA Inc., Pad ID: 07–089 Corey J, ABR–201402008, Choconut Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.000 mgd; Approval Date: February 10, 2014.

16. Chief Oil & Gas LLC, Pad ID: Phelps Unit #1H, ABR–20090813.R1, Lathrop Township, Susquehanna County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 10, 2014.

17. Range Resources—Appalachia, LLC, Pad ID: Grays Run 1H–5H, ABR–201402009, Jackson Township, Lycoming County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 14, 2014.

18. Southwestern Energy Production Company, Pad ID: RU–65–LEONARD–PAD, ABR–201402010, Jackson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: February 14, 2014.

19. Talisman Energy USA Inc., Pad ID: 07–077 Caprio S, ABR–201402011, Apolacon Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.000 mgd; Approval Date: February 14, 2014.

20. Anadarko E&P Onshore, LLC, Pad ID: COP Tr 259 #1001H, ABR–20090440.R1, Burnside Township, Centre County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 14, 2014.

21. Anadarko E&P Onshore, LLC, Pad ID: COP Tr 259 #1000H, ABR–20090513.R1, Burnside Township, Centre County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 14, 2014.

22. Anadarko E&P Onshore, LLC, Pad ID: Larry's Creek F&G 2H, ABR–20090411.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: February 18, 2014.

23. Anadarko E&P Onshore, LLC, Pad ID: Larry's Creek F&G 3H, ABR–20090416.R1, Cummings Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: February 18, 2014.

24. Anadarko E&P Onshore, LLC, Pad ID: WW Litke #1H, ABR–20090817.R1, Curtin Township, Centre County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 18, 2014.

25. Anadarko E&P Onshore, LLC, Pad ID: COP Tr 678 #1000H, ABR–20090820.R1, Noyes Township, Clinton County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 18, 2014.

26. Anadarko E&P Onshore, LLC, Pad ID: COP Tr 678 #1001H & #1002H, ABR–20090821.R1, Noyes Township, Clinton County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 18, 2014.

27. Anadarko E&P Onshore, LLC, Pad ID: Tx Gulf B #1H, ABR–20090822.R1, Beech Creek Township, Clinton County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 18, 2014.

28. Anadarko E&P Onshore, LLC, Pad ID: Tx Gulf B #2H & #3H, ABR–20090823.R1, Beech Creek Township, Clinton County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 18, 2014.

29. Cabot Oil & Gas Corporation, Pad ID: BrooksW P1, ABR–20090701.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 18, 2014.

30. Cabot Oil & Gas Corporation, Pad ID: MakoskyT P1, ABR–201402012, Brooklyn Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.250 mgd; Approval Date: February 24, 2014.

31. Cabot Oil & Gas Corporation, Pad ID: MillardK P1, ABR–201402013, Jessup Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.250 mgd; Approval Date: February 24, 2014.

32. Cabot Oil & Gas Corporation, Pad ID: Teel P7, ABR–20090704.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 24, 2014.

33. Cabot Oil & Gas Corporation, Pad ID: SmithR P2, ABR–20090707.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 24, 2014.

34. Cabot Oil & Gas Corporation, Pad ID: LarueC P2, ABR–20090706.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 24, 2014.

35. Cabot Oil & Gas Corporation, Pad ID: BrooksW P2, ABR–20090724.R1, Springville Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: February 24, 2014.

36. Anadarko E&P Onshore, LLC, Pad ID: COP Tr 252 #1000H, ABR–20090444.R1, Grugan Township, Clinton County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 28, 2014.

37. Anadarko E&P Onshore, LLC, Pad ID: COP Tr 252 #1001H & #1002H, ABR–20090445.R1, Grugan Township, Clinton County, Pa.; Consumptive Use

of Up to 5.000 mgd; Approval Date: February 28, 2014.

38. Chesapeake Appalachia, LLC, Pad ID: Hannan, ABR–20090520.R1, Troy Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: February 28, 2014.

39. Chesapeake Appalachia, LLC, Pad ID: Isbell, ABR–20090521.R1, Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: February 28, 2014.

40. Chesapeake Appalachia, LLC, Pad ID: Otten, ABR–20090526.R1, Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: February 28, 2014.

41. Chesapeake Appalachia, LLC, Pad ID: John Barrett, ABR–20090529.R1, Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: February 28, 2014.

42. Chesapeake Appalachia, LLC, Pad ID: James Barrett, ABR–20090530.R1, Asylum Township, Bradford County, Pa.; Consumptive Use of Up to 7.5000 mgd; Approval Date: February 28, 2014.

43. Chief Oil & Gas LLC, Pad ID: Polovitch Unit #1H, ABR–20090826.R1, Nicholson Township, Wyoming County, Pa.; Consumptive Use of Up to 5.000 mgd; Approval Date: February 28, 2014.

Authority: Pub. L. 91–575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: June 24, 2014.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2014–15364 Filed 6–30–14; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: March 1 through March 31, 2014.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423, ext. 1306; fax: (717) 238–2436; email: *rcairo@srbc.net*. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(f) for the time period specified above:

Approvals By Rule Issued Under 18 CFR 806.22(f):

1. Southwestern Energy Production Company, Pad ID: TI–03 Porter Dennis—Pad, ABR–201403001, Union Township, Tioga County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: March 6, 2014.

2. Cabot Oil & Gas Corporation, Pad ID: GrimsleyJ P1, ABR–20090805.R1, Dimock Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.575 mgd; Approval Date: March 11, 2014.

3. SWEPI LP, Pad ID: Tice 653, ABR–201403002, Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: March 11, 2014.

4. SWEPI LP, Pad ID: Shughart 534, ABR–201403003, Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: March 11, 2014.

5. SWEPI LP, Pad ID: Shughart 490, ABR–201403004, Richmond Township, Tioga County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: March 11, 2014.

6. Chesapeake Appalachia, LLC, Pad ID: Ward, ABR–20090519.R1, West Burlington Township, Bradford County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: March 18, 2014.

7. Pennsylvania General Energy Company, LLC, Pad ID: SGL 75 Pad F, ABR–201403005, McHenry Township, Lycoming County, Pa.; Consumptive Use of Up to 2.500 mgd; Approval Date: March 18, 2014.

8. Pennsylvania General Energy Company, LLC, Pad ID: SGL 75 Pad E, ABR–201403006, McHenry Township, Lycoming County, Pa.; Consumptive Use of Up to 2.500 mgd; Approval Date: March 18, 2014.

9. WPX Energy Appalachia, LLC, Pad ID: Carrar Pad Site, ABR–20090725.R1, Liberty Township, Susquehanna County, Pa.; Consumptive Use of Up to 3.000 mgd; Approval Date: March 18, 2014.

10. Talisman Energy USA Inc., Pad ID: 07 090 Choconut Valley Farms, ABR–201403007, Choconut Township, Susquehanna County, Pa.; Consumptive Use of Up to 6.000 mgd; Approval Date: March 21, 2014.

11. Southwestern Energy Production Company, Pad ID: JOHN GOOD WEST LU9 PAD, ABR–201403008, Jackson Township, Lycoming County, Pa.; Consumptive Use of Up to 4.999 mgd; Approval Date: March 21, 2014.

12. Seneca Resources, Pad ID: Clermont Pad D, ABR–201403009, Jones Township, Elk County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: March 25, 2014.

13. Inflection Energy LLC, Pad ID: Hamilton Well Site, ABR–201403010, Upper Fairfield Township, Lycoming County, Pa.; Consumptive Use of Up to 4.000 mgd; Approval Date: March 25, 2014.

14. Chesapeake Appalachia, LLC, Pad ID: TA, ABR–201403011, Colley Township, Sullivan County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: March 31, 2014.

15. Chesapeake Appalachia, LLC, Pad ID: Garrison, ABR–201403012, Washington Township, Wyoming County, Pa.; Consumptive Use of Up to 7.500 mgd; Approval Date: March 31, 2014.

16. Cabot Oil & Gas Corporation, Pad ID: HawkJ P1, ABR–201403013, Auburn Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.275 mgd; Approval Date: March 31, 2014.

17. Cabot Oil & Gas Corporation, Pad ID: GrasavageE P1, ABR–201403014, Jessup Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.250 mgd; Approval Date: March 31, 2014.

18. Cabot Oil & Gas Corporation, Pad ID: SlocumS P1, ABR–201403015, Jackson Township, Susquehanna County, Pa.; Consumptive Use of Up to 4.250 mgd; Approval Date: March 31, 2014.

19. Talisman Energy USA Inc., Pad ID: DCNR 587 Pad #17, ABR–20090932.R1, Ward Township, Tioga County, Pa.; Consumptive Use of Up to 3.000 mgd; Approval Date: March 31, 2014.

20. Talisman Energy USA Inc., Pad ID: DCNR 587 Pad #9, ABR–20091024.R1, Ward Township, Tioga County, Pa.; Consumptive Use of Up to 3.000 mgd; Approval Date: March 31, 2014.

21. Talisman Energy USA Inc., Pad ID: Knights 24, ABR–20091025.R1, Troy Township, Bradford County, Pa.; Consumptive Use of Up to 3.000 mgd; Approval Date: March 31, 2014.

Authority: Public Law 91–575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: June 24, 2014.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2014–15433 Filed 6–30–14; 8:45 am]

BILLING CODE 7040–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Projects Rescinded for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists the approved by rule projects rescinded by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: March 1 through April 30, 2014.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423, ext. 1306; fax: (717) 238–2436; email: *rcairo@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, being rescinded for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR 806.22(e) and § 806.22(f) for the time period specified above:

Rescinded ABR Issued March 1–31, 2014

1. Range Resources—Appalachia, LLC, Pad ID: Grays Run Club Unit #2H, ABR–20100455, Jackson Township, Lycoming County, Pa.; Rescind Date: March 10, 2014.
2. Chesapeake Appalachia, LLC, Pad ID: Arch, ABR–201106022, Sweden Township, Potter County, Pa.; Rescind Date: March 25, 2014.
3. Range Resources—Appalachia, LLC, Pad ID: Ogontz 3 Drilling Pad, ABR–20090606, Cummings Township, Lycoming County, Pa; Rescind Date: April 18, 2014.
4. Range Resources—Appalachia, LLC, Pad ID: McWilliams 1, ABR–20090607, Cogan House Township, Lycoming County, Pa; Rescind Date: April 18, 2014.
5. Range Resources—Appalachia, LLC, Pad ID: Gentner 3, ABR–20100153, Cummings Township, Lycoming County, Pa; Rescind Date: April 18, 2014.
6. Range Resources—Appalachia, LLC, Pad ID: Dog Run Hunting Club Unit, ABR–20100456, Cummings Township, Lycoming County, Pa; Rescind Date: April 18, 2014.
7. Range Resources—Appalachia, LLC, Pad ID: Harman, Lewis Unit #1H Drilling Pad, ABR–20100554, Moreland Township, Lycoming County, Pa; Rescind Date: April 18, 2014.
8. Range Resources—Appalachia, LLC, Pad ID: Shohocken Hunt Club Unit #1H–#6H, ABR–20100646, Cummings Township, Lycoming County, Pa; Rescind Date: April 18, 2014.
9. Range Resources—Appalachia, LLC, Pad ID: Ogontz Fishing Club Unit #12H–#17H, ABR–20100648, Cummings Township, Lycoming County, Pa; Rescind Date: April 18, 2014.
10. Range Resources—Appalachia, LLC, Pad ID: Lone Walnut H.C. Unit #3H Drilling Pad, ABR–201007031, Cummings Township, Lycoming County, Pa; Rescind Date: April 18, 2014.

Authority: Pub. L. 91–575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: June 24, 2014.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2014–15427 Filed 6–30–14; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice To Rescind Notice of Intent To Prepare an Environmental Impact Statement (EIS) for Urban Rail in City of Austin, Travis County, Texas

AGENCY: Federal Transit Administration, DOT.

ACTION: Rescind Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA), in cooperation with the Capital Metropolitan Transportation Authority (Cap Metro) and the City of Austin, is issuing this notice to advise the public that the Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the proposed Urban Rail project in Austin, Texas is being rescinded.

FOR FURTHER INFORMATION CONTACT: Ms. Laura Wallace, Community Planner, Federal Transit Administration Region VI, 819 Taylor Street, Room 8A36, Fort Worth,TX 76102, phone 817–978–0550, email *Laura.Wallace@dot.gov.*

SUPPLEMENTARY INFORMATION: The FTA, as the lead federal agency, in cooperation with Cap Metro and the City of Austin published a NOI in the **Federal Register** on March 3, 2011 (Volume 76, Number 45) to prepare an EIS for the Urban Rail project to connect key activity centers within Central Austin—Mueller Transit-Oriented Redevelopment, the University of Texas at Austin campus, the State Capitol Complex, the central business district, and Austin-Bergstrom International Airport with each other and to emerging regional transportation network nodes for commuter rail, regional rail, and rapid bus in Austin, Travis County, Texas.

Since that time, FTA and the City of Austin have decided to re-evaluate the Urban Rail project in terms of scope and alternatives beyond what was originally considered. Therefore, the FTA has determined that the NOI for the EIS will be rescinded.

Comments and questions concerning the proposed action should be directed to FTA at the address provided above.

Robert C. Patrick,

Regional Administrator, Federal Transit Administration, Region VI.

[FR Doc. 2014–15353 Filed 6–30–14; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2014–0018]

Pipeline Safety: Information Collection Activities, Revisions to Operator Identification (OPID) Assignment Request and Operator Registry Notification

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: On March 31, 2014, in accordance with the Paperwork Reduction Act of 1995, the Pipeline and Hazardous Materials Safety Administration (PHMSA) published a notice in the **Federal Register** (79 FR 18118) notifying the public of its intent to revise two forms under OMB Control Number 2137–0627, PHMSA F 1000.1—OPID Assignment Request and PHMSA F 1000.2—Operator Registry Notification, and its intention to request approval from the Office of Management and Budget (OMB) for revised information collection burdens.

PHMSA received one comment in response to that notice in support of the proposed changes. PHMSA is publishing this notice to acknowlege the received comment, provide the public with an additional 30 days to comment on the information collection referenced above, and announce that the Information Collection will be submitted to OMB for approval.

DATES: Comments on this notice must be received by July 31, 2014 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Angela Dow by telephone at 202–366–1246, by fax at 202–366–4566, or by mail at DOT, PHMSA, 1200 New Jersey Avenue SE., PHP–30, Washington, DC 20590–0001.

ADDRESSES: You may submit comments identified by the docket number PHMSA–2014–0018 by any of the following methods:

- *Fax:* 1–202–395–5806.
- *Mail:* Office of Information and Regulatory Affairs (OIRA), Records Management Center, Room 10102 NEOB, 725 17th Street NW., Washington, DC 20503,

ATTN: Desk Officer for the U.S. Department of Transportation\PHMSA.

- *Email:* Office of Information and Regulatory Affairs, OMB, at the following email address: *OIRA_Submission@omb.eop.gov.*

Requests for a copy of the Information Collection should be directed to Angela Dow by telephone at 202–366–1246, by fax at 202–366–4566, by email at *Angela.Dow1@dot.gov*, or by mail at U.S. Department of Transportation, PHMSA, 1200 New Jersey Avenue SE., PHP–30, Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

I. During the 60 day comment period, PHMSA received one comment from the Pipeline Safety Trust in support of the proposed changes. Specifically, the Pipeline Safety Trust supports collecting information on the descriptions of pipeline facilities and number of miles of pipeline from the operators on a state-by-state basis to make the information more useful to state regulators and the public.

II. The following information is provided for this information collection: (1) Title of the information collection; (2) OMB control number; (3) Current expiration date; (4) Type of request; (5) Abstract of the information collection activity; (6) Description of affected public; (7) Estimate of total annual reporting and recordkeeping burden; and (8) Frequency of collection. PHMSA requests comments on the following information collection, including the proposed revisions addressed in this notice. Copies of the proposed forms associated with this information collection can be found at Docket Number PHMSA–2014–0018.

Title: National Registry of Pipeline and LNG Operators.

OMB Control Number: 2137–0627.

Current Expiration Date: 12/31/2014.

Type of Request: Revision.

Abstract: The National Registry of Pipeline and LNG Operators serves as the storehouse for the reporting requirements for an operator regulated under or subject to reporting requirements of 49 CFR parts 191, 192, 193, or 195. PHMSA is seeking to revise the forms associated with assigning and maintaining OPID information, the Operator Assignment Request Form (PHMSA F 1000.1) and the Operator Registry Notification Form (PHMSA F 1000.2).

Affected Public: Natural Gas, LNG, and Liquid pipeline operators.

Annual Reporting and Recordkeeping Burden:

Total Annual Responses: 630.

Total Annual Burden Hours: 630.

Frequency of Collection: On occasion.

Comments are invited on:

(a) The need for the proposed collection of information for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

Issued in Washington, DC on June 25, 2014.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2014–15301 Filed 6–30–14; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2014–0091]

Pipeline Safety: Government/Industry Pipeline Research and Development Forum

AGENCY: Pipeline and Hazardous Materials Safety Administration, DOT.

ACTION: Notice of public forum.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration (PHMSA) and the National Association of Pipeline Safety Representatives periodically hold this public forum to generate a National research agenda that fosters solutions for the many challenges with pipeline safety and with protecting the environment. The forum allows public, government and industry pipeline stakeholders to develop a consensus on the technical gaps and challenges for future research. It also reduces duplication of programs, factors ongoing research efforts, leverages resources and broadens synergies. The national research agenda developed through this forum is aligned with the needs of the pipeline safety mission and makes use of the best available knowledge and expertise and considers stakeholder perspectives.

DATES: The public forum will be held on Wednesday, August 6, 2014, from 8:00 a.m. to 5:00 p.m. CDT and Thursday, August 7, 2014, from 8:00 a.m. to 4:30 p.m. CDT.

ADDRESSES: The event will be held at the Crowne Plaza Chicago O'Hare, 5440 North River Road, Rosemont, IL 60018. Hotel reservations can be made under the room block ''DOT/PHMSA'' at *http://www.crowneplazaohare.com/* or by calling the hotel directly at 877–337–5793. A small room block is available at the Federal Government rate of $166/night for the nights of August 5, 6 and 7 on a first come, first served basis, and must be made by July 21, 2014.

Registration: Members of the public may attend this free public forum. To help assure that adequate space and accommodations are provided, all attendees are encouraged to register for the forum in advance at *http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=98.* A name tag will be provided from your registration.

Web cast: This public forum will not be webcasted.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to request special assistance at the forum, please contact the Crowne Plaza at 877–337–5793 or Robert Smith, PHMSA, Office of Pipeline Safety, at 919–238–4759 or by email at *robert.w.smith@dot.gov.*

FOR FURTHER INFORMATION CONTACT: Robert Smith, PHMSA, Office of Pipeline Safety, at 919–238–4759 or by email at *robert.w.smith@dot.gov*, regarding the subject matter of this notice.

SUPPLEMENTARY INFORMATION: The details on this public forum including the times and agenda will be available on the meeting page *http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=98* as they become available. Presentation files will also be available on the meeting page within 14 days following the forum.

Authority: 49 CFR 1.97.

Issued in Washington, DC, on June 25, 2014.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2014–15307 Filed 6–30–14; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2014–0090]

Pipeline Safety: Public Workshop on Managing Pipeline Cracking Challenges

AGENCY: Pipeline and Hazardous Materials Safety Administration, DOT.

ACTION: Notice of public workshop.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration (PHMSA) and the National Association of Pipeline Safety Representatives are holding this public workshop to gather and disseminate information on the state-of-the-art of crack detection in hazardous liquid and natural gas pipelines. Perspectives on the challenges involved with detecting and characterizing crack like defects, including environmentally assisted cracks and cracks with corrosion, will be provided from pipeline operators and regulators. This public workshop will provide an update on technology developments via research, the success rate in deploying such technology for detection and a discussion on the level of and types of data collected in support of engineering assessments. It will also discuss other information in support of criteria for determining when a probable crack defect in a pipeline segment must be excavated, the time limits for completing those excavations and models for determining crack growth rates.

DATES: The public workshop will be held on Tuesday, August 5, 2014, from 9:00 a.m. to 5:00 p.m. CDT.

ADDRESSES: The public workshop will be held at the Crowne Plaza Chicago O'Hare, 5440 North River Road, Rosemont, IL 60018. Hotel reservations can be made under the room block ''DOT/PHMSA'' at *http://www.crowneplazaohare.com/* or by calling the hotel directly at 877–337–5793. A small room block is available at the Federal Government rate of $166/night for the nights of August 4 and 5 on a first come, first served basis, and must be made by July 21, 2014.

Registration: Members of the public may attend this free public workshop. To help assure that adequate space and accommodations are provided, all attendees are encouraged to register for the workshop in advance at *http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=97*. A name tag will be provided from your registration.

Webcast: This public workshop will also be webcasted in order to facilitate wider reaching and remote attendance. Webcast information will be provided in the hour before the start time at *http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=97.*

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to request special assistance at the workshop, please contact the Crowne Plaza at 877–337–5793 or Robert Smith, PHMSA, Office of Pipeline Safety, at 919–238–4759 or by email at *robert.w.smith@dot.gov*.

FOR FURTHER INFORMATION CONTACT: Robert Smith, PHMSA, Office of Pipeline Safety, at 919–238–4759 or by email at *robert.w.smith@dot.gov*, regarding the subject matter of this notice.

SUPPLEMENTARY INFORMATION: The details on this meeting including the times and agenda will be available on the meeting page at *http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=97* as they become available. Presentation files and the webcast archive will also be available online from the meeting page within 30 days following the meeting.

Authority: 49 CFR 1.97.

Issued in Washington, DC, on June 25, 2014.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2014–15305 Filed 6–30–14; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. FD 35756]

Hartwell Railroad Company—Construction of Connecting Track Exemption—in Elbert County, GA

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of Availability of the Environmental Assessment and Request for Comments.

SUMMARY: The Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) has prepared an Environmental Assessment (EA) in response to a verified notice of exemption filed on May 27, 2014 by the Hartwell Railroad Company (Hartwell). Hartwell seeks to construct approximately 1,360 feet of connecting railroad track, pursuant to 49 CFR 1150.36. The proposal would allow Hartwell's existing Toccoa-Elberton Line to connect with CSX Transportation's, Inc. (CSXT) existing Abbeville Subdivision in Elbert County, GA. The proposal would re-establish a prior rail connection formerly owned by the Norfolk Southern Railway Company (NSR) and occur on land within existing railroad rights-of-way either owned by Hartwell or CSXT. The prior connection, which allowed Hartwell to indirectly interchange its rail traffic with CSXT, was formally abandoned by NSR in 1995. Since then, Hartwell has been required to interchange its traffic solely with NSR at the other end of its line (some 40-miles northwest of the Proposed Action) in order to access the mainlines of CSXT approximately 60 miles to the northeast and about 37 miles to the southwest.

The proposed rail line construction would permit Hartwell to reach points served by CSXT that NSR does not serve and eliminate the inefficiency that would otherwise involve three carriers (Hartwell-NSR–CSXT) instead of two (Hartwell-CSXT) to reach points served solely by CSXT. Hartwell expects to handle up to one train per day in each direction over the new connection with CSXT.

The EA identifies the natural and man-made resources in the area of the proposed rail line and analyzes the potential impacts of the proposal on these resources. Based on the information provided from all sources to date and its independent analysis, OEA preliminarily concludes that construction of the proposed rail line connection would have no significant environmental impacts if the Board imposes and Hartwell implements the recommended mitigation measures set forth in the EA.

Copies of the EA have been served on all interested parties and will be made available to additional parties upon request. The entire EA is also available on the Board's Web site (*www.stb.dot.gov*) by clicking on the ''Decisions & Notices'' button that appears in the drop down menu for ''E-LIBRARY,'' and searching by Service Date (July 1, 2014) or Docket Number (FD 35756). OEA will consider all comments received when making its final environmental recommendations to the Board. The Board will then consider OEA's final recommendations

and the complete environmental record in making its final decision in this proceeding.

DATES: The EA is available for public review and comment. Comments must be postmarked by July 31, 2014.

ADDRESSES: Comments (an original and one copy) should be sent in writing to: Surface Transportation Board, Case Control Unit, 395 E Street SW., Suite 1015, Washington, DC 20423. The lower left hand corner of the envelope should be marked: Attention: Ms. Diana Wood, Environmental Comments. Comments on the EA may also be filed electronically on the Board's Web site, *www.stb.dot.gov*, by clicking on the ''E-FILING'' link.

FOR FURTHER INFORMATION CONTACT: Diana Wood by mail at the address above, by telephone at 202–245–0302 [FRS for the hearing impaired (1–800–877–8339)], or by email at *woodd@stb.dot.gov.*

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2014–15107 Filed 6–30–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Prompt Payment Interest Rate; Contract Disputes Act

AGENCY: Bureau of the Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning July 1, 2014, and ending on December 31, 2014, the prompt payment interest rate is 2 per centum per annum.

ADDRESSES: Comments or inquiries may be mailed to: E-Commerce Division, Bureau of the Fiscal Service, 401 14th Street SW., Room 306F, Washington, DC 20227. Comments or inquiries may also be emailed to *PromptPayment@fiscal.treasury.gov.* A copy of this notice is available at *http://www.fms.treas.gov/prompt/index.html.*

DATES: Effective July 1, 2014, to December 31, 2014.

FOR FURTHER INFORMATION CONTACT: Thomas M. Burnum, E-Commerce Division, (202) 874–6430; or Frank Supik, Attorney-Advisor, Office of the Chief Counsel, (202) 874–6638.

SUPPLEMENTARY INFORMATION: An agency that has acquired property or service from a business concern and has failed to pay for the complete delivery of property or service by the required payment date shall pay the business concern an interest penalty. 31 U.S.C. 3902(a). The Contract Disputes Act of 1978, Sec. 12, Public Law 95–563, 92 Stat. 2389, and the Prompt Payment Act, 31 U.S.C. 3902(a), provide for the calculation of interest due on claims at the rate established by the Secretary of the Treasury.

The Secretary of the Treasury has the authority to specify the rate by which the interest shall be computed for interest payments under section 12 of the Contract Disputes Act of 1978 and under the Prompt Payment Act. Under the Prompt Payment Act, if an interest penalty is owed to a business concern, the penalty shall be paid regardless of whether the business concern requested payment of such penalty. 31 U.S.C. 3902(c)(1). Agencies must pay the interest penalty calculated with the interest rate, which is in effect at the time the agency accrues the obligation to pay a late payment interest penalty. 31 U.S.C. 3902(a). ''The interest penalty shall be paid for the period beginning on the day after the required payment date and ending on the date on which payment is made.'' 31 U.S.C. 3902(b).

Therefore, notice is given that the Secretary of the Treasury has determined that the rate of interest applicable for the period beginning July 1, 2014, and ending on December 31, 2014, is 2 per centum per annum.

Richard L. Gregg,

Fiscal Assistant Secretary.

[FR Doc. 2014–15409 Filed 6–30–14; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning safe harbor for valuation under section 475.

DATES: Written comments should be received on or before September 2, 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 regulations should be directed to Kerry Dennis, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Safe Harbor for Valuation under Section 475.

OMB Number: 1545–1945.

Regulation Project Number: TD 9328.

Abstract: This document sets forth an elective safe harbor that permits dealers in securities and dealers in commodities to elect to use the values of positions reported on certain financial statements as the fair market values of those positions for purposes of section 475 of the Internal Revenue Code (Code). This safe harbor is intended to reduce the compliance burden on taxpayers and to improve the administrability of the valuation requirement of section 475 for the IRS.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 12,308.

Estimated Average Time per Respondent: 4 hours.

Estimated Total Annual Burden Hours: 49,232.

The following paragraph applies to all the collections of information covered by this notice.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of

public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 28, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–15451 Filed 6–30–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 990–EZ

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 990–EZ, Short Form Return of Organization Exempt from Income Tax.

DATES: Written comments should be received on or before September 2, 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 forms and instructions should be directed to Gerald J. Shields at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Gerald.J.Shields@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Short Form Return of Organization Exempt From Income Tax.

OMB Number: 1545–1150.

Form Number: 990–EZ.

Abstract: An annual return is required by Internal Revenue Code section 6033 for organizations exempt from income tax under Code section 501(a). Form 990–EZ is used by tax exempt organizations and nonexempt charitable trusts whose gross receipts are less than $200,000 and whose total assets at the end of the year are less than $500,000 to provide the IRS with the information required by Code section 6033. IRS uses the information from Form 990–EZ to ensure that tax exempt organizations are operating within the limitations of their tax exemption.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 412,315.

Estimated Time Per Respondent: 105 hrs., 48 min.

Estimated Total Annual Burden Hours: 43,656,636.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 28, 2014.

R. Joseph Durbala,

IRS Clearance Officer.

[FR Doc. 2014–15444 Filed 6–30–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8027 and 8027–T

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 the employer's annual information return of tip income and allocated tips and transmittal of employer's annual information return of tip income and allocated tips.

DATES: Written comments should be received on or before September 2, 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 forms and instructions should be directed to Gerald J. Shields, LL.M. at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Gerald.j.Shields@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Employer's Annual Information Return of Tip Income and Allocated Tips (Form 8027), and Transmittal of Employer's Annual Information Return of Tip Income and Allocated Tips (Form 8027–T).

OMB Number: 1545–0714.

Form Number: Forms 8027 and 8027–T.

Abstract: To help IRS in its examinations of returns filed by tipped employees, large food or beverage establishments are required to report

annually information concerning food or beverage operations receipts, tips reported by employees, and in certain cases, the employer must allocate tips to certain employees. Forms 8027 and 8027–T are used for this purpose.

Current Actions: There are no changes being made to these forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, not-for-profit institutions and state, local or tribal governments.

Estimated Number of Respondents: 52,050.

Estimated Time Per Respondent: 9 hours, 23 minutes.

Estimated Total Annual Burden Hours: 488,161.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 20, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–15449 Filed 6–30–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5305A–SEP

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 salary reduction simplified employee pension-individual retirement accounts contribution agreement.

DATES: Written comments should be received on or before September 2, 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 Gerald J. Shields, LL.M., Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or or through the internet at *Gerald.J.Shields@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Salary Reduction Simplified Employee Pension-Individual Retirement Accounts Contribution Agreement.

OMB Number: 1545–1012.

Form Number: 5305A–SEP.

Abstract: Form 5305A–SEP is used by an employer to make an agreement to provide benefits to all employees under a Simplified Employee Pension (SEP) described in Internal Revenue Code section 408(k). This form is not to be filed with the IRS, but is to be retained in the employer's records as proof of establishing a SEP and justifying a deduction for contributions made to the SEP.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 100,000.

Estimated Time per Respondent: 9 hours, 43 minutes.

Estimated Total Annual Burden Hours: 972,000.

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 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, 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 7, 2011.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–15450 Filed 6–30–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information

collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning certain transfers of property to Regulated Investment Companies (RICs) and Real Estate Investment Trusts (REITs).

DATES: Written comments should be received on or before September 2, 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 regulations should be directed to Kerry Dennis, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at Kerry.Dennis@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Certain Transfers of Property to Regulated Investment Companies (RICs) and Real Estate Investment Trusts (REITs).

OMB Number: 1545–1672. Regulation Project Number: TD 9047.

Abstract: The regulation applies with respect to the net built-in gain of C corporation property that becomes property of a Regulated Investment Company (RIC) or Real Estate Investment Trust (REIT) by the qualification of a C corporation as a RIC or REIT or by the transfer of property of a C corporation to a RIC or REIT in certain tax-free transactions. Depending on the date of the transfer of property or qualification as a RIC or REIT, the regulation provides that either (1) the C corporation will recognize gain as if it had sold the property at fair market value unless the RIC or REIT elects section 1374 treatment or (2) the RIC or REIT will be subject to section 1374 treatment with respect to the net recognized built-in-gain, unless the C corporation elects deemed sale treatment. The regulation provides that a section 1374 election is made by filing a statement, signed by an official authorized to sign the income tax return of the RIC or REIT and attached to the RIC's or REIT's Federal income tax return for the taxable year in which the property of the C corporation becomes the property of the RIC or REIT. The regulation provides that a deemed sale election is made by filing a statement, signed by an official authorized to sign the income tax return of the C corporation and attached to the C corporation's Federal income tax return for the taxable year in which the deemed sale occurs.

Current Actions: There are no changes being made to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 140.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 70.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 23, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–15439 Filed 6–30–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 1040–PR and 1040–SS

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 1040–PR, Planilla para la Declaración de la Contribución Federal sobre el Trabajo por Cuenta Propia (Incluyendo el Crédito Tributario Adicional por Hijos para Residentes Bona Fide de Puerto Rico) and Form 1040–SS, U.S. Self-Employment Tax Return (Including the Additional Child Tax Credit for Bona Fide Residents of Puerto Rico)

DATES: Written comments should be received on or before September 2, 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 Gerald J. Shields, LL.M. at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *Gerald.J.Shields@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Planilla para la Declaración de la Contribución Federal sobre el Trabajo por Cuenta Propia (Incluyendo el Crédito Tributario Adicional por Hijos para Residentes Bona Fide de Puerto Rico).

OMB Number: 1545–0090.

Form Number: Form 1040–PR.

Abstract: Form 1040–PR, is used by self-employed individuals to figure and report self-employment tax under IRC chapter 2 of Subtitle A, and provide credit to the taxpayer's social security account. Anejo H–PR is used to compute household employment taxes and the Form 104–PR burden calculation includes this burden of 2,400 responses with 5,376 hours.

Current Actions: There are changes, due to Public Law 112–96, section 1001; Public Law 111–148, section 9014, which changed IRC section 1401 (b)(2); Chief Counsel request; SSA Fact Sheet: 2013 Social Security Changes, being made to the form at this time which increased taxpayer burden. This form is being submitted for renewal purposes.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households, Businesses and other for-profit organizations, Farms.

Estimated Number of Respondents: 154,860.

Estimated Time per Respondent: 11 hours, 34 minutes.

Estimated Total Annual Burden Hours: 1,792,208.

Title: U.S. Self-Employment Tax Return (Including the Additional Child Tax Credit for Bona Fide Residents of Puerto Rico)

OMB Number: 1545–0090.

Form Number: Form 1040–SS.

Abstract: Form 1040–SS, is used by self-employed individuals to figure and report self-employment tax under IRC chapter 2 of Subtitle A, and provide credit to the taxpayer's social security account. Both of these forms are also used by bona- fide residents of Puerto Rico to claim the additional child tax credit.

Current Actions: There are changes, due to Public Law 112–96, section 1001; Public Law 111–148, section 9014, which changed IRC section 1401 (b)(2); Chief Counsel request; SSA Fact Sheet: 2013 Social Security Changes, being made to the form at this time which increased taxpayer burden. This form is being submitted for renewal purposes.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households, Businesses and other for-profit organizations, Farms.

Estimated Number of Respondents: 92,000.

Estimated Time per Respondent: 11 hours, 28 minutes.

Estimated Total Annual Burden Hours: 1,055,240.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 20, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–15438 Filed 6–30–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Citizens Coinage Advisory Committee; Teleconference

ACTION: Notification of Citizens Coinage Advisory Committee July 8, 2014, Public Meeting.

SUMMARY: Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for July 8, 2014.

Date: July 8, 2014.

Time: 1:00 p.m. to 3:30 p.m. EDT.

Location: This meeting will occur *via teleconference.* Interested members of the public may attend the meeting at the United States Mint; 801 9th Street NW., Washington, DC; Conference Room A.

Subject: Discussion of design themes for the Congressional Gold Medals to be awarded to the Doolittle Tokyo Raiders, the American Fighter Aces, and the World War II Members of the Civil Air Patrol.

Interested persons should call the CCAC HOTLINE at (202) 354–7502 for the latest update on meeting time and room location.

In accordance with 31 U.S.C. 5135, the CCAC:

- Advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals.
- Advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.
- Makes recommendations with respect to the mintage level for any commemorative coin recommended.

FOR FURTHER INFORMATION CONTACT: William Norton, United States Mint Liaison to the CCAC; 801 9th Street NW., Washington, DC 20220 or call 202–354–7200.

Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by fax to the following number: 202–756–6525.

Authority: 31 U.S.C. 5135(b)(8)(C).

Dated: June 25, 2014.

Beverly Ortega Babers,

Chief Administrative Officer, United States Mint.

[FR Doc. 2014–15408 Filed 6–30–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900—NEW]

Proposed Information Collection (Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Documents and Information Required for Specially Adapted Housing AssistivTechnology Grant)); Activity: Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to decide whether an applicant meets the requirements and satisfies the scoring criteria for award of an SAH Assistive Technology grant under 38 U.S.C. 2108.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before September 2, 2014.

ADDRESSES: Submit written comments on the collection of information through

Federal Docket Management System (FDMS) at *www.Regulations.gov*; or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900—NEW (Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Documents and Information Required for Specially Adapted Housing AssistivTechnology Grant)) in any correspondence. During the comment period, comments may be viewed online through FDMS at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or FAX (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Documents and Information Required for Specially Adapted Housing AssistivTechnology Grant).

OMB Control Number: 2900—NEW.

Type of Review: New collection.

Abstract: Non-Federal entities (state and local governments, and non-profit organizations), private entities, and individuals may submit this information to complete an application for the SAH Assistive Technology Grant program. Applicants may either obtain printed copies of the forms or electronically download the required forms. These forms and other required statements are then completed and the applications submitted to VA electronically through Grants.gov. The signed forms provide certification of compliance with VA grant requirements. VA will use all information submitted by applicants, including the SF 424, VA Form 26–0967, and statements addressing scoring criteria, in its grant award process. The information will be used by Loan Guaranty personnel in deciding whether an applicant meets the requirements and satisfies the scoring criteria for award of an SAH Assistive Technology grant under 38 U.S.C. 2108.

Affected Public: Individuals or households.

Estimated Annual Burden: 40 hours.

Estimated Average Burden per Respondent: 120 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 20.

Dated: June 26, 2014.

By direction of the Secretary.

Crystal Rennie,

Department Clearance Officer, Department of Veterans Affairs.

[FR Doc. 2014–15338 Filed 6–30–14; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 79 Tuesday,

No. 126 July 1, 2014

Part II

Department of the Treasury

Fiscal Service

Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies; Notice

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circular 570; 2014 Revision]

Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies

Dates: Effective July 1, 2014.

This Circular is published annually for the information of Federal bond-approving officers and persons required to give bonds to the United States consistent with 31 CFR 223.16. Copies of the Circular and interim changes may be obtained directly from the internet at *www.gpoaccess.gov* or from the Government Printing Office (202) 512–1800. (Interim changes are published in the **Federal Register** and on the internet as they occur). Other information pertinent to Federal sureties may be obtained from the U.S. Department of the Treasury, Bureau of the Fiscal Service, Surety Bond Section, 3700 East West Highway, Room 6F01, Hyattsville, MD 20782, Telephone (202) 874–6850 or Fax (202) 874–9978.

The most current list of Treasury authorized companies is always available through the Internet at *www.fms.treas.gov/c570.* In addition, applicable laws, regulations, and application information are also available at the same site.

Please note that the underwriting limitation published herein is on a per bond basis but this does not limit the amount of a bond that a company can write. Companies are allowed to write bonds with a penal sum over their underwriting limitation as long as they protect the excess amount with reinsurance, coinsurance or other methods as specified at 31 CFR 223.10–11. Please refer to Note (b) at the end of this publication.

The following companies have complied with the law and the regulations of the U.S. Department of the Treasury. Those listed in the front of this Circular are acceptable as sureties and reinsurers on Federal bonds under Title 31 of the United States Code, Sections 9304 to 9308 [See Note (a)]. Those listed in the back are acceptable only as reinsurers on Federal bonds under 31 CFR 223.3(b) [See Note (e)].

If we can be of any assistance, please feel free to contact the Surety Bond Section at (202) 874–6850.

Patricia M. Greiner,

Assistant Commissioner for Management (CFO).

Important information is contained in the notes at the end of this circular. please read the notes carefully.

Certified Companies

ACCREDITED SURETY AND CASUALTY COMPANY, INC. (NAIC #26379)

BUSINESS ADDRESS: PO Box 140855, Orlando, FL 32814—0855. PHONE: (407) 629–2131. UNDERWRITING LIMITATION b/: $2,062,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

ACE American Insurance Company (NAIC #22667)

BUSINESS ADDRESS: 436 Walnut Street P.O. Box 1000, Philadelphia, PA 19106. PHONE: (215) 640–1000. UNDERWRITING LIMITATION b/: $267,699,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

ACE Property and Casualty Insurance Company (NAIC #20699)

BUSINESS ADDRESS: 436 WALNUT STREET, P.O. Box 1000, Philadelphia, PA 19106. PHONE: (215) 640–1000. UNDERWRITING LIMITATION b/: $192,047,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

ACSTAR INSURANCE COMPANY (NAIC #22950)

BUSINESS ADDRESS: 30 SOUTH ROAD, FARMINGTON, CT 06032. PHONE: (860) 415–8400. UNDERWRITING LIMITATION b/: $2,890,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Aegis Security Insurance Company (NAIC #33898)

BUSINESS ADDRESS: P.O. Box 3153, Harrisburg, PA 17105. PHONE: (717) 657–9671. UNDERWRITING LIMITATION b/: $5,149,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

ALL AMERICA INSURANCE COMPANY (NAIC #20222)

BUSINESS ADDRESS: 800 S. Washington Street, VAN WERT, OH 45891—2357. PHONE: (419) 238–1010. UNDERWRITING LIMITATION b/: $12,470,000. SURETY LICENSES c,f/: AZ, CA, CT, GA, IL, IN, IA, KY, MA, MI, NV, NJ, NY, NC, OH, OK, TN, TX, VA. INCORPORATED IN: Ohio.

Allegheny Casualty Company (NAIC #13285)

BUSINESS ADDRESS: One Newark Center, 20th Floor, Newark, NJ 07102. PHONE: (800) 333–4167 x-269. UNDERWRITING LIMITATION b/: $2,045,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

ALLEGHENY SURETY COMPANY (NAIC #34541)

BUSINESS ADDRESS: 4217 Steubenville Pike, Pittsburgh, PA 15205. PHONE: (412) 921–3077. UNDERWRITING LIMITATION b/: $293,000. SURETY LICENSES c,f/: PA. INCORPORATED IN: Pennsylvania.

ALLIED Property and Casualty Insurance Company (NAIC #42579)

BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., 1–04–701, COLUMBUS, OH 43215—2220. PHONE: (515) 508–4211. UNDERWRITING LIMITATION b/: $5,824,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, ND, OH, PA, RI, SC, SD, TN, TX,

UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Allied World Insurance Company (NAIC #22730)

BUSINESS ADDRESS: 199 Water Street, New York, NY 10038. PHONE: (646) 794–0500. UNDERWRITING LIMITATION b/: $68,049,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

AMCO Insurance Company (NAIC #19100)

BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., 1–04–701, COLUMBUS, OH 43215—2220. PHONE: (515) 508–4211. UNDERWRITING LIMITATION b/: $36,376,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

AMERICAN ALTERNATIVE INSURANCE CORPORATION (NAIC #19720)

BUSINESS ADDRESS: 555 COLLEGE ROAD EAST—P.O. BOX 5241, PRINCETON, NJ 08543. PHONE: (609) 243–4200. UNDERWRITING LIMITATION b/: $16,175,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

American Automobile Insurance Company (NAIC #21849)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899–2000. UNDERWRITING LIMITATION b/: $15,701,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA (NAIC #10111)

BUSINESS ADDRESS: 11222 QUAIL ROOST DRIVE, MIAMI, FL 33157—6596. PHONE: (305) 253–2244. UNDERWRITING LIMITATION b/: $54,212,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Florida.

American Casualty Company of Reading, Pennsylvania (NAIC #20427)

BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (312) 822–5000. UNDERWRITING LIMITATION b/: $14,075,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

AMERICAN CONTRACTORS INDEMNITY COMPANY (NAIC #10216) [1]

BUSINESS ADDRESS: 601 South Figueroa Street, 16th Floor, Los Angeles, CA 90017. PHONE: (310) 649–0990. UNDERWRITING LIMITATION b/: $8,960,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MP, MT, NE, NV, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

American Fire and Casualty Company (NAIC #24066)

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $3,848,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

American Guarantee and Liability Insurance Company (NAIC #26247)

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 18TH FLOOR, SCHAUMBURG, IL 60196—1056. PHONE: (847) 605–6000. UNDERWRITING LIMITATION b/: $17,653,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Home Assurance Company (NAIC #19380)

BUSINESS ADDRESS: 175 WATER STREET, 18TH FLOOR, NEW YORK, NY 10038. PHONE: (212) 770–7000. UNDERWRITING LIMITATION b/: $694,786,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Insurance Company (The) (NAIC #21857)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899–2000. UNDERWRITING LIMITATION b/: $28,354,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

AMERICAN ROAD INSURANCE COMPANY (THE) (NAIC #19631)

BUSINESS ADDRESS: One American Road, MD 7600, Dearborn, MI 48126–2701. PHONE: (313) 337–1102. UNDERWRITING LIMITATION b/: $27,601,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

American Safety Casualty Insurance Company (NAIC #39969)

BUSINESS ADDRESS: 100 Galleria Pkwy, SE. Suite 700, Atlanta, GA 30339. PHONE: (770) 916–1908. UNDERWRITING LIMITATION b/: $12,248,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT,

VT, VA, WA, WV, WI, WY. INCORPORATED IN: Oklahoma.

AMERICAN SERVICE INSURANCE COMPANY, INC. (NAIC #42897)

BUSINESS ADDRESS: 150 Northwest Point Blvd., Suite 300, Elk Grove Village, IL 60007. PHONE: (847) 472–6700. UNDERWRITING LIMITATION b/: $2,679,000. SURETY LICENSES c,f/: AL, AK, AZ, CO, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MS, MO, MT, NE, NV, NY, OH, OK, PA, SC, SD, TX, UT, WA, WV, WY. INCORPORATED IN: Illinois.

American Southern Insurance Company (NAIC #10235)

BUSINESS ADDRESS: P O Box 723030, Atlanta, GA 31139–0030. PHONE: (404) 266–9599. UNDERWRITING LIMITATION b/: $3,909,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, IL, IN, KS, KY, MD, MI, MN, MS, MO, NE, NJ, NY, NC, OH, PA, SC, TN, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Kansas.

American Surety Company (NAIC #31380)

BUSINESS ADDRESS: 250 East 96th Street, Suite 202, Indianapolis, IN 46240. PHONE: (317) 875–8700. UNDERWRITING LIMITATION b/: $1,156,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Indiana.

Amerisure Insurance Company (NAIC #19488)

BUSINESS ADDRESS: P. O. Box 2060, Farmington Hills, MI 48331—3586. PHONE: (248) 615–9000. UNDERWRITING LIMITATION b/: $21,566,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Amerisure Mutual Insurance Company (NAIC #23396)

BUSINESS ADDRESS: P. O. Box 2060, Farmington Hills, MI 48331–3586. PHONE: (248) 615–9000. UNDERWRITING LIMITATION b/: $56,595,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Amerisure Partners Insurance Company (NAIC #11050)

BUSINESS ADDRESS: P. O. Box 2060, Farmington Hills, MI 48331–3586. PHONE: (248) 615–9000. UNDERWRITING LIMITATION b/: $2,215,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Antilles Insurance Company (NAIC #10308)

BUSINESS ADDRESS: PO Box 9023507, San Juan, PR 00902–3507. PHONE: (787) n474–4900. UNDERWRITING LIMITATION b/: $6,916,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

Arch Insurance Company (NAIC #11150)

BUSINESS ADDRESS: 300 Plaza Three, Jersey City, NJ 07311–1107. PHONE: (201) 743–4000. UNDERWRITING LIMITATION b/: $73,663,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Arch Reinsurance Company (NAIC #10348)

BUSINESS ADDRESS: 445 South Street, Suite 220, P.O. Box 1988, Morristown, NJ 07962–1988. PHONE: (973) 898–9575. UNDERWRITING LIMITATION b/: $32,017,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV. INCORPORATED IN: Nebraska.

Argonaut Insurance Company (NAIC #19801)

BUSINESS ADDRESS: P.O. BOX 469011, SAN ANTONIO, TX 78246. PHONE: (800) 470–7958. UNDERWRITING LIMITATION b/: $40,936,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

ASPEN AMERICAN INSURANCE COMPANY (NAIC #43460)

BUSINESS ADDRESS: 175 Capital Boulevard, Suite300, Rocky Hill, CT 06067. PHONE: (860) 258–3500. UNDERWRITING LIMITATION b/: $25,752,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Texas.

Associated Indemnity Corporation (NAIC #21865)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899–2000. UNDERWRITING LIMITATION b/: $8,231,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: California.

Atlantic Specialty Insurance Company (NAIC #27154)

BUSINESS ADDRESS: 150 Royall Street, Canton, MA 02021–1030. PHONE: (781) 332–7000. UNDERWRITING LIMITATION b/: $66,581,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE., NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Auto-Owners Insurance Company (NAIC #18988)

BUSINESS ADDRESS: P.O. BOX 30660, LANSING, MI 48909–8160. PHONE: (517) 323–1200. UNDERWRITING LIMITATION b/: $751,176,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, FL, GA, ID, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NV, NM, NC, ND, OH, OR, PA, SC, SD, TN, UT, VA, WA, WI. INCORPORATED IN: Michigan.

AXIS Insurance Company (NAIC #37273)

BUSINESS ADDRESS: 11680 Great Oaks Way, Ste. 500, Alpharetta, GA 30022. PHONE: (678) 746–9400. UNDERWRITING LIMITATION b/: $52,622,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT,

DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

AXIS Reinsurance Company (NAIC #20370)

BUSINESS ADDRESS: 11680 Great Oaks Way, Suite 500, Alpharetta, GA 30022. PHONE: (678) 746–9400. UNDERWRITING LIMITATION b/: $82,269,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Bankers Insurance Company (NAIC #33162)

BUSINESS ADDRESS: P.O. BOX 15707, ST. PETERSBURG, FL 33733. PHONE: (727) 823–4000. UNDERWRITING LIMITATION b/: $5,632,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

Bankers Standard Insurance Company (NAIC #18279)

BUSINESS ADDRESS: 436 WALNUT STREET, P.O. Box 1000, Philadelphia, PA 19106. PHONE: (215) 640–1000. UNDERWRITING LIMITATION b/: $13,206,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: Pennsylvania.

Beazley Insurance Company, Inc. (NAIC #37540)

BUSINESS ADDRESS: 30 Batterson Park Road, Farmington, CT 06032. PHONE: (860) 677–3700. UNDERWRITING LIMITATION b/: $12,193,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Berkley Insurance Company (NAIC #32603)

BUSINESS ADDRESS: 475 STEAMBOAT ROAD, GREENWICH, CT 06830. PHONE: (203) 542–3800. UNDERWRITING LIMITATION b/: $405,926,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Berkley Regional Insurance Company (NAIC #29580)

BUSINESS ADDRESS: 11201 Douglas Avenue, Urbandale, IA 50322. PHONE: (515) 473–3137. UNDERWRITING LIMITATION b/: $64,318,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

BITUMINOUS CASUALTY CORPORATION (NAIC #20095)

BUSINESS ADDRESS: 320–18TH STREET, ROCK ISLAND, IL 61201–8744. PHONE: (309) 786–5401. UNDERWRITING LIMITATION b/: $29,018,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

BOND SAFEGUARD INSURANCE COMPANY (NAIC #27081)

BUSINESS ADDRESS: 10002 Shelbyville Road, Suite 100, Louisville, KY 40223. PHONE: (502) 253–6500. UNDERWRITING LIMITATION b/: $2,778,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, KS, KY, LA, ME, MD, MA, MN, MS, MO, MP, MT, NV, NH, NJ, NM, NC, ND, OH, OK, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Dakota.

Boston Indemnity Company, Inc. (NAIC #30279)

BUSINESS ADDRESS: 21 High Street, Suite 208B, North Andover, MA 01845. PHONE: (978) 984–5783. UNDERWRITING LIMITATION b/: $468,000. SURETY LICENSES c,f/: AL, AZ, AR, CT, DE, DC, FL, GA, ID, IN, KS, KY, LA, ME, MA, MN, MS, MT, NE, NV, NC, ND, OK, PA, SD, TN, WV. INCORPORATED IN: South Dakota.

Brierfield Insurance Company (NAIC #10993)

BUSINESS ADDRESS: 6300 University Parkway, Sarasota, FL 34240–8424. PHONE: (800) 226–3224 x-2726. UNDERWRITING LIMITATION b/: $818,000. SURETY LICENSES c,f/: AL, AR, GA, MS, TN. INCORPORATED IN: Mississippi.

BRITISH AMERICAN INSURANCE COMPANY (NAIC #32875)

BUSINESS ADDRESS: P.O. Box 1590, Dallas, TX 75221–1590. PHONE: (214) 443–5500. UNDERWRITING LIMITATION b/: $3,327,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

Capitol Indemnity Corporation (NAIC #10472)

BUSINESS ADDRESS: P.O. Box 5900, Madison, WI 53705–0900. PHONE: (608) 829–4200. UNDERWRITING LIMITATION b/: $17,291,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Capitol Preferred Insurance Company, Inc. (NAIC #10908)

BUSINESS ADDRESS: 2255 Killearn Center Boulevard, Tallahassee, FL 32309. PHONE: (850) 521–0742. UNDERWRITING LIMITATION b/: $1,963,000. SURETY LICENSES c,f/: FL, GA, SC. INCORPORATED IN: Florida.

Carolina Casualty Insurance Company (NAIC #10510)

BUSINESS ADDRESS: 11201 Douglas Avenue, Urbandale, IA 50322. PHONE: (515) 473–3137. UNDERWRITING LIMITATION b/: $9,529,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Centennial Casualty Company (NAIC #34568)

BUSINESS ADDRESS: 2200 Woodcrest Place, Suite 200, Birmingham, AL 35209. PHONE: (205) 414–2600. UNDERWRITING LIMITATION b/:

$6,190,000. SURETY LICENSES c,f/: AL. INCORPORATED IN: Alabama.

CENTRAL MUTUAL INSURANCE COMPANY (NAIC #20230)

BUSINESS ADDRESS: 800 S. Washington Street, VAN WERT, OH 45891–2357. PHONE: (419) 238–1010. UNDERWRITING LIMITATION b/: $49,471,000. SURETY LICENSES c,f/: AZ, CA, CO, CT, DE, GA, IL, IN, IA, KY, MA, MI, NV, NH, NJ, NM, NY, NC, OH, OK, PA, TN, TX, VA. INCORPORATED IN: Ohio.

CENTURY SURETY COMPANY (NAIC #36951)

BUSINESS ADDRESS: 550 Polaris Parkway, Westerville, OH 43082. PHONE: (614) 895–2000. UNDERWRITING LIMITATION b/: $13,258,000. SURETY LICENSES c,f/: AZ, IN, OH, WV, WI. INCORPORATED IN: Ohio.

Cherokee Insurance Company (NAIC #10642)

BUSINESS ADDRESS: 34200 Mound Road, Sterling Heights, MI 48310. PHONE: (800) 201–0450 x-3400. UNDERWRITING LIMITATION b/: $15,155,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

CHUBB INDEMNITY INSURANCE COMPANY (NAIC #12777)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (212) 612–4000. UNDERWRITING LIMITATION b/: $12,692,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Cincinnati Casualty Company (The) (NAIC #28665)

BUSINESS ADDRESS: P.O. Box 145496, Cincinnati, OH 45250–5496. PHONE: (513) 870–2000. UNDERWRITING LIMITATION b/: $31,653,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Cincinnati Insurance Company (The) (NAIC #10677)

BUSINESS ADDRESS: P.O. BOX 145496, CINCINNATI, OH 45250–5496. PHONE: (513) 870–2000. UNDERWRITING LIMITATION b/: $400,914,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

CITIZENS INSURANCE COMPANY OF AMERICA (NAIC #31534)

BUSINESS ADDRESS: 808 NORTH HIGHLANDER WAY, HOWELL, MI 48843–1070. PHONE: (517) 546–2160. UNDERWRITING LIMITATION b/: $66,218,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, GA, HI, IL, IN, IA, KS, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Michigan.

COLONIAL AMERICAN CASUALTY AND SURETY COMPANY (NAIC #34347)

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 18TH FLOOR, SCHAUMBURG, IL 60196–1056. PHONE: (847) 605–6000. UNDERWRITING LIMITATION b/: $2,226,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Maryland.

COLONIAL SURETY COMPANY (NAIC #10758)

BUSINESS ADDRESS: 50 Chestnut Ridge Road, Montvale, NJ 07645. PHONE: (201) 573–8788. UNDERWRITING LIMITATION b/: $2,597,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

COMPANION PROPERTY AND CASUALTY INSURANCE COMPANY (NAIC #12157)

BUSINESS ADDRESS: P.O. Box 100165, Columbia, SC 29202. PHONE: (803) 735–0672. UNDERWRITING LIMITATION b/: $25,084,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, WY. INCORPORATED IN: South Carolina.

Continental Casualty Company (NAIC #20443)

BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (312) 822–5000. UNDERWRITING LIMITATION b/: $830,730,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

CONTINENTAL HERITAGE INSURANCE COMPANY (NAIC #39551)

BUSINESS ADDRESS: 6140 PARKLAND BLVD, STE 321, MAYFIELD HEIGHTS, OH 44124. PHONE: (440) 229–3420. UNDERWRITING LIMITATION b/: $721,000. SURETY LICENSES c,f/: AZ, CA, CO, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MN, MS, NE, NV, NJ, ND, OH, PA, SC, SD, TN, TX, UT, VA, WA, WV. INCORPORATED IN: Florida.

Continental Insurance Company (The) (NAIC #35289)

BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (312) 822–5000. UNDERWRITING LIMITATION b/: $136,686,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

CONTRACTORS BONDING AND INSURANCE COMPANY (NAIC #37206)

BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692–1000. UNDERWRITING LIMITATION b/: $11,149,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN,

TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

Cooperativa de Seguros Multiples de Puerto Rico (NAIC #18163)

BUSINESS ADDRESS: PO BOX 363846, SAN JUAN, PR 00936–3846. PHONE: (787) 622–3575 x-2512. UNDERWRITING LIMITATION b/: $17,930,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

CorePointe Insurance Company (NAIC #10499)

BUSINESS ADDRESS: 401 South Old Woodward Avenue, Suite 300, Birmingham, MI 48009. PHONE: (800) 782–9164. UNDERWRITING LIMITATION b/: $13,374,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

CUMIS INSURANCE SOCIETY, INC. (NAIC #10847)

BUSINESS ADDRESS: P.O. Box 1084, Madison, WI 53701. PHONE: (608) 238–5851. UNDERWRITING LIMITATION b/: $55,708,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

CUMIS Specialty Insurance Company, Inc. (NAIC #12758)

BUSINESS ADDRESS: Post Office Box 1084, Madison, WI 53701. PHONE: (608) 238–5851. UNDERWRITING LIMITATION b/: $6,465,000. SURETY LICENSES c,f/: IA. INCORPORATED IN: Iowa.

Darwin National Assurance Company (NAIC #16624)

BUSINESS ADDRESS: 1690 New Britain Avenue, Suite 101, Farmington, CT 06032. PHONE: (860) 284–1300. UNDERWRITING LIMITATION b/: $36,403,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Developers Surety and Indemnity Company (NAIC #12718)

BUSINESS ADDRESS: P.O. BOX 19725, IRVINE, CA 92623–9725. PHONE: (949) 263–3300. UNDERWRITING LIMITATION b/: $5,643,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Employers Insurance Company of Wausau (NAIC #21458)

BUSINESS ADDRESS: 2000 Westwood Drive, Wausau, WI 54401. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $117,301,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Employers Mutual Casualty Company (NAIC #21415)

BUSINESS ADDRESS: P.O. BOX 712, DES MOINES, IA 50306–0712. PHONE: (515) 280–2511. UNDERWRITING LIMITATION b/: $112,189,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Endurance American Insurance Company (NAIC #10641)

BUSINESS ADDRESS: 333 Westchester Avenue, White Plains, NY 10604. PHONE: (914) 468–8000. UNDERWRITING LIMITATION b/: $24,749,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Endurance Reinsurance Corporation of America (NAIC #11551)

BUSINESS ADDRESS: 333 Westchester Avenue, White Plains, NY 10604. PHONE: (914) 468–8000. UNDERWRITING LIMITATION b/: $38,156,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Delaware.

Erie Insurance Company (NAIC #26263)

BUSINESS ADDRESS: 100 ERIE INSURANCE PLACE, ERIE, PA 16530. PHONE: (814) 870–2000. UNDERWRITING LIMITATION b/: $29,445,000. SURETY LICENSES c,f/: DC, IL, IN, KY, MD, MN, NY, NC, OH, PA, TN, VA, WV, WI. INCORPORATED IN: Pennsylvania.

Everest Reinsurance Company (NAIC #26921)

BUSINESS ADDRESS: P.O. Box 830, Liberty Corner, NJ 07938–0830. PHONE: (908) 604–3000. UNDERWRITING LIMITATION b/: $281,434,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Evergreen National Indemnity Company (NAIC #12750)

BUSINESS ADDRESS: 6140 PARKLAND BLVD, STE 321, MAYFIELD HEIGHTS, OH 44124. PHONE: (440) 229–3420. UNDERWRITING LIMITATION b/: $3,386,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: Ohio.

Executive Risk Indemnity Inc. (NAIC #35181)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (908) 903–2000. UNDERWRITING LIMITATION b/: $121,863,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Explorer Insurance Company (NAIC #40029)

BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186–5563. PHONE: (858) 350–2400 x–2550. UNDERWRITING LIMITATION b/:

$6,237,000. SURETY LICENSES c,f/: AZ, CA, CO, HI, ID, IL, IN, IA, MT, NV, NM, OR, PA, TX, UT, WA. INCORPORATED IN: California.

Farmers Alliance Mutual Insurance Company (NAIC #19194)

BUSINESS ADDRESS: P.O. Box 1401, McPherson, KS 67460. PHONE: (620) 241–2200. UNDERWRITING LIMITATION b/: $14,399,000. SURETY LICENSES c,f/: CO, ID, IA, KS, MN, MO, MT, NE, NM, ND, OK, SD. INCORPORATED IN: Kansas.

Farmington Casualty Company (NAIC #41483)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $28,743,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Farmland Mutual Insurance Company (NAIC #13838)

BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., 1–04–701, COLUMBUS, OH 43215–2220. PHONE: (515) 508–3300. UNDERWRITING LIMITATION b/: $16,603,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

FCCI Insurance Company (NAIC #10178)

BUSINESS ADDRESS: 6300 University Parkway, Sarasota, FL 34240–8424. PHONE: (800) 226–3224 x-2726. UNDERWRITING LIMITATION b/: $50,836,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, NE, NC, OH, OK, PA, SC, TN, TX, VA. INCORPORATED IN: Florida.

Federal Insurance Company (NAIC #20281)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (908) 903–2000. UNDERWRITING LIMITATION b/: $1,339,576,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Indiana.

FEDERATED MUTUAL INSURANCE COMPANY (NAIC #13935)

BUSINESS ADDRESS: 121 EAST PARK SQUARE, OWATONNA, MN 55060. PHONE: (507) 455–5200. UNDERWRITING LIMITATION b/: $251,826,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Fidelity National Property and Casualty Insurance Company (NAIC #16578) [2]

Fidelity and Deposit Company of Maryland (NAIC #39306)

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 18TH FLOOR, SCHAUMBURG, IL 60196–1056. PHONE: (847) 605–6000. UNDERWRITING LIMITATION b/: $14,670,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

FIDELITY AND GUARANTY INSURANCE COMPANY (NAIC #35386)

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310–7911. UNDERWRITING LIMITATION b/: $1,924,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Fidelity and Guaranty Insurance Underwriters, Inc. (NAIC #25879)

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310–7911. UNDERWRITING LIMITATION b/: $10,099,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Financial Casualty & Surety, Inc. (NAIC #35009)

BUSINESS ADDRESS: 3131 Eastside, Suite 600, Houston, TX 77098. PHONE: (800) 392–1604. UNDERWRITING LIMITATION b/: $1,290,000. SURETY LICENSES c,f/: AZ, CA, CT, DE, FL, GA, ID, IN, IA, KS, LA, MD, MI, MN, MS, MT, NV, NJ, NY, NC, ND, OH, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV. INCORPORATED IN: Texas.

Financial Pacific Insurance Company (NAIC #31453)

BUSINESS ADDRESS: P.O. BOX 73909, CEDAR RAPIDS, IA 52407–3909. PHONE: (319) 399–5700. UNDERWRITING LIMITATION b/: $8,127,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, FL, ID, IL, IA, KS, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI. INCORPORATED IN: California.

Fireman's Fund Insurance Company (NAIC #21873)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899–2000. UNDERWRITING LIMITATION b/: $239,634,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

First Founders Assurance Company (NAIC #12150)

BUSINESS ADDRESS: 6 Mill Ridge Lane, Chester, NJ 07930–2486. PHONE: (908) 879–0990. UNDERWRITING LIMITATION b/: $368,000. SURETY LICENSES c,f/: NJ. INCORPORATED IN: New Jersey.

First Insurance Company of Hawaii, Ltd. (NAIC #41742)

BUSINESS ADDRESS: P.O. Box 2866, Honolulu, HI 96803. PHONE: (808) 527–7777. UNDERWRITING LIMITATION b/: $28,643,000. SURETY LICENSES c,f/: GU, HI. INCORPORATED IN: Hawaii.

First Liberty Insurance Corporation (The) (NAIC #33588)

BUSINESS ADDRESS: 2815 Forbs Avenue, Suite 200, Hoffman Estates, IL 60192. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $2,216,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC,

ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

First National Insurance Company of America (NAIC #24724) [3]

First Net Insurance Company (NAIC #10972)

BUSINESS ADDRESS: 102 JULALE CENTER, HAGATNA, GU 96910. PHONE: (671) 477–8613. UNDERWRITING LIMITATION b/: $1,202,000. SURETY LICENSES c,f/: GU, MP. INCORPORATED IN: Guam.

General Casualty Company of Wisconsin (NAIC #24414)

BUSINESS ADDRESS: One General Drive, Sun Prairie, WI 53596. PHONE: (608) 837–4440. UNDERWRITING LIMITATION b/: $23,989,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

General Reinsurance Corporation (NAIC #22039)

BUSINESS ADDRESS: 120 LONG RIDGE ROAD, STAMFORD, CT 06902–1843. PHONE: (203) 328–5000. UNDERWRITING LIMITATION b/: $1,156,169,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

GRANGE INSURANCE COMPANY OF MICHIGAN (NAIC #11136)

BUSINESS ADDRESS: 671 South High Street, P.O. Box 1218, Columbus, OH 43216–1218. PHONE: (614) 445–2900. UNDERWRITING LIMITATION b/: $3,545,000. SURETY LICENSES c,f/: MI, OH. INCORPORATED IN: Ohio.

GRANGE MUTUAL CASUALTY COMPANY (NAIC #14060)

BUSINESS ADDRESS: 671 South High Street, Columbus, OH 43206–1014. PHONE: (614) 445–2900. UNDERWRITING LIMITATION b/: $97,480,000. SURETY LICENSES c,f/: AL, GA, IL, IN, IA, KS, KY, MO, OH, PA, SC, TN, VA, WI. INCORPORATED IN: Ohio.

GRANITE RE, INC. (NAIC #26310)

BUSINESS ADDRESS: 14001 Quailbrook Drive, Oklahoma City, OK 73134. PHONE: (405) 752–2600. UNDERWRITING LIMITATION b/: $1,702,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, PA, SC, SD, TN, TX, UT, VA, WV, WI, WY. INCORPORATED IN: Oklahoma.

Granite State Insurance Company (NAIC #23809)

BUSINESS ADDRESS: 175 WATER STREET, 18TH FLOOR, NEW YORK, NY 10038. PHONE: (212) 770–7000. UNDERWRITING LIMITATION b/: $3,987,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

GRAY CASUALTY & SURETY COMPANY (THE) (NAIC #10671)

BUSINESS ADDRESS: P.O. Box 6202, Metairie, LA 70009–6202. PHONE: (504) 888–7790. UNDERWRITING LIMITATION b/: $1,456,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, DC, GA, IL, KY, LA, MD, MS, MO, NV, NM, NC, OK, PA, SC, TN, TX. INCORPORATED IN: Louisiana.

GRAY INSURANCE COMPANY (THE) (NAIC #36307)

BUSINESS ADDRESS: P.O. BOX 6202, METAIRIE, LA 70009–6202. PHONE: (504) 888–7790. UNDERWRITING LIMITATION b/: $9,668,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Louisiana.

Great American Alliance Insurance Company (NAIC #26832)

BUSINESS ADDRESS: 301 E Fourth Street, Cincinnati, OH 45202. PHONE: (513) 369–5000. UNDERWRITING LIMITATION b/: $3,148,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Great American Insurance Company (NAIC #16691)

BUSINESS ADDRESS: 301 E Fourth Street, Cincinnati, OH 45202. PHONE: (513) 369–5000. UNDERWRITING LIMITATION b/: $140,330,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK (NAIC #22136)

BUSINESS ADDRESS: 301 E Fourth Street, Cincinnati, OH 45202. PHONE: (513) 369–5000. UNDERWRITING LIMITATION b/: $4,613,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Great Northern Insurance Company (NAIC #20303)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (908) 903–2000. UNDERWRITING LIMITATION b/: $47,884,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Greenwich Insurance Company (NAIC #22322)

BUSINESS ADDRESS: SEAVIEW HOUSE, 70 SEAVIEW AVENUE, STAMFORD, CT 06902. PHONE: (203) 964–5200. UNDERWRITING LIMITATION b/: $41,656,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Guarantee Company of North America USA (The) (NAIC #36650)

BUSINESS ADDRESS: One Towne Square, Suite 1470, Southfield, MI 48076–3725. PHONE: (248) 281–0281 x–6012. UNDERWRITING LIMITATION b/: $15,575,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK,

OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Hanover Insurance Company (The) (NAIC #22292)

BUSINESS ADDRESS: 440 LINCOLN STREET, WORCESTER, MA 01653–0002. PHONE: (508) 853–7200. UNDERWRITING LIMITATION b/: $109,003,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

HARCO NATIONAL INSURANCE COMPANY (NAIC #26433)

BUSINESS ADDRESS: 702 OBERLIN ROAD, RALEIGH, NC 27605–0800. PHONE: (919) 833–1600. UNDERWRITING LIMITATION b/: $16,916,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Harleysville Worcester Insurance Company (NAIC #26182)

BUSINESS ADDRESS: 355 Maple Avenue, Harleysville, PA 19438–2297. PHONE: (215) 256–5000. UNDERWRITING LIMITATION b/: $23,556,000. SURETY LICENSES c,f/: AL, AR, CT, DE, DC, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI. INCORPORATED IN: Pennsylvania.

Hartford Accident and Indemnity Company (NAIC #22357)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $236,572,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Casualty Insurance Company (NAIC #29424)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $90,579,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Fire Insurance Company (NAIC #19682)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $1,408,141,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Insurance Company of Illinois (NAIC #38288)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $130,914,000. SURETY LICENSES c,f/: CT, HI, IL, MI, NY, PA. INCORPORATED IN: Illinois.

Hartford Insurance Company of the Midwest (NAIC #37478)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $43,210,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Insurance Company of the Southeast (NAIC #38261)

BUSINESS ADDRESS: One Hartford Plaza, Hartford, CT 06155–0001. PHONE: (860) 547–5000. UNDERWRITING LIMITATION b/: $5,534,000. SURETY LICENSES c,f/: CT, FL, GA, KS, LA, MI, PA. INCORPORATED IN: Connecticut.

Hudson Insurance Company (NAIC #25054)

BUSINESS ADDRESS: 100 William Street, 5th Floor, New York, NY 10038. PHONE: (212) 978–2800. UNDERWRITING LIMITATION b/: $41,395,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

IMT Insurance Company (NAIC #14257)

BUSINESS ADDRESS: P.O. Box 1336, Des Moines, IA 50306–1336. PHONE: (515) 327–2777. UNDERWRITING LIMITATION b/: $13,398,000. SURETY LICENSES c,f/: IL, IA, MN, MO, NE, SD, WI. INCORPORATED IN: Iowa.

Indemnity Company of California (NAIC #25550)

BUSINESS ADDRESS: P. O. BOX 19725, IRVINE, CA 92623–9725. PHONE: (949) 263–3300. UNDERWRITING LIMITATION b/: $1,939,000. SURETY LICENSES c,f/: AK, AZ, CA, CO, GA, HI, ID, IN, MD, MT, NV, NM, OR, SC, UT, VA, WA, WY. INCORPORATED IN: California.

Indemnity Insurance Company of North America (NAIC #43575)

BUSINESS ADDRESS: 436 WALNUT STREET, P.O. Box 1000, Philadelphia, PA 19106. PHONE: (215) 640–1000. UNDERWRITING LIMITATION b/: $10,534,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Indemnity National Insurance Company (NAIC #18468)

BUSINESS ADDRESS: 4800 Old Kingston Pike, Knoxville, TN 37919. PHONE: (865) 934–4360. UNDERWRITING LIMITATION b/: $1,157,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, GA, KY, LA, MS, NV, NM, OK, SC, TN, TX, UT. INCORPORATED IN: Mississippi.

Independence Casualty and Surety Company (NAIC #10024)

BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186–5563. PHONE: (858) 350–2400. UNDERWRITING LIMITATION b/: $2,803,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

Indiana Lumbermens Mutual Insurance Company (NAIC #14265)

BUSINESS ADDRESS: 2005 Markert Street, Suite 1200, Philadelphia, PA 19103. PHONE: (267) 825–9206. UNDERWRITING LIMITATION b/: $1,909,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Inland Insurance Company (NAIC #23264)

BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. PHONE: (402) 435–4302. UNDERWRITING LIMITATION b/: $19,002,000. SURETY LICENSES c,f/: AZ, CO, IA, KS, MN, MO, MT, NE, ND, OK, SD, WY. INCORPORATED IN: Nebraska.

Insurance Company Of North America (NAIC #22713)

BUSINESS ADDRESS: 436 WALNUT STREET, P.O. Box 1000, Philadelphia, PA 19106. PHONE: (215) 640–1000. UNDERWRITING LIMITATION b/: $18,284,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the State of Pennsylvania (The) (NAIC #19429)

BUSINESS ADDRESS: 175 WATER STREET, 18TH FLOOR, NEW YORK, NY 10038. PHONE: (212) 770–7000. UNDERWRITING LIMITATION b/: $9,143,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the West (NAIC #27847)

BUSINESS ADDRESS: P.O. BOX 85563, SAN DIEGO, CA 92186–5563. PHONE: (858) 350–2400 x–2550. UNDERWRITING LIMITATION b/: $44,314,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

Insurors Indemnity Company (NAIC #43273)

BUSINESS ADDRESS: P.O. Box 2683, Waco, TX 76702–2683. PHONE: (254) 759–3703 x–3727. UNDERWRITING LIMITATION b/: $1,177,000. SURETY LICENSES c,f/: AR, NM, OK, TX. INCORPORATED IN: Texas.

INTEGRAND ASSURANCE COMPANY (NAIC #26778)

BUSINESS ADDRESS: PO Box 70128, San Juan, PR 00936–8128. PHONE: (787) 781–0707 x–200. UNDERWRITING LIMITATION b/: $6,843,000. SURETY LICENSES c,f/: PR, VI. INCORPORATED IN: Puerto Rico.

Integrity Mutual Insurance Company (NAIC #14303)

BUSINESS ADDRESS: P.O. Box 539, Appleton, WI 54912–0539. PHONE: (920) 734–4511. UNDERWRITING LIMITATION b/: $4,304,000. SURETY LICENSES c,f/: IL, IA, MN, OH, WI. INCORPORATED IN: Wisconsin.

International Fidelity Insurance Company (NAIC #11592) [4]

BUSINESS ADDRESS: One Newark Center, Newark, NJ 07102–5207. PHONE: (973) 624–7200. UNDERWRITING LIMITATION b/: $6,583,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

IRONSHORE INDEMNITY INC. (NAIC #23647)

BUSINESS ADDRESS: P.O. BOX 3407, NEW YORK, NY 10008. PHONE: (646) 826–6600. UNDERWRITING LIMITATION b/: $12,054,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

IRONSHORE SPECIALTY INSURANCE COMPANY (NAIC #25445)

BUSINESS ADDRESS: P.O. BOX 3407, New York, NY 10008. PHONE: (646) 826–6600. UNDERWRITING LIMITATION b/: $30,034,000. SURETY LICENSES c,f/: AZ. INCORPORATED IN: Arizona.

ISLAND INSURANCE COMPANY, LIMITED (NAIC #22845)

BUSINESS ADDRESS: P.O. Box 1520, Honolulu, HI 96806–1520. PHONE: (808) 564–8200. UNDERWRITING LIMITATION b/: $11,984,000. SURETY LICENSES c,f/: HI. INCORPORATED IN: Hawaii.

LEXINGTON NATIONAL INSURANCE CORPORATION (NAIC #37940)

BUSINESS ADDRESS: P.O. BOX 6098, LUTHERVILLE, MD 21094. PHONE: (410) 625–0800. UNDERWRITING LIMITATION b/: $1,983,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, HI, ID, IN, IA, KS, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Maryland.

Lexon Insurance Company (NAIC #13307)

BUSINESS ADDRESS: 10002 Shelbyville Rd, Suite 100, Louisville, KY 40223. PHONE: (502) 253–6500. UNDERWRITING LIMITATION b/: $4,400,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Texas.

Liberty Insurance Corporation (NAIC #42404)

BUSINESS ADDRESS: 2815 Forbs Avenue, Suite 200, Hoffman Estates, IL 60192. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $21,542,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Liberty Mutual Fire Insurance Company (NAIC #23035)

BUSINESS ADDRESS: 2000 Westwood Drive, Wausau, WI 54401. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $113,325,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Liberty Mutual Insurance Company (NAIC #23043)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02116. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $1,250,943,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

LM Insurance Corporation (NAIC #33600)

BUSINESS ADDRESS: 2815 Forbs Avenue, Suite 200, Hoffman Estates, IL 60192. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $11,110,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Lyndon Property Insurance Company (NAIC #35769)

BUSINESS ADDRESS: 14755 North Outer Forty Rd., Suite 400, St. Louis, MO 63017. PHONE: (636) 536–5600. UNDERWRITING LIMITATION b/: $14,660,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Manufacturers Alliance Insurance Company (NAIC #36897)

BUSINESS ADDRESS: P.O. Box 3031, Blue Bell, PA 19422–0754. PHONE: (610) 397–5000. UNDERWRITING LIMITATION b/: $6,671,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, ID, IN, KS, KY, LA, ME, MD, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, PA, RI, SC, SD, TN, UT, VT, VA, WA. INCORPORATED IN: Pennsylvania.

MARKEL INSURANCE COMPANY (NAIC #38970)

BUSINESS ADDRESS: 4521 Highwoods Parkway, Glen Allen, VA 23060. PHONE: (804) 747–0136. UNDERWRITING LIMITATION b/: $34,739,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Massachusetts Bay Insurance Company (NAIC #22306)

BUSINESS ADDRESS: 440 LINCOLN STREET, WORCESTER, MA 01653–0002. PHONE: (508) 853–7200. UNDERWRITING LIMITATION b/: $6,115,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Merchants Bonding Company (Mutual) (NAIC #14494)

BUSINESS ADDRESS: 2100 Fleur Drive, Des Moines, IA 50321–1158. PHONE: (515) 243–8171. UNDERWRITING LIMITATION b/: $7,953,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Merchants National Bonding, Inc. (NAIC #11595)

BUSINESS ADDRESS: 2100 Fleur Drive, Des Moines, IA 50321–1158. PHONE: (515) 243–8171. UNDERWRITING LIMITATION b/: $1,056,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Michigan Millers Mutual Insurance Company (NAIC #14508)

BUSINESS ADDRESS: P. O. Box 30060, Lansing, MI 48909–7560. PHONE: (517) 482–6211 x–7765. UNDERWRITING LIMITATION b/: $8,012,000. SURETY LICENSES c,f/: AZ, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NY, NC, ND, OH, OK, OR, PA, SD, TN, VA, WA, WI, WY. INCORPORATED IN: Michigan.

Mid-Century Insurance Company (NAIC #21687)

BUSINESS ADDRESS: P.O. Box 2478 Terminal Annex, Los Angeles, CA 90051. PHONE: (323) 932–3200. UNDERWRITING LIMITATION b/: $92,126,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, FL, GA, HI, ID, IL, IN, IA, KS, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: California.

MID-CONTINENT CASUALTY COMPANY (NAIC #23418)

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587–7221. UNDERWRITING LIMITATION b/: $11,437,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, IL, IN, IA, KS, KY, LA, MD, MN, MS, MO, MT, NE, NM, NC, ND, OH, OK, SC, SD, TN, TX, UT, VA, WA, WY. INCORPORATED IN: Ohio.

Motorists Commercial Mutual Insurance Company (NAIC #13331)

BUSINESS ADDRESS: 471 East Broad Street, Columbus, OH 43215. PHONE: (614) 225–8211. UNDERWRITING LIMITATION b/: $14,092,000. SURETY LICENSES c,f/: AK, AZ, CA, CO, CT, DE, DC, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Motorists Mutual Insurance Company (NAIC #14621)

BUSINESS ADDRESS: 471 East Broad Street, Columbus, OH 43215. PHONE: (614) 225–8211. UNDERWRITING LIMITATION b/: $56,878,000. SURETY LICENSES c,f/: IN, KY, MI, OH, PA, WV. INCORPORATED IN: Ohio.

Motors Insurance Corporation (NAIC #22012)

BUSINESS ADDRESS: 300 GALLERIA OFFICENTRE, SOUTHFIELD, MI 48034. PHONE: (248) 263–6900. UNDERWRITING LIMITATION b/: $109,563,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Munich Reinsurance America, Inc. (NAIC #10227)

BUSINESS ADDRESS: 555 COLLEGE ROAD EAST—P.O. BOX 5241, PRINCETON, NJ 08543. PHONE: (609) 243–4200. UNDERWRITING LIMITATION b/: $519,554,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD,

MA, MI, MN, MS, MO, MP, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

National American Insurance Company (NAIC #23663)

BUSINESS ADDRESS: P.O. Box 9, Chandler, OK 74834. PHONE: (405) 258–0804. UNDERWRITING LIMITATION b/: $6,091,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Oklahoma.

National Casualty Company (NAIC #11991)

BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., 1–04–701, COLUMBUS, OH 43215–2220. PHONE: (480) 365–4000. UNDERWRITING LIMITATION b/: $12,587,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

NATIONAL FARMERS UNION PROPERTY AND CASUALTY COMPANY (NAIC #16217)

BUSINESS ADDRESS: One General Drive, Sun Prairie, WI 53596. PHONE: (608) 837–4440. UNDERWRITING LIMITATION b/: $4,168,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

National Fire Insurance Company of Hartford (NAIC #20478)

BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (312) 822–5000. UNDERWRITING LIMITATION b/: $11,618,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

National Indemnity Company (NAIC #20087)

BUSINESS ADDRESS: 3024 Harney Street, Omaha, NE 68131–3580. PHONE: (402) 916–3000. UNDERWRITING LIMITATION b/: $9,722,605,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

National Surety Corporation (NAIC #21881)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (312) 346–6400. UNDERWRITING LIMITATION b/: $12,670,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WY. INCORPORATED IN: Illinois.

NATIONAL TRUST INSURANCE COMPANY (NAIC #20141)

BUSINESS ADDRESS: 6300 University Parkway, Sarasota, FL 34240–8424. PHONE: (800) 226–3224 x-2726. UNDERWRITING LIMITATION b/: $3,558,000. SURETY LICENSES c,f/: AZ, FL, GA, IL, IN, IA, KY, LA, MD, MI, MS, MO, NE, NC, OK, SC, TN, TX. INCORPORATED IN: Indiana.

National Union Fire Insurance Company of Pittsburgh, PA (NAIC #19445)

BUSINESS ADDRESS: 175 WATER STREET, 18TH FLOOR, NEW YORK, NY 10038. PHONE: (212) 770–7000. UNDERWRITING LIMITATION b/: $727,018,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Nationwide Mutual Insurance Company (NAIC #23787)

BUSINESS ADDRESS: ONE WEST NATIONWIDE BLVD., 1–04–701, COLUMBUS, OH 43215–2220. PHONE: (614) 249–7111. UNDERWRITING LIMITATION b/: $1,100,909,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Ohio.

NAVIGATORS INSURANCE COMPANY (NAIC #42307)

BUSINESS ADDRESS: 400 Atlantic Street, 8th Floor, Stamford, CT 06901. PHONE: (203) 905–6090. UNDERWRITING LIMITATION b/: $80,407,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

New Hampshire Insurance Company (NAIC #23841)

BUSINESS ADDRESS: 175 WATER STREET, 18TH FLOOR, NEW YORK, NY 10038. PHONE: (212) 770–7000. UNDERWRITING LIMITATION b/: $21,834,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

NGM Insurance Company (NAIC #14788)

BUSINESS ADDRESS: 55 WEST STREET, KEENE, NH 03431. PHONE: (904) 380–7282. UNDERWRITING LIMITATION b/: $90,515,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

NORTH AMERICAN SPECIALTY INSURANCE COMPANY (NAIC #29874)

BUSINESS ADDRESS: 650 ELM STREET, MANCHESTER, NH 03101. PHONE: (603) 644–6600. UNDERWRITING LIMITATION b/: $30,062,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Northwestern Pacific Indemnity Company (NAIC #20338) [5]

NOVA Casualty Company (NAIC #42552)

BUSINESS ADDRESS: 5 WATERSIDE CROSSING, SUITE 201, WINDSOR, CT 06095. PHONE: (860) 683–4250. UNDERWRITING LIMITATION b/: $9,054,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: New York.

Ohio Casualty Insurance Company (The) (NAIC #24074)

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $128,292,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Ohio Farmers Insurance Company (NAIC #24104)

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251–5001. PHONE: (330) 887–0101. UNDERWRITING LIMITATION b/: $180,869,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Indemnity Company (NAIC #26565)

BUSINESS ADDRESS: 250 East Broad Street, 7th Floor, Columbus, OH 43215. PHONE: (614) 228–2800. UNDERWRITING LIMITATION b/: $4,522,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Security Insurance Company (NAIC #24082)

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $1,499,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Oklahoma Surety Company (NAIC #23426)

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587–7221. UNDERWRITING LIMITATION b/: $1,760,000. SURETY LICENSES c,f/: AR, KS, LA, OH, OK, TX. INCORPORATED IN: Ohio.

OLD DOMINION INSURANCE COMPANY (NAIC #40231)

BUSINESS ADDRESS: 55 WEST STREET, KEENE, NH 03431. PHONE: (904) 642–3000. UNDERWRITING LIMITATION b/: $3,174,000. SURETY LICENSES c,f/: CT, DE, FL, GA, ME, MD, MA, NH, NY, NC, PA, RI, SC, TN, VT, VA. INCORPORATED IN: Florida.

Old Republic General Insurance Corporation (NAIC #24139)

BUSINESS ADDRESS: 307 NORTH MICHIGAN AVENUE, CHICAGO, IL 60601. PHONE: (312) 346–8100. UNDERWRITING LIMITATION b/: $43,167,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Old Republic Insurance Company (NAIC #24147)

BUSINESS ADDRESS: P.O. Box 789, Greensburg, PA 15601–0789. PHONE: (724) 834–5000. UNDERWRITING LIMITATION b/: $93,782,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Old Republic Surety Company (NAIC #40444)

BUSINESS ADDRESS: P.O. BOX 1635, MILWAUKEE, WI 53201–1635. PHONE: (262) 797–2640. UNDERWRITING LIMITATION b/: $5,192,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, MD, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

OneBeacon America Insurance Company (NAIC #20621)

BUSINESS ADDRESS: 150 Royall Street, Canton, MA 02021–1030. PHONE: (781) 332–7000. UNDERWRITING LIMITATION b/: $8,827,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

OneBeacon Insurance Company (NAIC #21970)

BUSINESS ADDRESS: 150 Royall Street, Canton, MA 02021–1030. PHONE: (781) 332–7000. UNDERWRITING LIMITATION b/: $12,932,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Pacific Indemnity Company (NAIC #20346)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (908) 903–2000. UNDERWRITING LIMITATION b/: $277,142,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

PACIFIC INDEMNITY INSURANCE COMPANY (NAIC #18380)

BUSINESS ADDRESS: 348 WEST O'BRIEN DRIVE, HAGATNA, GU 96910. PHONE: (671) 477–1663. UNDERWRITING LIMITATION b/: $1,714,000. SURETY LICENSES c,f/: GU, MP. INCORPORATED IN: Guam.

PARTNER REINSURANCE COMPANY OF THE U.S. (NAIC #38636)

BUSINESS ADDRESS: ONE GREENWICH PLAZA, GREENWICH, CT 06830–6352. PHONE: (203) 485–4200. UNDERWRITING LIMITATION b/: $121,607,000. SURETY LICENSES c,f/: AL, AZ, CA, CO, DC, IL, KS, MI, MS, NE, NY, TX, UT, WA. INCORPORATED IN: New York.

PARTNERRE INSURANCE COMPANY OF NEW YORK (NAIC #10006)

BUSINESS ADDRESS: One Greenwich Plaza, Greenwich, CT 06830–6352. PHONE: (203) 485–4200. UNDERWRITING LIMITATION b/: $11,594,000. SURETY LICENSES c,f/: AL, AZ, CA, CO, DE, DC, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MT, NE, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: New York.

Pekin Insurance Company (NAIC #24228)

BUSINESS ADDRESS: 2505 COURT STREET, PEKIN, IL 61558–0001. PHONE: (309) 346–1161. UNDERWRITING LIMITATION b/: $11,710,000. SURETY LICENSES c,f/: AZ, IL, IN, IA, MI, OH, WI. INCORPORATED IN: Illinois.

Pennsylvania Insurance Company (NAIC #21962)

BUSINESS ADDRESS: P.O. Box 3646, Omaha, NE 68103–0646. PHONE: (402) 827–3424. UNDERWRITING LIMITATION b/: $1,361,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Pennsylvania Manufacturers Indemnity Company (NAIC #41424)

BUSINESS ADDRESS: P.O. Box 3031, Blue Bell, PA 19422–0754. PHONE: (610) 397–5000. UNDERWRITING LIMITATION b/: $7,706,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, ID, IN, KS, KY, LA, ME, MD, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, PA, RI, SC, SD, TN, UT, VT, VA, WA. INCORPORATED IN: Pennsylvania.

Pennsylvania Manufacturers' Association Insurance Company (NAIC #12262)

BUSINESS ADDRESS: P.O. Box 3031, Blue Bell, PA 19422–0754. PHONE: (610) 397–5000. UNDERWRITING LIMITATION b/: $22,447,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, WA, WV. INCORPORATED IN: Pennsylvania.

Pennsylvania National Mutual Casualty Insurance Company (NAIC #14990)

BUSINESS ADDRESS: P.O. Box 2361, Harrisburg, PA 17105–2361. PHONE: (717) 234–4941. UNDERWRITING LIMITATION b/: $54,119,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

PHILADELPHIA INDEMNITY INSURANCE COMPANY (NAIC #18058)

BUSINESS ADDRESS: One Bala Plaza, Suite 100, Bala Cynwyd, PA 19004–1403. PHONE: (610) 617–7900. UNDERWRITING LIMITATION b/: $215,671,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

PLATTE RIVER INSURANCE COMPANY (NAIC #18619)

BUSINESS ADDRESS: P.O. Box 5900, Madison, WI 53705–0900. PHONE: (608) 829–4200. UNDERWRITING LIMITATION b/: $4,130,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

Plaza Insurance Company (NAIC #30945) [6]

BUSINESS ADDRESS: 518 East Broad Street, Columbus, OH 43215. PHONE: (614) 464–5000. UNDERWRITING LIMITATION b/: $2,508,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

ProCentury Insurance Company (NAIC #21903) [7]

BUSINESS ADDRESS: 550 Polaris Parkway, Westerville, OH 43082. PHONE: (614) 895–2000. UNDERWRITING LIMITATION b/: $4,605,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, DE, DC, GA, IL, IN, IA, KS, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OK, PA, SC, SD, TX, UT, WV, WI, WY. INCORPORATED IN: Michigan.

Progressive Casualty Insurance Company (NAIC #24260)

BUSINESS ADDRESS: P.O. BOX 89490, CLEVELAND, OH 44101–6490. PHONE: (440) 461–5000. UNDERWRITING LIMITATION b/: $154,311,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Protective Insurance Company (NAIC #12416)

BUSINESS ADDRESS: P.O. Box 2000, Carmel, IN 46082–2000. PHONE: (317) 636–9800 x–2632. UNDERWRITING LIMITATION b/: $25,212,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Regent Insurance Company (NAIC #24449)

BUSINESS ADDRESS: One General Drive, Sun Prairie, WI 53596. PHONE: (608) 837–4440. UNDERWRITING LIMITATION b/: $3,115,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Republic—Franklin Insurance Company (NAIC #12475)

BUSINESS ADDRESS: P.O. Box 530, Utica, NY 13503–0530. PHONE: (315) 734–2000. UNDERWRITING LIMITATION b/: $4,759,000. SURETY LICENSES c,f/: CT, DE, DC, GA, IL, IN, KS, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, TN, TX, VA, WI. INCORPORATED IN: Ohio.

RLI Indemnity Company (NAIC #28860)

BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692–1000. UNDERWRITING LIMITATION b/: $4,291,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT,

NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

RLI Insurance Company (NAIC #13056)

BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692–1000. UNDERWRITING LIMITATION b/: $70,482,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Roche Surety and Casualty Company, Inc. (NAIC #42706)

BUSINESS ADDRESS: 1910 Orient Road, Tampa, FL 33619. PHONE: (813) 623–5042. UNDERWRITING LIMITATION b/: $815,000. SURETY LICENSES c,f/: AK, AZ, AR, CT, DE, FL, GA, HI, ID, IN, IA, KS, LA, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA. INCORPORATED IN: Florida.

Rockwood Casualty Insurance Company (NAIC #35505)

BUSINESS ADDRESS: 654 Main Street, Rockwood, PA 15557. PHONE: (814) 926–4661. UNDERWRITING LIMITATION b/: $6,912,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NV, NM, NY, NC, OH, OK, OR, PA, SC, SD, TX, UT, VA, WV. INCORPORATED IN: Pennsylvania.

SAFECO Insurance Company of America (NAIC #24740)

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $118,867,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Safety National Casualty Corporation (NAIC #15105)

BUSINESS ADDRESS: 1832 Schuetz Road, St. Louis, MO 63146–3540. PHONE: (314) 995–5300. UNDERWRITING LIMITATION b/: $115,385,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Sagamore Insurance Company (NAIC #40460)

BUSINESS ADDRESS: P.O. Box 2000, Carmel, IN 46082–2000. PHONE: (317) 636–9800 x–2632. UNDERWRITING LIMITATION b/: $12,370,000. SURETY LICENSES c,f/: AL, AK, AZ, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, WA, WV, WI, WY. INCORPORATED IN: Indiana.

SECURA INSURANCE, A Mutual Company (NAIC #22543)

BUSINESS ADDRESS: P.O. Box 819, Appleton, WI 54912–0819. PHONE: (920) 739–3161. UNDERWRITING LIMITATION b/: $32,168,000. SURETY LICENSES c,f/: AZ, AR, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, PA, SD, TN, UT, WA, WI, WY. INCORPORATED IN: Wisconsin.

Selective Insurance Company of America (NAIC #12572)

BUSINESS ADDRESS: 40 WANTAGE AVENUE, BRANCHVILLE, NJ 07890. PHONE: (973) 948–3000. UNDERWRITING LIMITATION b/: $46,344,000. SURETY LICENSES c,f/: AL, AK, AR, CT, DE, DC, GA, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

Seneca Insurance Company, Inc. (NAIC #10936)

BUSINESS ADDRESS: 160 Water Street, New York, NY 10038–4922. PHONE: (212) 344–3000. UNDERWRITING LIMITATION b/: $13,296,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Sentry Insurance A Mutual Company (NAIC #24988)

BUSINESS ADDRESS: 1800 NORTH POINT DRIVE, STEVENS POINT, WI 54481–8020. PHONE: (715) 346–6000. UNDERWRITING LIMITATION b/: $384,786,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Sentry Select Insurance Company (NAIC #21180)

BUSINESS ADDRESS: 1800 NORTH POINT DRIVE, STEVENS POINT, WI 54481–8020. PHONE: (715) 346–6000. UNDERWRITING LIMITATION b/: $22,748,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

SERVICE INSURANCE COMPANY (NAIC #36560)

BUSINESS ADDRESS: P.O. Box 9729, Bradenton, FL 34206–9729. PHONE: (800) 780–8423. UNDERWRITING LIMITATION b/: $2,733,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MI, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

SERVICE INSURANCE COMPANY INC. (THE) (NAIC #28240)

BUSINESS ADDRESS: 80 Main Street, West Orange, NJ 07052. PHONE: (973) 731–7650. UNDERWRITING LIMITATION b/: $579,000. SURETY LICENSES c,f/: CT, DE, MD, MA, NH, NJ, NY, PA, RI, VA. INCORPORATED IN: New Jersey.

SIRIUS AMERICA INSURANCE COMPANY (NAIC #38776)

BUSINESS ADDRESS: 140 BROADWAY—32ND FLOOR, NEW YORK, NY 10005–1108. PHONE: (212) 312–2500. UNDERWRITING LIMITATION b/: $54,835,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DC, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MS, MT, NE, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TX, UT, VA, WA, WV, WI. INCORPORATED IN: New York.

SOUTHWEST MARINE AND GENERAL INSURANCE COMPANY (NAIC #12294)

BUSINESS ADDRESS: 412 Mt. Kemble Ave, Suite 300C, Morristown, NJ 07960. PHONE: (800) 774–2755.

UNDERWRITING LIMITATION b/: $5,004,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

St. Paul Fire and Marine Insurance Company (NAIC #24767)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $320,203,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

ST. PAUL GUARDIAN INSURANCE COMPANY (NAIC #24775)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $2,616,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

St. Paul Mercury Insurance Company (NAIC #24791)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $13,069,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Standard Fire Insurance Company (The) (NAIC #19070)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $123,478,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Star Insurance Company (NAIC #18023)

BUSINESS ADDRESS: 26255 American Drive, Southfield, MI 48034. PHONE: (248) 358–1100. UNDERWRITING LIMITATION b/: $30,959,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

StarNet Insurance Company (NAIC #40045)

BUSINESS ADDRESS: 11201 Douglas Avenue, Urbandale, IA 50322. PHONE: (515) 473–3137. UNDERWRITING LIMITATION b/: $10,944,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Starr Indemnity & Liability Company (NAIC #38318)

BUSINESS ADDRESS: 399 Park Avenue, 8th Floor, New York, NY 10022. PHONE: (646) 227–6400. UNDERWRITING LIMITATION b/: $186,511,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

State Auto Property and Casualty Insurance Company (NAIC #25127)

BUSINESS ADDRESS: 518 EAST BROAD STREET, COLUMBUS, OH 43215. PHONE: (614) 464–5000. UNDERWRITING LIMITATION b/: $60,770,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, WY. INCORPORATED IN: Iowa.

State Automobile Mutual Insurance Company (NAIC #25135)

BUSINESS ADDRESS: 518 EAST BROAD STREET, COLUMBUS, OH 43215. PHONE: (614) 464–5000. UNDERWRITING LIMITATION b/: $45,562,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

State Farm Fire and Casualty Company (NAIC #25143)

BUSINESS ADDRESS: ONE STATE FARM PLAZA, BLOOMINGTON, IL 61710. PHONE: (309) 766–2311. UNDERWRITING LIMITATION b/: $1,095,116,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Stillwater Property and Casualty Insurance Company (NAIC #16578)

BUSINESS ADDRESS: P.O. Box 45126, Jacksonville, FL 32232–5126. PHONE: (800) 849–6140. UNDERWRITING LIMITATION b/: $11,237,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

SureTec Insurance Company (NAIC #10916)

BUSINESS ADDRESS: 1330 POST OAK BLVD, SUITE 1100, HOUSTON, TX 77056. PHONE: (713) 812–0800. UNDERWRITING LIMITATION b/: $7,802,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

SURETY BONDING COMPANY OF AMERICA (NAIC #24047)

BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (312) 822–5000. UNDERWRITING LIMITATION b/: $813,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, KS, MN, MO, MT, NE, NV, NM, NY, ND, OK, OR, SC, SD, TN, TX, UT, WV, WY. INCORPORATED IN: South Dakota.

Swiss Reinsurance America Corporation (NAIC #25364)

BUSINESS ADDRESS: 175 KING STREET, ARMONK, NY 10504–1606. PHONE: (913) 676–5200. UNDERWRITING LIMITATION b/: $461,932,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI. INCORPORATED IN: New York.

TEXAS PACIFIC INDEMNITY COMPANY (NAIC #20389)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (214) 754–0777. UNDERWRITING LIMITATION b/: $721,000. SURETY LICENSES c,f/: AR, OK, TX. INCORPORATED IN: Texas.

TRANSATLANTIC REINSURANCE COMPANY (NAIC #19453)

BUSINESS ADDRESS: One Liberty Plaza, 165 Broadway, NEW YORK, NY 10006. PHONE: (212) 365–2200. UNDERWRITING LIMITATION b/: $471,893,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, NV, NJ, NM, NY, OH, OK, PA, SD, UT, WA, WI. INCORPORATED IN: New York.

Travelers Casualty and Surety Company (NAIC #19038)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $438,950,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty and Surety Company of America (NAIC #31194)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $188,172,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty Insurance Company of America (NAIC #19046)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $54,976,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Indemnity Company (The) (NAIC #25658)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $670,613,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

U.S. Specialty Insurance Company (NAIC #29599)

BUSINESS ADDRESS: 13403 Northwest Freeway, Houston, TX 77040. PHONE: (713) 462–1000. UNDERWRITING LIMITATION b/: $58,031,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

UNITED CASUALTY AND SURETY INSURANCE COMPANY (NAIC #36226)

BUSINESS ADDRESS: 1250 Hancock Street, Suite 803N, Quincy, MA 02169. PHONE: (617) 471–1112 x-109. UNDERWRITING LIMITATION b/: $460,000. SURETY LICENSES c,f/: CT, DC, FL, ME, MD, MA, NH, NJ, NY, PA, RI. INCORPORATED IN: Massachusetts.

United Fire & Casualty Company (NAIC #13021)

BUSINESS ADDRESS: P.O. BOX 73909, CEDAR RAPIDS, IA 52407–3909. PHONE: (319) 399–5700. UNDERWRITING LIMITATION b/: $56,998,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

UNITED FIRE & INDEMNITY COMPANY (NAIC #19496)

BUSINESS ADDRESS: P.O. BOX 73909, CEDAR RAPIDS, IA 52407–3909. PHONE: (319) 399–5700. UNDERWRITING LIMITATION b/: $1,452,000. SURETY LICENSES c,f/: AL, CO, IN, KY, LA, MS, MO, NM, TX. INCORPORATED IN: Texas.

United States Fidelity and Guaranty Company (NAIC #25887)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $248,444,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

United States Fire Insurance Company (NAIC #21113)

BUSINESS ADDRESS: 305 Madison Avenue, Morristown, NJ 07962. PHONE: (973) 490–6600. UNDERWRITING LIMITATION b/: $53,406,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

United States Surety Company (NAIC #10656)

BUSINESS ADDRESS: 20 W. Aylesbury Road, Timonium, MD 21093. PHONE: (410) 453–9522. UNDERWRITING LIMITATION b/: $3,200,000. SURETY LICENSES c,f/: CT, DE, DC, FL, GA, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV. INCORPORATED IN: Maryland.

UNITED SURETY AND INDEMNITY COMPANY (NAIC #44423)

BUSINESS ADDRESS: P.O. BOX 2111, SAN JUAN, PR 00922–2111. PHONE: (787) 625–1105. UNDERWRITING LIMITATION b/: $6,033,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

Universal Surety Company (NAIC #25933)

BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. PHONE: (402)

435–4302. UNDERWRITING LIMITATION b/: $12,174,000. SURETY LICENSES c,f/: AZ, AR, CO, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NM, ND, OH, OK, OR, SD, TX, UT, WA, WI, WY. INCORPORATED IN: Nebraska.

UNIVERSAL UNDERWRITERS INSURANCE COMPANY (NAIC #41181)

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 18TH FLOOR, SCHAUMBURG, IL 60196–1056. PHONE: (847) 605–6000. UNDERWRITING LIMITATION b/: $33,613,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Utica Mutual Insurance Company (NAIC #25976)

BUSINESS ADDRESS: POST OFFICE BOX 530, UTICA, NY 13503–0530. PHONE: (315) 734–2000. UNDERWRITING LIMITATION b/: $73,034,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Vigilant Insurance Company (NAIC #20397)

BUSINESS ADDRESS: 15 Mountain View Road, Warren, NJ 07059. PHONE: (212) 612–4000. UNDERWRITING LIMITATION b/: $26,488,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Washington International Insurance Company (NAIC #32778)

BUSINESS ADDRESS: 475 North Martingale Road, Suite 850, Schaumburg, IL 60173. PHONE: (603) 644–6600. UNDERWRITING LIMITATION b/: $7,243,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

West American Insurance Company (NAIC #44393)

BUSINESS ADDRESS: 350 E. 96th Street, Indianapolis, IN 46240. PHONE: (617) 357–9500. UNDERWRITING LIMITATION b/: $4,773,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

WEST BEND MUTUAL INSURANCE COMPANY (NAIC #15350)

BUSINESS ADDRESS: 1900 South 18th Avenue, West Bend, WI 53095. PHONE: (262) 365–2512. UNDERWRITING LIMITATION b/: $69,073,000. SURETY LICENSES c,f/: IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, WI. INCORPORATED IN: Wisconsin.

Westchester Fire Insurance Company (NAIC #10030)

BUSINESS ADDRESS: 436 Walnut Street, P.O. Box 1000, Philadelphia, PA 19106. PHONE: (215) 640–1000. UNDERWRITING LIMITATION b/: $90,657,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Western National Mutual Insurance Company (NAIC #15377)

BUSINESS ADDRESS: P.O. BOX 1463, MINNEAPOLIS, MN 55440. PHONE: (952) 835–5350. UNDERWRITING LIMITATION b/: $31,420,000. SURETY LICENSES c,f/: AZ, CO, ID, IL, IA, KS, MD, MI, MN, MO, MT, NE, NV, NJ, NM, ND, OH, OR, PA, SD, TX, UT, WA, WI. INCORPORATED IN: Minnesota.

Western Surety Company (NAIC #13188)

BUSINESS ADDRESS: 333 S. WABASH AVE, CHICAGO, IL 60604. PHONE: (312) 822–5000. UNDERWRITING LIMITATION b/: $119,749,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Dakota.

Westfield Insurance Company (NAIC #24112)

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251–5001. PHONE: (330) 887–0101. UNDERWRITING LIMITATION b/: $99,119,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Westfield National Insurance Company (NAIC #24120)

BUSINESS ADDRESS: P.O. Box 5001, Westfield Center, OH 44251–5001. PHONE: (330) 887–0101. UNDERWRITING LIMITATION b/: $24,319,000. SURETY LICENSES c,f/: AZ, CA, CO, DE, FL, GA, IL, IN, IA, KY, MD, MI, MN, NM, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, WI. INCORPORATED IN: Ohio.

Westport Insurance Corporation (NAIC #39845)

BUSINESS ADDRESS: P.O. Box 2991, OVERLAND PARK, KS 66202–1391. PHONE: (913) 676–5200. UNDERWRITING LIMITATION b/: $139,636,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

XL Reinsurance America Inc. (NAIC #20583)

BUSINESS ADDRESS: SEAVIEW HOUSE, 70 SEAVIEW AVENUE, STAMFORD, CT 06902. PHONE: (203) 964–5200. UNDERWRITING LIMITATION b/: $166,961,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

XL Specialty Insurance Company (NAIC #37885)

BUSINESS ADDRESS: SEAVIEW HOUSE, 70 SEAVIEW AVENUE, STAMFORD, CT 06902. PHONE: (203) 964–5200. UNDERWRITING LIMITATION b/: $15,834,000.

SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Zurich American Insurance Company (NAIC #16535)

BUSINESS ADDRESS: 1400 AMERICAN LANE, TOWER I, 18TH FLOOR, SCHAUMBURG, IL 60196–1056. PHONE: (847) 605–6000. UNDERWRITING LIMITATION b/: $711,680,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MP, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Certified Reinsurer Companies

Companies Holding Certificates of Authority As Acceptable Reinsuring Companies Under Section 223.3(B) of Treasury Circular No. 297. [See Note (e)]

Alterra Reinsurance USA Inc. (NAIC #10829)

BUSINESS ADDRESS: 535 SPRINGFIELD AVENUE, SUMMIT, NJ 07901. PHONE: (908) 630–2700. UNDERWRITING LIMITATION b/: $71,495,000. SURETY LICENSES c,f/:.

Odyssey Reinsurance Company (NAIC #23680)

BUSINESS ADDRESS: 300 FIRST STAMFORD PLACE, STAMFORD, CT 06902. PHONE: (203) 977–8000. UNDERWRITING LIMITATION b/: $271,437,000. SURETY LICENSES c,f/:.

Phoenix Insurance Company (The) (NAIC #25623)

BUSINESS ADDRESS: ONE TOWER SQUARE, HARTFORD, CT 06183. PHONE: (860) 277–0111. UNDERWRITING LIMITATION b/: $157,914,000. SURETY LICENSES c,f/:.

PLATINUM UNDERWRITERS REINSURANCE, INC. (NAIC #10357)

BUSINESS ADDRESS: 140 Broadway, Suite 4200, New York, NY 10005. PHONE: (212) 238–9600. UNDERWRITING LIMITATION b/: $54,924,000. SURETY LICENSES c,f/:.

ST. PAUL PROTECTIVE INSURANCE COMPANY (NAIC #19224) [8]

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310–7911. UNDERWRITING LIMITATION b/: $22,823,000. SURETY LICENSES c,f/:.

Footnotes

[1] AMERICAN CONTRACTORS INDEMNITY COMPANY (NAIC# 10216) is required by state law to conduct business in the state of Texas as TEXAS BONDING COMPANY. However, business is conducted in all other covered states as AMERICAN CONTRACTORS INDEMNITY COMPANY.

[2] Fidelity National Property and Casualty Insurance Company (NAIC #16578) changed its name to Stillwater Property and Casualty Insurance Company, effective October 1, 2013.

[3] First National Insurance Company of America (NAIC #24724) voluntarily relinquished their Treasury Certificate of Authority, effective June 30, 2014.

[4] International Fidelity Insurance Company's (NAIC #11592) name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular. Do not hesitate to contact the Company to verify the authenticity of a bond.

[5] Northwestern Pacific Indemnity Company (NAIC #20338) voluntarily relinquished their Treasury Certificate of Authority, effective June 30, 2014.

[6] Plaza Insurance Company (NAIC #30945) redomesticated from Missouri to Iowa, effective December 3, 2013.

[7] ProCentury Insurance Company (NAIC #21903) redomesticated from Texas to Michigan, effective August 21, 2013.

[8] ST. PAUL PROTECTIVE INSURANCE COMPANY (NAIC #19224) redomesticated from Illinois to Connecticut, effective December 1, 2013.

Notes

(a) All Certificates of Authority expire June 30, and are renewable July 1, annually. Companies holding Certificates of Authority as acceptable sureties on Federal bonds are also acceptable as reinsuring companies.

(b) The Underwriting Limitations published herein are on a *per bond basis.* Treasury requirements do not limit the penal sum (face amount) of bonds which surety companies may provide. However, *when the penal sum exceeds a company's Underwriting Limitation, the excess must be protected* by co-insurance, reinsurance, or other methods in accordance with 31 CFR Section 223.10, Section 223.11. Treasury refers to a *bond of this type as an Excess Risk.* When Excess Risks on *bonds in favor of the United States are protected by reinsurance,* such reinsurance is to be effected by use of a *Federal reinsurance form* to be filed with the bond or within 45 days thereafter. In protecting such excess risks, the underwriting limitation in force on the day in which the bond was provided will govern absolutely. For further assistance, contact the Surety Bond Branch at (202) 874–6850.

(c) A surety company *must be licensed in the State or other area in which it provides a bond,* but need not be licensed in the State or other area in which the principal resides or where the contract is to be performed [28 Op. Atty. Gen. 127, Dec. 24, 1909; 31 CFR Section 223.5 (b)]. The term ''other area'' includes the District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the Virgin Islands.

License information in this Circular is provided to the Treasury Department by the companies themselves. *For updated license information, you may contact the company directly or the applicable State Insurance Department.* Refer to the list of state insurance departments at the end of this publication. For further assistance, contact the Surety Bond Section at (202) 874–6850.

(d) FEDERAL PROCESS AGENTS: Treasury Approved surety companies are required to appoint Federal process agents in accord with 31 U.S.C. 9306 and 31 CFR 224.

(e) Companies holding Certificates of Authority as acceptable reinsuring companies are acceptable only as reinsuring companies on Federal bonds and may not directly write Federal bonds.

(f) Some companies may be Approved *surplus lines carriers* in various states. Such approval may indicate that the company is *authorized to write surety in a particular state, even though the company is not licensed in the state.* Questions related to this may be directed to the appropriate State Insurance Department. Refer to the list of state insurance departments at the end of this publication.

State insurance departments	Telephone No.
Alabama, Montgomery 36104	(334) 269–3550
Alaska, Anchorage 99501–3567	(907) 269–7900
Arizona, Phoenix 85018–7256	(602) 364–2499
Arkansas, Little Rock 72201–1904	(501) 371–2600
California, Sacramento 95814	(213) 897–8921
Colorado, Denver 80202	(303) 894–7499
Connecticut, Hartford 06142–0816	(860) 297–3800
Delaware, Dover 19904	(302) 674–7390

State insurance departments	Telephone No.
District of Columbia, Washington 20002	(202) 442–7813
Florida, Tallahassee 32399–6502	(850) 413–3132
Georgia, Atlanta 30334	(404) 656–2056
Hawaii, Honolulu 96813	(808) 586–2790
Idaho, Boise 83720–0043	(208) 334–4250
Illinois, Springfield 62767–0001	(217) 782–4515
Indiana, Indianapolis 46204–2787	(317) 232–2385
Iowa, Des Moines 50319–0065	(515) 281–5705
Kansas, Topeka 66612–1678	(785) 296–3071
Kentucky, Frankfort 40602–0517	(502) 564–6082
Louisiana, Baton Rouge 70802	(225) 342–1200
Maine, Augusta 04333–0034	(207) 624–8475
Maryland, Baltimore 21202–2272	(410) 468–2000
Massachusetts, Boston 02110	(617) 521–7794
Michigan, Lansing 48933–1020	(517) 373–0220
Minnesota, St. Paul 55101–2198	(651) 539–1599
Mississippi, Jackson 39201	(601) 359–3569
Missouri, Jefferson City 65102	(573) 751–4126
Montana, Helena 59601	(406) 444–2040
Nebraska, Lincoln 68508	(402) 471–2201
Nevada, Carson City 89701–5753	(775) 687–0700
New Hampshire, Concord 03301	(603) 271–2261
New Jersey, Trenton 08625	(609) 292–5360
New Mexico, Santa Fe 87504–1269	(800) 947–4722
New York, New York 10004–2319	(212) 480–5583
North Carolina, Raleigh 27611	(919) 807–6750
North Dakota, Bismarck 58505–0320	(701) 328–2440
Ohio, Columbus 43215	(614) 644–2658
Oklahoma, Oklahoma City 73112	(405) 521–2828
Oregon, Salem 97301–3883	(503) 947–7980
Pennsylvania, Harrisburg 17120	(877) 881–6388
Puerto Rico, Santurce 00968	(787) 304–8686
Rhode Island, Providence 02903–4233	(401) 462–9500
South Carolina, Columbia 29202–3105	(803) 737–6160
South Dakota, Pierre 57501–3185	(605) 773–4104
Tennessee, Nashville 37243–0565	(615) 741–2218
Texas, Austin 78714	(800) 252–3439
Utah, Salt Lake City 84114–1201	(801) 538–3800
Vermont, Montpelier 05602	(802) 828–3301
Virginia, Richmond 23218	(804) 371–9741
Virgin Islands, St. Thomas 00802	(340) 774–7166
Washington, Olympia 98504–0256	(360) 725–7144
West Virginia, Charleston 25305–0540	(304) 558–3386
Wisconsin, Madison 53707–7873	(608) 266–3586
Wyoming, Cheyenne 82002–0440	(307) 777–7401

[FR Doc. 2014–15192 Filed 6–30–14; 8:45 am]

BILLING CODE 4810–35–P

FEDERAL REGISTER

Vol. 79 Tuesday,

No. 126 July 1, 2014

Part III

Federal Reserve System

12 CFR Parts 225 and 252

Amendments to the Capital Plan and Stress Test Rules; Proposed Rule

FEDERAL RESERVE SYSTEM

12 CFR Parts 225 and 252

[Regulations Y and YY; Docket No. 1492]

RIN 7100–AE 20

Amendments to the Capital Plan and Stress Test Rules

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Notice of proposed rulemaking with request for comment.

SUMMARY: The Board invites comment on a notice of proposed rulemaking that would amend the capital plan and stress test rules to modify, following a transition period, the start date of the capital plan and stress test cycles from October 1 of a calendar year to January 1 of the following calendar year. The proposed rule would make other changes to the rules, including amending the capital plan rule to limit a bank holding company's ability to make capital distributions to the extent that the bank holding company's actual capital issuances are less than the amount indicated in its capital plan under baseline conditions, measured on a quarterly basis. The proposed rule would clarify application of the capital plan rule to a bank holding company that is a subsidiary of a U.S. intermediate holding company of a foreign banking organization and the characteristics of a stressed scenario to be included in company run stress tests. The proposed rule also would revise the Board's Policy Statement on the Scenario Design Framework for Stress Testing and the Board's Regulation YY to reflect the revisions to the start date of the stress test cycle.

DATES: Comments must be received on or before August 11, 2014.

ADDRESSES: You may submit comments, identified by Docket No. 1492; RIN 7100–AE 20, by any of the following methods:

Agency Web site: http://www.federalreserve.gov. Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*

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

Email: regs.comments@federalreserve.gov. Include docket number in the subject line of the message.

Facsimile: (202) 452–3819 or (202) 452–3102.

Mail: Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Lisa Ryu, Deputy Associate Director, (202) 263–4833, Constance Horsley, Assistant Director, (202) 452–5239, Mona Touma Elliot, Senior Supervisory Financial Analyst, (202) 912–4688, Ann McKeehan, Senior Supervisory Financial Analyst, (202) 973–6903, Holly Kirkpatrick, Senior Financial Analyst, (202) 452–2796, or Joseph Cox, Financial Analyst, (202) 452–3216, Division of Banking Supervision and Regulation; Laurie Schaffer, Associate General Counsel, (202) 452–2272, Ben McDonough, Senior Counsel, (202) 452–2036, or Christine Graham, Counsel, (202) 452–3005, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551. Users of Telecommunication Device for Deaf (TDD) only, call (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

The Board's capital planning and stress testing framework for bank holding companies with total consolidated assets of $50 billion or more (large bank holding companies) is based on the Board's capital plan rule (section 225.8 of Regulation Y) and stress test rules (subparts B, E, and F of Regulation YY). The Board is seeking comment on a proposed rule to clarify aspects of the rules and, based in part on industry feedback, adjust the timeframe for the annual submissions of capital plans and for the conduct of company-run and supervisory stress tests.

Pursuant to the Board's capital plan rule and related supervisory process, the Comprehensive Capital Analysis and Review (CCAR), the Federal Reserve assesses the internal capital planning process of each large bank holding company and its ability to maintain sufficient capital to continue its operations under expected and stressful conditions.[1] Under the capital plan rule, a large bank holding company is required to submit an annual capital plan to the Federal Reserve that includes a detailed description of the following: The company's internal processes for assessing its capital adequacy; the policies governing capital actions such as common stock issuances, dividends and share repurchases; and all planned capital actions over a nine-quarter planning horizon (planning horizon). In addition, the bank holding company's capital plan must contain estimates of its regulatory capital ratios and its tier 1 common ratio under expected conditions and under a range of stressed scenarios over the planning horizon.[2] A capital plan also must include a discussion of how a large bank holding company will maintain regulatory capital ratios above the regulatory minimums and above a tier 1 common ratio of 5 percent under expected conditions and stressed scenarios.[3]

The capital plan rule is designed to work in conjunction with the stress test rules adopted by the Board to implement the stress testing requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act (stress test rules).[4] The stress test rules establish a framework for the Board to conduct supervisory stress tests of large bank holding companies and require these bank holding companies to conduct annual and mid-cycle company-run stress tests.[5] In addition, the stress test rules require state member banks and savings and loan holding companies with total consolidated assets of more than $10 billion and bank holding companies with total consolidated assets of more than $10 billion but less than $50 billion to conduct annual company-run stress tests.[6]

In February 2014, the Board issued a final rule implementing enhanced prudential standards for U.S. bank holding companies and foreign banking organizations with total consolidated assets of $50 billion or more (enhanced prudential standards rule). For U.S.

[1] 12 CFR 225.8.

[2] *See generally* 12 CFR 225.8.

[3] *Id.* at § 225.8(d)(2)(i)(B).

[4] *See* 12 USC 5365(i)(1) and 12 CFR part 252.

[5] The changes in this proposed rule would apply to nonbank financial companies supervised by the Board once they become subject to stress test requirements and to U.S. intermediate holding companies of foreign banking organizations in accordance with the transition provisions of the final rule incorporating enhanced prudential standards for U.S. bank holding companies and foreign banking organizations with total consolidated assets of $50 billion or more. (79 FR 17240 (March 27, 2014)) For simplicity, this preamble discussion of proposed amendments generally refers only to bank holding companies.

[6] 77 FR 62378 (October 12, 2012) (codified at 12 CFR part 252, subparts E and F).

bank holding companies, the enhanced prudential standards rule incorporates the capital plan rule as an enhanced risk-based capital and leverage requirement and establishes enhanced liquidity and risk-management requirements. For foreign banking organizations, the enhanced prudential standards rule implements risk-based and leverage capital, liquidity, risk-management, and stress-testing requirements. The enhanced prudential standards rule also requires that a foreign banking organization with U.S. non-branch assets of $50 billion or more establish a U.S. intermediate holding company that is generally subject to the same prudential standards as a U.S. bank holding company, including capital planning and stress testing requirements.

Although the enhanced prudential standards rule and capital plan rule establish baseline requirements for all banking organizations that are subject to the rules, the Board has tailored its expectations for companies of different sizes, scope of operations, activities, and systemic importance.[7] For example, the Board has significantly heightened supervisory expectations for the largest and most complex bank holding companies in all aspects of capital planning and expects these bank holding companies to have capital planning practices that incorporate existing leading practices.[8] In addition, the Board recognizes the challenges facing bank holding companies that are new to CCAR and further recognizes that these bank holding companies will continue to develop and enhance their capital planning systems and processes to meet supervisory expectations.[9]

II. Proposed Revisions to the Capital Plan and Stress Test Rules

a. Timing of Actions in the Capital Plan and Stress Test Rules

i. Timing of Capital Plan and Stress Test Cycles

Under the current capital plan and stress test rules, the capital plan and stress test cycles begin on October 1, and bank holding companies are required to submit their capital plans and annual company-run stress test results to the Board by January 5 of the following calendar year using data as of September 30 of the preceding calendar year. This timing obligates these companies to conduct company-run stress tests and complete annual capital plans at the end of the calendar year, when companies are often resource-constrained due to other financial reporting requirements. Subject to a transition period as described below, the proposed rule would shift the timing by one calendar quarter, such that the capital plan and stress test cycles would begin January 1 and bank holding companies would be required to submit their capital plans and stress test results to the Board by April 5.

Pursuant to the proposed timing revisions, for the stress test cycle that begins January 1, 2016, and thereafter, companies would conduct the annual company-run stress tests using data as of December 31 of the preceding calendar year, and the Board would provide scenarios that companies must use in their company-run stress tests by February 15. The Board would provide a description of the trading and counterparty component of supervisory scenarios for bank holding companies subject to that component by March 1. Following a notice and response procedure, the Board may require a bank holding company to include additional scenarios or scenario components in its stress test, such as a counterparty default component. The Board would notify the bank holding company of this requirement by December 31 of the preceding calendar year and provide the description of any additional components and scenarios by March 1.

The current rule requires bank holding companies to disclose the results of their annual company-run stress tests during the period beginning March 15 and ending March 31. Under the proposed rule, for the stress test cycle that begins January 1, 2016, and for stress test cycles thereafter, large bank holding companies and their state member banks subsidiaries would be required to disclose publicly the results of their annual company-run stress tests within 15 calendar days after the date on which the Board discloses the results of the bank holding company's supervisory stress test. Under the proposed rule, the Board would disclose these results no later than June 30. The Board would notify companies of the date on which it expects to publicly disclose a summary of its analyses at least two weeks before the expected disclosure date.

As noted, large bank holding companies are also subject to mid-cycle stress tests, in which bank holding companies design their own stress scenarios based on the definitions in the Board's stress test rules. Under the proposed rule, for the stress test cycle that begins January 1, 2016, and for stress test cycles thereafter, large bank holding companies would be required to conduct the mid-cycle stress test using data as of June 30 of that year. Following a notice and response procedure, the Board may require a bank holding company to use one or more additional components or scenarios in this stress test. The Board would notify the bank holding company of this requirement by June 30 and provide the description of any additional components and scenarios by September 1. Bank holding companies would report the results of the mid-cycle stress test to the Board by October 5 and would publicly disclose the results in the period beginning October 5 and ending October 20, unless the date is extended by the Board.

The proposed rule would include a transition period to incorporate the proposed timing changes to the capital plan and stress test cycles. As in the current rule, the capital plan cycle scheduled to begin on October 1, 2014, would begin on that date without change, and large bank holding companies would be required to submit a capital plan to the Board by January 5, 2015. The Board would provide the company with a notice of non-objection or objection by March 31, 2015. In order to provide a transition to the proposed timing, the Federal Reserve's objection or non-objection to a 2015 capital plan would cover a five-quarter period commencing with the second quarter of 2015 and extending through the second quarter of 2016.

The 2015 mid-cycle stress tests would be based on data as of March 31, 2015, and large bank holding companies would be required to report their results to the Board by July 5, 2015. As discussed in section II.a.iii of this preamble, however, the proposed rule would shift the disclosure timeline of the 2015 mid-cycle stress test results to be the period between July 5 and July 20, 2015.

Table 1 below describes the relevant dates for stress test and capital plan actions that would be taken by the Board and companies during and after the proposed transition period.

[7] Capital Planning at Large Bank Holding Companies: Supervisory Expectations and Range of Current Practice (August 19, 2013), p. 3, available at: *http://www.federalreserve.gov/bankinforeg/bcreg20130819a1.pdf.*

[8] *Id.*

[9] *Id.*

TABLE 1—KEY DATES OF PROPOSED TRANSITION TIMELINE FOR ANNUAL CAPITAL PLAN AND STRESS TEST CYCLES FOR LARGE BANK HOLDING COMPANIES (LARGE BHC) AND STATE MEMBER BANKS THAT ARE SUBSIDIARIES OF LARGE BANK HOLDING COMPANIES

For cycle beginning October 1, 2014	For cycle beginning January 1, 2016, and thereafter	Supervisory stress test action	Company-run stress test action	Capital plan action
September 30, 2014	December 31 of the preceding calendar year.	As-of date for capital plan and stress test cycles.		
By September 30, 2014	By December 31 of the preceding calendar year.		Board notifies a large BHC that it will require the company to use one or more additional scenarios.	
By November 15, 2014	By February 15	Board publishes scenarios for upcoming annual cycle.		
By December 1, 2014	By March 1		Board communicates description of any additional components or scenarios to a large BHC.	
By January 5, 2015	By April 5		Large BHCs submit required regulatory report to the Board on their stress tests.	Large BHCs submit capital plan (including results of bank holding company-run stress tests).
By March 31, 2015	By June 30	Board publishes summary results of the supervisory stress test.	Companies disclose summary results of the annual company-run stress test [10].	Board responds to a large BHC's capital plan and publicly discloses the results.
By March 31, 2015	By June 30		Board notifies a large BHC that it will require the company to use one or more additional scenarios in the mid-cycle stress test.	
By June 1, 2015	By September 1		Board communicates description of any additional components or scenarios to a large BHC in the mid-cycle stress test.	
By July 5, 2015	By October 5		Large BHCs submit required regulatory report to the Board on their mid-cycle stress test.	
July 5–July 20	October 5–October 20		Large BHCs disclose results of their mid-cycle stress test.	

The proposal would make corresponding timing changes to the stress testing requirements for other bank holding companies, savings and loan holding companies, and state member banks.[11] For the stress testing cycle that would begin on January 1, 2016, these entities would be required to submit the results of their company-run stress tests to the Board by July 31 and publicly disclose those results in the period beginning October 15 and ending October 31.[12] Table 2 below describes these proposed changes.

[10] As discussed in section III.a.ii of this preamble, companies would disclose summary results within 15 calendar days after the Board discloses the summary results of its supervisory stress test.

[11] Under the current stress test rules, savings and loan holding companies are subject to the stress test requirements beginning with the stress test cycle that commences in the year after the year in which the company becomes subject to the Board's minimum regulatory capital requirements, unless the Board accelerates or extends that date. Savings and loan holding companies (other than those substantially engaged in commercial activities or insurance underwriting activities) are subject to the Board's capital requirements in the Board's Regulation Q beginning on January 1, 2015. The Board has not applied capital requirements to savings and loan holding companies that are substantially engaged in commercial activities or insurance underwriting activities to date. The Board is currently working on developing an appropriate capital regime for those institutions.

[12] As compared to the current rule, the proposed rule would provide bank holding companies and savings and loan holding companies with total consolidated assets of more than $10 billion but less than $50 billion and state member banks that are not covered company subsidiaries with an additional 30 days to report the results of their stress tests to the Board. This change is intended to further tailor the rule for these companies by providing them an additional month to conduct stress tests.

TABLE 2—KEY DATES OF PROPOSED TRANSITION TIMELINE FOR ANNUAL STRESS TEST CYCLE FOR BANK HOLDING COMPANIES AND SAVINGS AND LOAN HOLDING COMPANIES WITH TOTAL CONSOLIDATED ASSETS BETWEEN $10–$50 BILLION AND STATE MEMBER BANKS THAT ARE NOT SUBSIDIARIES OF LARGE BANK HOLDING COMPANIES

For cycle beginning October 1, 2014	For cycle beginning January 1, 2016, and thereafter	Company-run stress test action
By September 30, 2014	By December 31 of the preceding calendar year.	Board notifies a company that it will require the company to use one or more additional scenarios.
By November 15, 2014	By February 15	Board publishes scenarios for upcoming annual cycle.
By December 1, 2014	By March 1	Board communicates description of any additional components or scenarios to company.
By March 31, 2015	By July 31	Companies submit required regulatory report to the Board on their stress tests.[13]
June 15, 2015 through June 30	October 15 through October 31	Companies disclose summary results of the annual company-run stress test.

ii. Transition Provisions for Capital Plan and Stress Test Rules

The proposal would clarify and revise the transition provisions of the capital plan and stress test rules to take into account the proposed timing changes.

Transition Provisions in the Capital Plan Rule

Under the current capital plan rule, a bank holding company that meets the $50 billion asset threshold (based on the as of date for its last FR Y–9C filing) for the first time after January 5 of a given calendar year will not be subject to the requirements to file a capital plan with the Board, resubmit its capital plan, or seek approval for certain distributions until the following year. Accordingly, a bank holding company that met the asset threshold on December 31, 2014, would be required to submit a capital plan on January 5, 2015, even though it would not have filed its FR Y–9C until after that date. The proposed rule would revise the transition period to provide that a bank holding company is subject to the capital plan rule beginning on the first day of the first capital plan cycle that begins after the bank holding company meets or exceeds the $50 billion asset threshold for the first time. Accordingly, a bank holding company that crosses the asset threshold after October 1, 2014, would not be required to file a capital plan on January 5, 2015. The first capital plan cycle it would be subject to would be the one starting on October 1, 2015 (modified to be January 1, 2016, under the proposed rule). The Board or the appropriate Reserve Bank with the concurrence of the Board, could require a bank holding company to submit a capital plan and be subject to the Board's approval and limitations on capital distributions at an earlier date if the Board determines that the requirement is appropriate based on the company's risk profile, scope of operation, or financial condition and provides prior notice to the company of the determination.

Transition Provisions in the Stress Test Rules for Nonbank Financial Companies

Under the current stress test rules, nonbank financial companies supervised by the Board are subject to stress test requirements in the year after those firms become subject to minimum regulatory capital requirements. To provide additional flexibility for the Board to tailor the stress test rules to nonbank financial companies, the proposed rule would require the Board to notify a nonbank financial company prior to application of the stress test rules to the nonbank financial company. In general, nonbank financial companies would have between 9 and 18 months to comply with the stress test rules after they receive notice from the Board.

Transition Provisions in the Stress Test Rules for Bank Holding Companies, State Member Banks, and Savings and Loan Holding Companies

Under the current stress test rules, a firm is subject to the stress testing requirements in the year following the year in which it crosses the asset threshold. In light of a stress test cycle start date of October 1, these transition provisions provide a firm no less than three and no more than six quarters to come into compliance with the rules. The proposal would maintain this length of transition period, given the proposed January 1 cycle start date. Under the proposal, a company that crosses the relevant asset threshold on or before March 31 of a given year is subject to the stress test rules beginning on January 1 of the following year. If a company crosses the threshold after March 31, it is subject to the stress test rules beginning January 1 of the second year following the given year.

The proposal would also revise the timing of the stress test rules applicable to bank holding companies that grow to have total consolidated assets of $50 billion or more. Under the stress test rules for large bank holding companies, a large bank holding company must report and disclose the results of its stress tests on an accelerated timeframe, as compared to a bank holding company with more than $10 billion but less than $50 billion in total consolidated assets. The current applicability provisions provide a bank holding company that becomes subject to the large bank holding company stress test requirements with a several month transition period to comply with the accelerated stress test reporting and disclosure requirements. However, during that transition period, the large bank holding company would be required to submit a capital plan to the Board on the accelerated timeframe, and if the large bank holding company has a subsidiary state member bank, that subsidiary bank would be required to report and disclose the results of its stress tests on the accelerated timeframe.[14]

The proposed rule would provide that, if a bank holding company has more than $10 billion but less than $50 billion in total consolidated assets, and grows so that its total consolidated assets are equal to or greater than $50 billion, the bank holding company would be subject to the company-run stress test requirements for bank holding companies with total consolidated assets of $50 billion or more (subpart F) on the first day of the first stress test cycle following the date on which its average total consolidated assets equaled or exceeded $50 billion. This

[13] Savings and loan holding companies with total consolidated assets of $50 billion or more would be required to submit the required regulatory report to the Board in accordance with the schedule outlined above for large bank holding companies.

[14] Similar requirements apply to national banks and state nonmember banks under rules adopted by the OCC and FDIC. 12 CFR 46.8 (OCC); 12 CFR 325.207 (FDIC).

would align the reporting of stress test results with the submission of the capital plan and with the reporting and disclosure timeframe for state member banks, national banks, and state nonmember banks.

Transition Provisions in the Capital Plan and Stress Test Rules for Companies Subject to the Advanced Approaches

The capital plan rule requires a bank holding company to use the advanced approaches to estimate its regulatory capital for purposes of its capital plan submission if the Board notifies the bank holding company before the first day of the capital plan cycle that the bank holding company is required to use the advanced approaches to determine its risk-based capital requirements. The stress test rules contain a parallel provision. As a result of the proposed change to the capital plan and stress tests cycle start date, a bank holding company, state member bank, and savings and loan holding company will be required to use the advanced approaches to estimate its regulatory capital in a given capital plan and stress test cycle if it receives notice that it is subject to the advanced approaches rule by December 31 of the prior year.

Question 1: What if any unintended consequences would the proposed revisions to the applicability sections create?

iii. Disclosure Date for Company-Run Annual Stress Tests

The public disclosures of the results of the CCAR, company-run stress tests, and supervisory stress tests are designed to complement one another. Under the Board's stress test rules, companies are required to publicly disclose the same types of information that the Federal Reserve discloses regarding the results of CCAR and its supervisory stress tests. This coordinated approach to public disclosure of the stress test and CCAR results promotes market discipline by facilitating a comparative understanding of this information, including the financial conditions and risks of the companies subject to the stress tests.

Under the current capital plan rule, a large bank holding company is required to conduct annual company run stress tests by January 5 and publicly disclose the results of those stress tests under the severely adverse scenario between March 15 and March 31. Each year, the Board discloses results of its supervisory stress test by March 31. In conducting its company-run stress test, a bank holding company uses the same scenarios and assumptions that the Board uses in the supervisory stress scenario, but the bank holding company uses its internal models to project the effects of those scenarios on its financial condition.

For the stress test cycle beginning October 1, 2014 and thereafter, the proposed rule would require bank holding companies to publicly disclose the results of their company-run stress tests within 15 days after the Board discloses the results of that bank holding company's supervisory stress test, unless that time is extended by the Board. If, for example, the Board publicly disclosed supervisory stress test results on March 30, the bank holding company would have until April 14 to publicly disclose its company-run stress test results. Under the proposed rule, the Board would announce the expected date of public disclosure of the supervisory stress test results at least two weeks in advance. The Board does not expect to disclose the results of the supervisory stress test results before March 1 in 2015 or before June 1 in subsequent stress test cycles.

Question 2: The Board solicits comment on the proposed timing changes to the stress test disclosure requirements. In particular, how much advance notice do companies require to prepare their stress test results?

iv. Disclosure Date for Company-Run Mid-Cycle Stress Tests

Under the current stress test rules, a large bank holding company is required to conduct mid-cycle stress tests by July 5 and publicly disclose the results of those stress tests between September 15 and September 30. Because the mid-cycle stress tests are conducted by bank holding companies based on scenarios that are appropriate for their own risk profile and operations, the public disclosure should reflect a bank holding company's own views of its capital adequacy under the scenarios that it develops and employs. Unlike the annual stress tests, the Board does not engage in a CCAR-like, in-depth review of the mid-cycle stress test results.

The proposed rule would accelerate the public disclosure of the mid-cycle stress test results. Under the proposal, a large bank holding company would be required to publicly disclose the results of its mid-cycle stress test within fifteen days after it submits the results of its mid-cycle stress test to the Board, unless that time period was extended by the Board. This change would help to clarify that the Board does not play a direct role in the mid-cycle stress test process. It would also ensure that the results of the stress tests are more current when disclosed, thereby promoting market discipline and a public understanding of the financial conditions and risks of the bank holding company.

Under the proposed rule, for purposes of the stress test cycle beginning October 1, 2014, a bank holding company would submit the results of its mid-cycle stress test by July 5 and would be required to publicly disclose the results of its stress test in the period between July 5 and July 20. For purposes of the stress test cycle beginning January 1, 2016, a bank holding company would submit the results of its mid-cycle stress test by October 5 and would be required to publicly disclose the results of its stress test in the period between October 5 and October 20.

b. Definition of a ''BHC Stress Scenario''

A central goal of the capital plan rule is to ensure that large bank holding companies have robust internal practices and policies to determine their adequate amount and composition of capital, given the bank holding company's risk exposures and corporate strategies as well as supervisory expectations and regulatory standards. While the stress scenarios designed by the Federal Reserve for use in company-run and supervisory stress testing are helpful in showing the comparative effects of a downturn in the economy across companies, these scenarios are created with the overall banking industry in mind, rather than a focus on an individual company's risk profile. To mitigate this natural limitation and gain a deeper understanding of an individual company's vulnerabilities, the capital plan rule requires each large bank holding company to design its own stress scenario that is appropriate to the company's business model and portfolios. An evaluation of the appropriateness of this scenario is a key part of the qualitative assessment carried out by supervisors in CCAR.

Because a company's ability to design appropriate stress scenarios that take into consideration the company's specific vulnerabilities and operations has become a key area of focus in the Federal Reserve's assessment of capital plans, the proposed rule would add a new defined term, ''BHC stress scenario'' to describe the Federal Reserve's expectations regarding scenario design. ''BHC stress scenario'' would be defined in section 225.8(c) of the proposal as a scenario designed by the bank holding company that stresses the specific vulnerabilities of the bank holding company's risk profile and operations.

In addition, an appropriately tailored scenario is generally expected to result in an impact to projected pre-tax net income that is at least as severe as the results of the bank holding company's company run stress test under the Board's severely adverse scenario. While the BHC stress scenario is expected to be severe enough to result in a substantial negative impact on capital, a stress scenario that produces regulatory capital and tier 1 capital ratios that are lower than those produced under the Board's severely adverse scenario would not, by itself, demonstrate that the BHC has developed an appropriate BHC stress scenario. It is equally critical that the stress scenario be designed to capture potential risks stemming from a bank holding company's idiosyncratic positions and activities.

Question 3: Under what circumstances, if any, should the definition of ''BHC stress scenario'' include, as a supplement, other types of stress scenarios?

c. Modifications to Capital Plan Resubmission Requirements Under the Capital Plan Rule

Currently, the capital plan rule requires a large bank holding company to resubmit its capital plan within 30 calendar days if the Board objects to the capital plan. In certain instances, a bank holding company may not be able to remediate the underlying issues with the original capital plan before the end of the 30-day period for resubmission. This may occur if, for example, the Board has identified material outstanding supervisory issues or material deficiencies in the company's risk measurement and management practices or internal controls. In such cases when the deficiencies cannot be addressed in a 30-day timeframe, automatic resubmission requirements may be counterproductive by drawing a bank holding company's focus away from efforts to remediate the issues that gave rise to the Board's objection.

The proposed rule would provide flexibility in the event that the Board objects to a capital plan by permitting, rather than requiring, a large bank holding company to resubmit its capital plan. If the Board objects to a bank holding company's capital plan, the bank holding company may choose to resubmit its plan if it wishes to seek the Board's non-objection to its capital plan prior to the next capital plan cycle. As under the existing capital plan rule, the bank holding company would be limited to capital distributions approved by the Board or the appropriate Reserve Bank until the Board provides a non-objection to the bank holding company's resubmitted capital plan. The proposed rule would continue to require a bank holding company to resubmit its capital plan within 30 days if it determines there has been or will likely be a material change in the bank holding company's risk profile (including a material change in its business strategy or any risk exposure), financial condition, or corporate structure.

The proposed rule would not change the existing provisions in the capital plan rule whereby the Board may direct a large bank holding company to revise and resubmit its capital plan under the following circumstances: (1) The capital plan is incomplete or the capital plan, or the bank holding company's internal capital adequacy process, contains material weaknesses; (2) there has been or will likely be a material change in the bank holding company's risk profile (including a material change in its business strategy or any risk exposure), financial condition, or corporate structure; (3) the stress scenario(s) developed by the bank holding company are not appropriate to its business model and portfolios, or changes in financial markets or the macro-economic outlook that could have a material impact on a bank holding company's risk profile and financial condition require the use of updated scenarios; or (4) the capital plan or the condition of the bank holding company raise any of the issues that serve as a basis for the Board to object to a bank holding company's capital plan.[15] In determining whether there has been a material change in the bank holding company's risk profile, the Board may consider, among other factors, changes to a company's balance sheet and liquidity position or changes to market or financial conditions more generally.

d. Consequences for Failure To Execute Planned Actions, Including Capital Issuances, Under the Capital Plan Rule

When reviewing a capital plan, the Board considers the bank holding company's description of all planned capital actions over the planning horizon, including both capital issuances and capital distributions, and relies on these descriptions of the planned capital actions as a basis for its action on a capital plan. The proposed rule would limit a large bank holding company's ability to make capital distributions to the extent that the bank holding company does not execute planned capital issuances during the capital plan cycle. This proposed change would address behavior observed in previous capital plan cycles, when some large bank holding companies included issuances of capital instruments in their capital plans, but did not execute these planned issuances.

This behavior has the potential to undermine the Board's assessment in CCAR of a large bank holding company's capital adequacy. The Board's quantitative assessment of capital adequacy in CCAR takes into account all planned capital issuances over the planning horizon. If a large bank holding company does not execute its planned capital issuances, the large bank holding company will have a lower amount of capital, all other things being equal. To mitigate the effects of this behavior, it has been the Board's practice to approve repurchases of common stock on both a net basis and a gross basis so that a company is required to reduce repurchases to the extent that it does not issue as much common stock as it had planned. However, this practice does not limit net capital distributions in cases where a bank holding company is paying a common stock dividend, but is not repurchasing its common stock, or where a bank holding company issues an amount of other forms of regulatory capital that is less than the amount projected in its capital plan.

The proposed rule would memorialize in the capital plan rule the Board's existing practice of approving repurchases of common stock on both a net basis and a gross basis and address other cases where a large bank holding company fails to execute the planned amount of capital issuances in its capital plan. Under the proposed rule, if the Federal Reserve does not object to a bank holding company's capital plan and the company raises a dollar amount of regulatory capital in a calendar quarter that is less than the amount that the bank holding company projected it would issue under baseline conditions in its capital plan, the bank holding company would be required to reduce the amount of its capital distributions on regulatory capital instruments with greater or equal ability to absorb losses, increase the amount of its capital issuances by issuing regulatory capital instruments that have greater or equal ability to absorb losses, or take any combination of the foregoing actions so that the net dollar amounts of the company's actual capital issuances and capital distributions in that calendar quarter are no less than the amounts projected in the bank holding company's capital plan for the calendar quarter. The proposed rule would

[15] 12 CFR 225.8(d)(4).

identify common equity tier 1 capital as having the greatest ability to absorb losses, followed by additional tier 1 capital, and tier 2 capital, each as defined in the Board's Regulation Q (12 CFR 217.2).

As a result of this provision, the net amounts of the company's actual capital issuances and capital distributions must be at least as great as the net amounts of capital issuances and capital distributions projected in the bank holding company's capital plan, in each case for a given calendar quarter.

Example 1: A large bank holding company's most recent capital plan included, for a given quarter, common stock issuance of $50 million, dividends on common stock of $50 million, and common stock repurchases of $50 million (for a total of $100 million in common stock distributions), but the bank holding company executed only $25 million of its planned $50 million in common issuances for that quarter. The proposed rule would require the bank holding company to reduce the amount of its distributions on common stock (i.e., the total of its planned common stock dividends and repurchases) for the quarter from $100 million to $75 million.

Example 2: A large bank holding company's most recent capital plan included, for a given quarter, common stock issuance of $50 million, dividends on common stock of $50 million, and preferred stock repurchases of $50 million, but the bank holding company executed only $25 million of its planned $50 million in common issuances for that quarter. The proposed rule would require the bank holding company to offset the reduction in the issuance of common stock by a decrease in the dividends on common stock. The proposed rule would not allow the bank holding company to offset the reduction in common stock issuances with a reduction in preferred stock repurchases or with an increase in preferred stock issuance, because common stock has greater capacity to absorb losses than preferred stock.

Example 3: A large bank holding company's most recent capital plan included, for a given quarter, a common stock issuance of $25 million, a subordinated debt issuance of $50 million, common stock dividends of $50 million, and subordinated debt repurchases of $50 million for a given quarter, but the bank holding company failed to execute any of its projected subordinated debt issuance for that quarter. In this case, the proposed rule would require the bank holding company to reduce the amount of its gross distributions with respect to either subordinated debt or common stock, or a combination of both, for the quarter by $50 million. The bank holding company also could increase its common stock or preferred stock issuances to offset the lack of subordinated debt issuance.

If a large bank holding company had contemplated a capital issuance to support a merger or acquisition but did not consummate the merger or acquisition, it would be appropriate for the bank holding company to maintain the gross amount of its capital distributions. In this case, the proposal would provide that the bank holding company is not subject to limitations on its common stock capital distributions to the extent that a planned, but not executed, capital issuance, was associated with the planned merger or acquisition.

Under the proposed rule, as under the current capital plan rule, the Board may object to a large bank holding company's capital plan if the assumptions and analysis underlying the bank holding company's capital plan, or the bank holding company's methodologies for reviewing the robustness of its capital adequacy process, are not reasonable or appropriate. In the Board's view, a bank holding company's consistent failure to execute planned capital issuances may be indicative of shortcomings in its capital planning processes and may indicate that the assumptions and analysis underlying the bank holding company's capital plan, or the bank holding company's methodologies for reviewing the robustness of its capital adequacy process, are not reasonable or appropriate. Accordingly, the failure to execute capital issuances as indicated in its capital plan may form the basis for objection if the bank holding company is unable to explain the discrepancy between its planned and executed capital issuances.

Similarly, the Board has observed a practice whereby some large bank holding companies have included markedly reduced distributions in the final three quarters of the planning horizon (i.e., the quarters that are not subject to objection in the current capital plan cycle, sometimes referred to as ''out-quarters'') relative to the distributions in the preceding four quarters of the capital plan (i.e., the distributions that are subject to possible objection in the current cycle). In the next capital plan cycle, when the previous capital plan cycle's ''out quarters'' become subject to possible objection, the bank holding companies submit a capital plan with significantly increased distributions relative to the previous capital plan cycle's ''out-quarters,'' while again submitting reduced distributions for the ''out-quarters'' of the new capital plan cycle.

This practice erodes the credibility of large bank holding companies' capital plans. A bank holding company should project its distributions in the final three quarters of their capital plans based on realistic assumptions about the future and in a manner broadly consistent with, or higher than, previous quarters, unless it is in fact planning to reduce its distributions. In the Board's view, the practice of widely varying planned capital distributions based on whether they occur in an ''out-quarter'' as compared to a quarter that is subject to a possible objection, may be indicative of shortcomings in a bank holding company's capital planning processes and may indicate that ''the assumptions and analysis underlying the bank holding company's capital plan, or the bank holding company's methodologies for reviewing the robustness of its capital adequacy process, are not reasonable or appropriate.'' [16]

Under the capital plan rule, the Federal Reserve may object to a capital plan on this basis, and the practice of widely varying planned capital distributions therefore may form the basis for objection to a bank holding company's capital plan. In reviewing this type of practice, the Federal Reserve would consider whether the bank holding company is able to provide support for wide quarter-to-quarter variations or for significantly revising its planned distributions for the same period of time from one capital plan cycle to the next capital plan cycle.

Question 4: What, if any, unexpected consequences might result from the proposed treatment of a failure to execute planned capital issuances? Are there circumstances other than a merger or acquisition under which it would be appropriate for a large bank holding company to maintain the gross amount of its capital distributions, even where the bank holding company has not executed the planned capital issuance? If so, describe those circumstances and explain why a bank holding company should be permitted to maintain the gross amount of capital distributions.

e. Clarification of CCAR Process for Bank Holding Company Subsidiaries of Foreign Banking Organizations

As discussed above, the Board issued the enhanced prudential standards rule in February 2014 implementing enhanced prudential standards for U.S. bank holding companies and foreign banking organizations with total

[16] 12 CFR 225.8(e)(2)(ii)(B).

consolidated assets of $50 billion or more. A foreign banking organization with U.S. non-branch assets of $50 billion or more is required to establish a U.S. intermediate holding company. This U.S. intermediate holding company is generally subject to the same prudential standards as a U.S. bank holding company, including capital planning and stress test requirements included in the Board's capital plan and stress test rules.

The enhanced prudential standards rule requires a foreign banking organization that has U.S. non-branch assets of $50 billion or more as of July 1, 2015, to establish its U.S. intermediate holding company by July 1, 2016. The U.S. intermediate holding company is required to comply with risk-based capital requirements on July 1, 2016, and must submit its first capital plan on January 5, 2017 (which would be modified to April 5, 2017 under the proposed rule). The IHC must conduct its first stress test under the stress test rules beginning with the following stress test cycle (which would be modified to January 1, 2018, under the proposed rule).

The enhanced prudential standards rule provides that each subsidiary bank holding company and insured depository institution of a foreign banking organization is subject to applicable stress testing requirements until October 1, 2017 (modified to January 1, 2018 in the proposal, at which point it is expected that the U.S. intermediate holding company will be subject to the full CCAR process.[17] However, the enhanced prudential standards rule is silent on how the capital plan rule will apply to a subsidiary bank holding company with total consolidated assets of $50 billion or more prior to application of the stress test rules to the U.S. intermediate holding company.

The proposed rule would clarify that a bank holding company that was subject to the capital plan rule as of September 30, 2015 and is a subsidiary of a U.S. intermediate holding company would continue to be subject to the capital plan rule until January 1, 2018.[18] The Federal Reserve would continue to evaluate the subsidiary bank holding company through the CCAR process through the cycle ending on December 31, 2017. Such bank holding company subsidiary would be subject to the limitations on capital distributions and prior approval and notice requirements for capital distributions until the Board acts on the capital plan of the U.S. intermediate holding company.

As noted above, the U.S. intermediate holding company will not be subject to supervisory or company-run stress tests under the stress test rules during the stress test cycle that begins on January 1, 2017. Accordingly, for a U.S. intermediate holding company's initial capital plan cycle, the Federal Reserve's assessment of the U.S. intermediate holding company's capital plan will not be based on a supervisory stress test estimates conducted under those stress test rules.[19] Instead, the Federal Reserve would conduct a more limited quantitative assessment of the U.S. intermediate holding company's capital plan based on its own stress scenario and any scenarios provided by the Board and a qualitative assessment of its capital planning processes and supporting practices.

Pursuant to the capital plan rule, the U.S. intermediate holding company will be required to conduct stress tests in connection with its capital plan due April 5, 2017. Specifically, the Board expects that, in connection with the capital plans for the 2017 cycle, a U.S. intermediate holding company would be required to conduct stress tests using a baseline and a stress scenario that it had designed and the severely adverse scenario designed by the Board.[20]

Beginning with the following capital plan cycle, in which a capital plan would be due to the Board by April 5, 2018, the Board anticipates that it will evaluate each U.S. intermediate holding company using the full CCAR supervisory process, including post-stress capital analysis based on the supervisory stress test. During this same time period, the U.S. intermediate holding company will be subject to the stress test requirements of the stress test rules, including company-run stress tests under three scenarios provided by the Board.

For the capital plan cycle in which both the U.S. intermediate holding company and its subsidiary bank holding company are subject to the capital plan rule, the Board expects that companies could submit certain aspects of the capital plan jointly or in a single capital plan that clearly sets out and explains how the capital plan for the U.S. intermediate holding company builds on the capital plan for the bank holding company. For example, if the U.S. intermediate holding company and the bank holding company subsidiary rely on common stress testing models and practices, both companies could submit the same supporting documentation for these models, provided that the each company's submissions met all of the requirements of the capital plan rule.

f. Clarification Under the Capital Plan Rule of Capital Actions Not Requiring Approval

The capital plan rule provides that a large bank holding company must request prior approval or provide prior notice of a capital distribution if the ''dollar amount of the capital distribution will exceed the amount described in the capital plan for which a non-objection was issued.'' [21] This provision applies to all capital distributions, including those associated with regulatory capital instruments. Accordingly, large bank holding companies that have issued accretive capital instruments with fixed dividends have been required to seek the Board's approval or provide notice to the Board in order to issue these instruments. The Board has approved these requests, and would anticipate approving similar requests in the future, provided that the proposed capital issuance would result in net capital accretion.

In order to relieve burden on the bank holding companies going forward, the proposed rule would remove prior approval and prior notice requirements for distributions involving incremental issuances of instruments that would qualify for inclusion in the numerator of regulatory capital ratios (i.e., common equity tier 1, additional tier 1, and tier 2 capital). The Board believes that removing the requirement will reduce unnecessary efforts by a bank holding company to submit requests for distributions outside of the capital plan that are associated with issuances of regulatory capital.

The proposed rule would also clarify that, in measuring whether the dollar

[17] If the foreign banking organization designated an existing bank holding company as its U.S. intermediate holding company, that bank holding company would continue to be subject to capital requirements under 12 CFR Part 217 until December 31, 2017, and stress test requirements under subparts F, G, or H of Regulation YY until September 30, 2017. In this event, the intermediate holding company would be required to submit a capital plan for the capital plan cycle beginning January 1, 2017, and the U.S. intermediate holding company would be subject to the CCAR process for that capital plan cycle.

[18] With the mutual consent of the company and the Board, another U.S. bank holding company owned by the foreign banking organization could comply with the requirements of the capital plan rule in lieu of the subsidiary bank holding company.

[19] *See* 12 CFR part 252, subpart E.

[20] The U.S. intermediate holding company would also be required to complete the relevant aspects of the FR Y–14A in connection with these stress tests. However, a U.S. intermediate holding company would not be required to publicly disclose the results of its stress tests.

[21] *See* section 225.8(f) of the capital plan rule (12 CFR 225.8(f)).

amount of the capital distribution will exceed the amount described in the capital plan for which a non-objection was issued, the bank holding company should look at the distributions for each quarter.

Question 5: What, if any, limitations should be imposed on this proposed exception? For instance, would an aggregate dollar limit in the range of 10 to 100 basis points of a bank holding company's tier 1 capital be appropriate?

g. Clarification of Assumptions Regarding Capital Actions Under the Stress Test Rules

The Board requires a consistent approach for incorporating assumed capital actions into the stress tests for all bank holding companies, savings and loan holding companies and state member banks. The prescribed capital actions help ensure that the publicly disclosed results of supervisory and company-run stress tests are comparable across companies. The Board is proposing to clarify these assumptions to further enhance the comparability across companies and account for certain contractual obligations.

Specifically, the proposed rule would clarify that, for the second through ninth quarters of the planning horizon, companies should assume no new issuances of capital instruments eligible for inclusion in the numerator of a regulatory capital ratio, except for issuances related to expensed employee compensation. This change is in keeping with the Board's current practices and the existing requirement that companies assume no repurchase or redemption of capital instruments eligible for inclusion in the numerator of a regulatory capital ratio so that capital actions that are subject to future adjustment, market conditions, or regulatory approvals are not reflected in a company's projected regulatory capital.

Question 6: What, if any, additional exceptions to the general assumption of no issuances of capital instruments should the Board consider? Should issuances relating to an employee stock ownership plan also be treated as an exception, and if so, what would be the rationale for this exception?

h. Other Modifications to the Capital Plan Rule and Related Requirements

The proposal would revise the Board's Policy Statement on the Scenario Design Framework for Stress Testing and provisions governing applicability of the stress test requirements to U.S. intermediate holding companies of foreign banking organizations to reflect the changes in the cycle shift.

The proposal would revise the scope of the capital plan rule to include any U.S. intermediate holding company and any nonbank financial company supervised by the Board that is made subject to this section pursuant to a rule or order of the Board and make clarifying changes to the applicability section. As discussed above in section II.a.iii of this preamble, the proposed rule would revise the applicability of the stress test rules to a nonbank financial company supervised by the Board to provide that the Board will notify a nonbank financial company prior to it being subject to the stress test rules.

The proposal would revise the hearing procedures provided for in the capital plan rule. The capital plan rule provides that a large bank holding company may request a formal hearing after the Board objects to its capital plan or disapproves of a capital distribution. A formal hearing could take several months and up to a year, and during the pendency of final action by the Board, there would be uncertainty as to whether a bank holding company could continue to make capital distributions. The proposed rule would replace the formal hearing procedures with informal procedures modeled on those used in reviewing notices of appointments of directors and senior executive officers under Regulation Y. Under the proposal, a large bank holding company would have 15 days to request an informal hearing, and the hearing would be held within 30 days of the request. The Board would provide written notice of its final decision to the bank holding company within 60 days of the conclusion of any informal hearing.

The proposed rule also would require that a bank holding company be capable of providing to the Board its loss, revenue, and expense estimation models used by the bank holding company for stress scenario analysis, including supporting documentation regarding each model's development and validation status. This information is needed by supervisors in order to properly assess a bank holding company's capital adequacy and capital planning processes. In this regard, the information helps facilitate cross-firm comparisons of bank holding companies' loss, revenue, and expense estimation models and their approaches to model validation.

III. Administrative Law Matters

a. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR part 1320, Appendix A.1), the Board reviewed the proposed rule under the authority delegated to the Board by Office of Management and Budget (OMB). The Board may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The OMB control for this information collection is 7100–0342. In addition, as permitted by the PRA, the Board proposes to extend for three years, with revision, the Recordkeeping and Reporting Requirements Associated with Regulation Y (Capital Plans) (Reg Y–13; OMB No. 7100–0342).

The proposed rule contains requirements subject to the PRA. The collection of information that would be revised by this proposed rule is found in section 225.8 of Regulation Y (12 CFR part 225). Proposed section 225.8(d)(3)(iv) would require that a bank holding company be capable of providing to the Board its loss, revenue, and expense estimation models used by the bank holding company for stress scenario analysis, including supporting documentation regarding each model's development and validation status. This information is needed by supervisors in order to properly assess a bank holding company's capital adequacy and capital planning processes. In this regard, the information helps facilitate cross-firm comparisons of bank holding companies' loss, revenue, and expense estimation models and their approaches to model validation. As mentioned in the preamble, the amendments to the qualitative standards in the proposed rule would amend the rule to include considerations that have been previously communicated to large bank holding companies individually and publicly. To reinforce the Board's focus on qualitative elements of the capital plan and enhance the bank holding companies' understanding of the capital planning assessment process, the proposed rule would enumerate certain elements of the qualitative considerations and bases for objection in the capital plan rule. The Board expects that respondents would encounter no additional burden associated with proposed section 225.8(d)(3)(vi).

Proposed section 225.8(f)(1) would remove prior approval and prior notice requirements for distributions involving incremental issuances of instruments that would qualify for inclusion in the

numerator of regulatory capital ratios (i.e., common equity tier 1, additional tier 1, and tier 2 capital). As mentioned in the preamble, the Board believes that removing the requirement would reduce unnecessary efforts by a bank holding company to submit requests for distributions outside of the capital plan that are associated with issuances of regulatory capital. The Board estimates that respondent burden associated with proposed section 225.8(f)(1) would be reduced by approximately 50 percent.

Title of Information Collection: Recordkeeping and Reporting Requirements Associated with Regulation Y (Capital Plans) (Reg Y–13).

Frequency of Response: Recordkeeping requirements, annually. Reporting requirements, varied—the capital plan exercise would be done at least annually, capital plan resubmissions and prior approval requirements would be event-generated.

Affected Public: This information collection applies to every top-tier bank holding company domiciled in the United States that has $50 billion or more in total consolidated assets (large U.S. bank holding companies) and U.S. intermediate holding companies with total consolidated assets of $50 billion or more.

General Description of Information Collection: This information collection is mandatory and the recordkeeping requirement to maintain the Capital Plan is in effect until either a bank holding company is no longer operational or until further notice by the Board. Section 616(a) of the Dodd-Frank Act amended section 5(b) of the Bank Holding Company Act (BHC Act) (12 U.S.C. 1844(b)) to specifically authorize the Board to issue regulations and orders relating to capital requirements for bank holding companies. The Board is also authorized to collect and require reports from bank holding companies pursuant to section 5(c) of the BHC Act (12 U.S.C. 1844(c)). Additionally, the Board's rulemaking authority for the information collection requirements associated with Reg Y–13 is found in sections 908 and 910 of the International Lending Supervision Act, as amended (12 U.S.C. 3907 and 3909). Additional support for Reg Y–13 is found in sections 165 and 166 of the Dodd-Frank Act (12 U.S.C. 5365 and 5366). The capital plan information submitted by the covered bank holding company would consist of confidential and proprietary modeling information and highly sensitive business plans, such as acquisition plans submitted to the Federal Reserve for approval. Therefore, it appears the information would be subject to withholding under exemption 4 of the Freedom of Information Act (5 U.S.C. 552(b)(4)).

Estimated Burden:

Number of Respondents: 52.

Estimated Burden per Response:

—.8(d)(1)(i) and (ii) Recordkeeping and Reporting, 12,000 hours
—.8(d)(1)(iii) Recordkeeping, 100 hours
—.8(d)(3)(i)–(vii) 1,000 hours
—.8(d)(4) Reporting, 100 hours
—.8(e)(3)(i) Reporting, 16 hours
—.8(f)(1), (2) and (3) Reporting, 3,400 hours
—.8(f)(5) Reporting, 16 hours

Total Estimated Annual Burden: 670,864 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the Board's functions; including whether the information has practical utility; (2) the accuracy of the Board's estimate of the burden of the proposed information collection, including the cost of compliance; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology. Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551; and to the Office of Management and Budget, Paperwork Reduction Project (7100–0342), Washington, DC 20503.

b. Regulatory Flexibility Act Analysis

The Board has considered the potential impact of the proposed rule on small companies in accordance with the Regulatory Flexibility Act (5 U.S.C. 603(b)). Based on its analysis and for the reasons stated below, the Board believes that the proposed rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing a final regulatory flexibility analysis.

Under regulations issued by the Small Business Administration (''SBA''), a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of $500 million or less (a small banking organization). The proposed rule would apply to bank holding companies, savings and loan holding companies, and state member banks with total consolidated asset of $10 billion or more and nonbank financial companies supervised by the Board. Companies that would be subject to the proposed rule therefore substantially exceed the $500 million total asset threshold at which a company is considered a small company under SBA regulations.

In light of the foregoing, the Board does not believe that the proposed rule would have a significant economic impact on a substantial number of small entities.

c. Solicitation of Comments on the Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act (Pub. L. 106–102, 113 Stat. 1338, 1471, 12 U.S.C. 4809) requires the federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board has sought to present the proposed rule in a simple and straightforward manner, and invites comment on the use of plain language.

For example:

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

List of Subjects

12 CFR Part 225

Administrative practice and procedure, Banks, Banking, Capital planning, Holding companies, Reporting and recordkeeping requirements Securities, Stress testing.

12 CFR Part 252

Administrative practice and procedure, Banks, Banking, Capital planning, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities, Stress testing.

Authority and Issuance

For the reasons stated in the Supplementary Information, the Board of Governors of the Federal Reserve System proposes to amend 12 CFR chapter II as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

■ 1. The authority citation for part 225 is revised to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1828(o), 1831i, 1831p–1, 1843(c)(8), 1844(b), 1972(1), 3106, 3108, 3310, 3331–3351, 3906, 3907, and 3909; 15 U.S.C. 1681s, 1681w, 6801 and 6805.

Subpart A—General Provisions

■ 2. Revise § 225.8 to read as follows:

§ 225.8 Capital planning.

(a) *Purpose.* This section establishes capital planning and prior notice and approval requirements for capital distributions by certain bank holding companies.

(b) *Scope and reservation of authority*—(1) *Applicability.* Except as provided in paragraph (c) of this section, this section applies to:

(i) Any top-tier bank holding company domiciled in the United States with average total consolidated assets of $50 billion or more ($50 billion asset threshold);

(ii) Any other bank holding company domiciled in the United States that is made subject to this section, in whole or in part, by order of the Board;

(iii) Any U.S. intermediate holding company subject to this section pursuant to § 252.153; and

(iv) Any nonbank financial company supervised by the Board that is made subject to this section pursuant to a rule or order of the Board.

(2) *Average total consolidated assets.* For purposes of this section, average total consolidated assets means the average of the total consolidated assets as reported by a bank holding company on its Consolidated Financial Statements for Bank Holding Companies (FR Y–9C) for the four most recent consecutive quarters. If the bank holding company has not filed the FR Y–9C for each of the four most recent consecutive quarters, average total consolidated assets means the average of the company's total consolidated assets, as reported on the company's FR Y–9C, for the most recent quarter or consecutive quarters up to the most recent four consecutive quarters. Average total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average.

(3) *Ongoing applicability.* A bank holding company (including any successor bank holding company) that is subject to any requirement in section shall remain subject to the requirement unless and until its total consolidated assets fall below $50 billion for each of four consecutive quarters, as reported on the FR Y–9C and effective on the as-of date of the fourth consecutive FR Y–9C.

(4) *Reservation of authority.* Nothing in this section shall limit the authority of the Federal Reserve to issue a capital directive or take any other supervisory or enforcement action, including an action to address unsafe or unsound practices or conditions or violations of law.

(5) *Rule of construction.* Unless the context otherwise requires, any reference to bank holding company in this section shall include a U.S. intermediate holding company and shall include a nonbank financial company supervised by the Board to the extent this section is made applicable pursuant to a rule or order of the Board.

(c) *Transitional arrangements*—(1) *Transition periods for certain bank holding companies.* (i) A bank holding company is subject to this section beginning on the first day of the first capital plan cycle that begins after the bank holding company meets or exceeds the $50 billion asset threshold (as measured under paragraph (b)(1) of this section) for the first time, unless that time is extended by the Board in writing.

(ii) The Board or the appropriate Reserve Bank with the concurrence of the Board, may require a bank holding company described in paragraph (c)(1)(i) of this section to comply with any or all of the requirements in paragraphs (e)(1), (e)(3), (f), or (g) of this section if the Board or appropriate Reserve Bank with concurrence of the Board, determines that the requirement is appropriate on a different date based on the company's risk profile, scope of operation, or financial condition and provides prior notice to the company of the determination.

(2) *Transition periods for subsidiaries of certain foreign banking organizations*—(i) *Bank holding companies that rely on SR Letter 01–01.* (A) A bank holding company that meets the $50 billion asset threshold (as measured under paragraph (b)(1) of this section) and is relying as of July 20, 2015, on Supervision and Regulation Letter SR 01–01 issued by the Board (as in effect on May 19, 2010) is subject to this section beginning on January 1, 2016, unless that time is extended by the Board in writing.

(B) The Board or the appropriate Reserve Bank with the concurrence of the Board, may require a bank holding company described in paragraph (c)(2)(i)(A) of this section to comply with any or all of the requirements in paragraphs (e)(1), (e)(3), (f), or (g) of this section if the Board or appropriate Reserve Bank with concurrence of the Board, determines that the requirement is appropriate on a different date based on the company's risk profile, scope of operation, or financial condition and provides prior notice to the company of the determination.

(ii) *U.S. intermediate holding companies.* (A) A U.S. intermediate holding company is subject to this section beginning on the first day of the next capital plan cycle after the date that the U.S. intermediate holding company is required to be established pursuant to § 252.153, unless that time is extended by the Board in writing.

(B) The Board or the appropriate Reserve Bank with the concurrence of the Board, may require a U.S. intermediate holding company described in paragraph (c)(2)(ii)(A) of this section to comply with any or all of the requirements in paragraphs (e)(1), (e)(3), (f), or (g) of this section if the Board or appropriate Reserve Bank with concurrence of the Board, determines that the requirement is appropriate on a different date based on the company's risk profile, scope of operation, or financial condition and provides prior notice to the company of the determination.

(iii) *Bank holding company subsidiaries of U.S. intermediate holding companies required to be established by July 1, 2016.* (A) Notwithstanding any other requirement in this section, a bank holding company that is a subsidiary of a U.S. intermediate holding company and is subject to this section on January 1, 2016 (or, with the mutual consent of the company and Board, another bank holding company domiciled in the United States), shall remain subject to paragraph (e) of this section until December 31, 2017, and shall remain subject to the requirements of paragraphs (f) and (g) of this section until the Board issues an objection or non-objection to the capital plan of the relevant U.S. intermediate holding company.

(B) After the time periods set forth in paragraph (c)(iii)(A) of this section, this section will cease to apply to a bank holding company that is a subsidiary of a U.S. intermediate holding company, unless otherwise determined by the Board in writing.

(3) *Transition periods for bank holding companies subject to the advanced approaches.* (i) Notwithstanding any other requirement in this section, a bank holding company must use 12 CFR part 225, appendices A and E (as applicable), and 12 CFR part 252, subpart D and E, as applicable, to estimate its pro forma regulatory capital ratios and its pro forma tier 1 common ratio for the capital plan cycle beginning October 1, 2014, and the bank holding

company may not use the advanced approaches to estimate its pro forma regulatory capital ratios and its pro forma tier 1 common ratio until January 1, 2016.

(ii) Beginning January 1, 2016, a bank holding company must use the advanced approaches to estimate its pro forma regulatory capital ratios and its pro forma tier 1 common ratio for purposes of its capital plan submission under paragraph (e) of this section if the Board notifies the bank holding company before the first day of the capital plan cycle that the bank holding company is required to use the advanced approaches to determine its risk-based capital requirements.

(d) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Advanced approaches* means the risk-weighted assets calculation methodologies at 12 CFR part 217, subpart E, as applicable, and any successor regulation.

(2) *BHC stress scenario* means a scenario designed by a bank holding company that stresses the specific vulnerabilities of the bank holding company's risk profile and operations, including those related to the company's capital adequacy and financial condition.

(3) *Capital action* means any issuance or redemption of a debt or equity capital instrument, any capital distribution, and any similar action that the Federal Reserve determines could impact a bank holding company's consolidated capital.

(4) *Capital distribution* means a redemption or repurchase of any debt or equity capital instrument, a payment of common or preferred stock dividends, a payment that may be temporarily or permanently suspended by the issuer on any instrument that is eligible for inclusion in the numerator of any minimum regulatory capital ratio, and any similar transaction that the Federal Reserve determines to be in substance a distribution of capital.

(5) *Capital plan* means a written presentation of a bank holding company's capital planning strategies and capital adequacy process that includes the mandatory elements set forth in paragraph (e)(2) of this section.

(6) *Capital plan cycle* means:

(i) Until September 30, 2015, the period beginning October 1 of a calendar year and ending on September 30 of the following calendar year, and

(ii) Beginning October 1, 2015, the period beginning January 1 of a calendar year and ending on December 31 of that year.

(7) *Capital policy* means a bank holding company's written assessment of the principles and guidelines used for capital planning, capital issuance, capital usage and distributions, including internal capital goals; the quantitative or qualitative guidelines for capital distributions; the strategies for addressing potential capital shortfalls; and the internal governance procedures around capital policy principles and guidelines.

(8) *Minimum regulatory capital ratio* means any minimum regulatory capital ratio that the Federal Reserve may require of a bank holding company, by regulation or order, including, as applicable, the bank holding company's tier 1 and supplementary leverage ratios and common equity tier 1, tier 1, and total risk-based capital ratios as calculated under appendices A, D, and E to this part (12 CFR part 225) and 12 CFR part 217, as applicable, including the transition provisions at 12 CFR 217.1(f)(4) and 12 CFR 217.300, or any successor regulation.

(9) *Nonbank financial company supervised by the Board* means a company that the Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect.

(10) *Planning horizon* means the period of at least nine consecutive quarters, beginning with the quarter preceding the quarter in which the bank holding company submits its capital plan, over which the relevant projections extend.

(11) *Tier 1 capital* has the same meaning as under appendix A to this part or under 12 CFR part 217, as applicable, or any successor regulation.

(12) *Tier 1 common capital* means tier 1 capital as defined under appendix A to this part less the non-common elements of tier 1 capital, including perpetual preferred stock and related surplus, minority interest in subsidiaries, trust preferred securities and mandatory convertible preferred securities.

(13) *Tier 1 common ratio* means the ratio of a bank holding company's tier 1 common capital to total risk-weighted assets as defined under appendices A and E to this part.

(14) *U.S. intermediate holding company* means the top-tier U.S. company that is required to be established pursuant to § 252.153.

(e) *General requirements*—(1) *Annual capital planning.* (i) A bank holding company must develop and maintain a capital plan.

(ii) A bank holding company must submit its complete capital plan to the Board and the appropriate Reserve Bank each year. For the capital plan cycle beginning October 1, 2014, the capital plan must be submitted by January 5, 2015, or such later date as directed by the Board or by the appropriate Reserve Bank with concurrence of the Board. For each capital plan cycle beginning thereafter, the capital plan must be submitted by April 5, or such later date as directed by the Board or by the appropriate Reserve Bank with concurrence of the Board.

(iii) The bank holding company's board of directors or a designated committee thereof must at least annually and prior to submission of the capital plan under paragraph (e)(1)(ii) of this section:

(A) Review the robustness of the bank holding company's process for assessing capital adequacy,

(B) Ensure that any deficiencies in the bank holding company's process for assessing capital adequacy are appropriately remedied; and

(C) Approve the bank holding company's capital plan.

(2) *Mandatory elements of capital plan.* A capital plan must contain at least the following elements:

(i) An assessment of the expected uses and sources of capital over the planning horizon that reflects the bank holding company's size, complexity, risk profile, and scope of operations, assuming both expected and stressful conditions, including:

(A) Estimates of projected revenues, losses, reserves, and pro forma capital levels, including any minimum regulatory capital ratios (for example, leverage, tier 1 risk-based, and total risk-based capital ratios) and any additional capital measures deemed relevant by the bank holding company, over the planning horizon under expected conditions and under a range of scenarios, including any scenarios provided by the Federal Reserve and at least one BHC stress scenario;

(B) A calculation of the pro forma tier 1 common ratio over the planning horizon under expected conditions and under a range of stressed scenarios and discussion of how the company will maintain a pro forma tier 1 common ratio above 5 percent under expected conditions and the stressed scenarios required under paragraphs (e)(2)(i)(A) and (e)(2)(ii) of this section;

(C) A discussion of the results of any stress test required by law or regulation, and an explanation of how the capital plan takes these results into account; and

(D) A description of all planned capital actions over the planning horizon.

(ii) A detailed description of the bank holding company's process for assessing capital adequacy, including:

(A) A discussion of how the bank holding company will, under expected and stressful conditions, maintain capital commensurate with its risks, maintain capital above the minimum regulatory capital ratios and above a tier 1 common ratio of 5 percent, and serve as a source of strength to its subsidiary depository institutions;

(B) A discussion of how the bank holding company will, under expected and stressful conditions, maintain sufficient capital to continue its operations by maintaining ready access to funding, meeting its obligations to creditors and other counterparties, and continuing to serve as a credit intermediary;

(iii) The bank holding company's capital policy; and

(iv) A discussion of any expected changes to the bank holding company's business plan that are likely to have a material impact on the bank holding company's capital adequacy or liquidity.

(3) *Data collection.* Upon the request of the Board or appropriate Reserve Bank, the bank holding company shall provide the Federal Reserve with information regarding:

(i) The bank holding company's financial condition, including its capital;

(ii) The bank holding company's structure;

(iii) Amount and risk characteristics of the bank holding company's on- and off-balance sheet exposures, including exposures within the bank holding company's trading account, other trading-related exposures (such as counterparty-credit risk exposures) or other items sensitive to changes in market factors, including, as appropriate, information about the sensitivity of positions to changes in market rates and prices;

(iv) The bank holding company's relevant policies and procedures, including risk management policies and procedures;

(v) The bank holding company's liquidity profile and management;

(vi) The loss, revenue, and expense estimation models used by the bank holding company for stress scenario analysis, including supporting documentation regarding each model's development and validation; and

(vii) Any other relevant qualitative or quantitative information requested by the Board or by the appropriate Reserve Bank to facilitate review of the bank holding company's capital plan under this section.

(4) *Re-submission of a capital plan.* (i) A bank holding company must update and re-submit its capital plan to the appropriate Reserve Bank within 30 calendar days of the occurrence of one of the following events:

(A) The bank holding company determines there has been or will be a material change in the bank holding company's risk profile, financial condition, or corporate structure since the bank holding company last submitted the capital plan to the Board and the appropriate Reserve Bank under this section; or

(B) The Board or the appropriate Reserve Bank with concurrence of the Board, directs the bank holding company in writing to revise and resubmit its capital plan for any of the following reasons:

(*1*) The capital plan is incomplete or the capital plan, or the bank holding company's internal capital adequacy process, contains material weaknesses;

(*2*) There has been, or will likely be, a material change in the bank holding company's risk profile (including a material change in its business strategy or any risk exposure), financial condition, or corporate structure;

(*3*) The BHC stress scenario(s) are not appropriate to the bank holding company's business model and portfolios, or changes in financial markets or the macro-economic outlook that could have a material impact on a bank holding company's risk profile and financial condition require the use of updated scenarios; or

(*4*) The capital plan or the condition of the bank holding company raise any of the issues described in paragraph (e)(2)(ii) of this section.

(ii) A bank holding company may resubmit its capital plan to the Federal Reserve if the Board or the appropriate Reserve Bank objects to the capital plan.

(iii) The Board or the appropriate Reserve Bank with concurrence of the Board, may extend the 30-day period in paragraph (e)(4)(i) of this section for up to an additional 60 calendar days, or such longer period as the Board or the appropriate Reserve Bank, with concurrence of the Board, determines in its discretion appropriate.

(iv) Any updated capital plan must satisfy all the requirements of this section; however, a bank holding company may continue to rely on information submitted as part of a previously submitted capital plan to the extent that the information remains accurate and appropriate.

(5) *Confidential treatment of information submitted.* The confidentiality of information submitted to the Board under this section and related materials shall be determined in accordance with applicable exemptions under the Freedom of Information Act (5 U.S.C. 552(b)) and the Board's Rules Regarding Availability of Information (12 CFR part 261).

(f) *Review of capital plans by the Federal Reserve; publication of summary results*—(1) *Considerations and inputs.* (i) The Board or the appropriate Reserve Bank with concurrence of the Board, will consider the following factors in reviewing a bank holding company's capital plan:

(A) The comprehensiveness of the capital plan, including the extent to which the analysis underlying the capital plan captures and addresses potential risks stemming from activities across the firm and the company's capital policy;

(B) The reasonableness of the bank holding company's capital plan, the assumptions and analysis underlying the capital plan, and the robustness of its capital adequacy process; and

(C) The bank holding company's ability to maintain capital above each minimum regulatory capital ratio and above a tier 1 common ratio of 5 percent on a pro forma basis under expected and stressful conditions throughout the planning horizon, including but not limited to any scenarios required under paragraphs (e)(2)(i)(A) and (e)(2)(ii) of this section.

(ii) The Board or the appropriate Reserve Bank with concurrence of the Board, will also consider the following information in reviewing a bank holding company's capital plan:

(A) Relevant supervisory information about the bank holding company and its subsidiaries;

(B) The bank holding company's regulatory and financial reports, as well as supporting data that would allow for an analysis of the bank holding company's loss, revenue, and reserve projections;

(C) As applicable, the Federal Reserve's own pro forma estimates of the firm's potential losses, revenues, reserves, and resulting capital adequacy under expected and stressful conditions, including but not limited to any scenarios required under paragraphs (e)(2)(i)(A) and (e)(2)(ii) of this section, as well as the results of any stress tests conducted by the bank holding company or the Federal Reserve; and

(D) Other information requested or required by the Board or the appropriate Reserve Bank, as well as any other information relevant, or related, to the bank holding company's capital adequacy.

(2) *Federal Reserve action on a capital plan.* (i) The Board or the appropriate

Reserve Bank with concurrence of the Board, will object, in whole or in part, to the capital plan or provide the bank holding company with a notice of non-objection to the capital plan:

(A) For the capital plan cycle beginning October 1, 2014, by March 31, 2015;

(B) For each capital plan cycle beginning thereafter, by June 30 of the calendar year in which a capital plan was submitted pursuant to paragraph (e)(1)(ii) of this section; and

(C) For a capital plan resubmitted pursuant to paragraph (e)(4) of this section, within 75 calendar days after the date on which a capital plan is resubmitted, unless the Board provides notice to the company that it is extending the time period.

(ii) The Board or the appropriate Reserve Bank with concurrence of the Board, may object to a capital plan if it determines that:

(A) The bank holding company has material unresolved supervisory issues, including but not limited to issues associated with its capital adequacy process;

(B) The assumptions and analysis underlying the bank holding company's capital plan, or the bank holding company's methodologies for reviewing the robustness of its capital adequacy process, are not reasonable or appropriate;

(C) The bank holding company has not demonstrated an ability to maintain capital above each minimum regulatory capital ratio and above a tier 1 common ratio of 5 percent, on a pro forma basis under expected and stressful conditions throughout the planning horizon; or

(D) The bank holding company's capital planning process or proposed capital distributions otherwise constitute an unsafe or unsound practice, or would violate any law, regulation, Board order, directive, or condition imposed by, or written agreement with, the Board. In determining whether a capital plan or any proposed capital distribution would constitute an unsafe or unsound practice, the Board or the appropriate Reserve Bank would consider whether the bank holding company is and would remain in sound financial condition after giving effect to the capital plan and all proposed capital distributions.

(iii) The Board or the appropriate Reserve Bank will notify the bank holding company in writing of the reasons for a decision to object to a capital plan.

(iv) If the Board or the appropriate Reserve Bank objects to a capital plan and until such time as the Board or the appropriate Reserve Bank with concurrence of the Board, issues a non-objection to the bank holding company's capital plan, the bank holding company may not make any capital distribution, other than those capital distributions associated with a new issuance of instruments eligible for inclusion in the numerator of a minimum regulatory capital ratio or capital distributions with respect to which the Board or the appropriate Reserve Bank has indicated in writing its non-objection.

(v)(A) If the Federal Reserve does not object to a bank holding company's capital plan and the company raises a smaller dollar amount of regulatory capital in a calendar quarter than the bank holding company projected that it would issue under baseline conditions in its capital plan, the bank holding company must reduce the dollar amount of its capital distributions on regulatory capital instruments with greater or equal ability to absorb losses, increase the dollar amount of its capital issuances by issuing regulatory capital instruments that have greater or equal ability to absorb losses, or take any combination of the foregoing actions such that the net dollar amounts of the company's actual capital issuances and capital distributions in that calendar quarter are no less than the amounts projected in the bank holding company's capital plan for the calendar quarter.

(B) For purposes of paragraph (f)(2)(v)(A) of this section and in decreasing order of their ability to absorb losses, the applicable categories of regulatory capital instruments are common equity tier 1 capital, additional tier 1 capital, and tier 2 capital, each as defined in 12 CFR 217.2.

(C) Paragraph (f)(2)(v)(A) of this section shall not apply to a capital issuance to the extent that a planned but unexecuted issuance of a capital instrument relates to a planned merger or acquisition that is no longer expected to be consummated.

(vi) The Board may disclose publicly its decision to object or not object to a bank holding company's capital plan under this section, along with a summary of the Board's analyses of that company. Any disclosure under this paragraph will occur by March 31 (for the capital plan cycle beginning October 1, 2014) or June 30 (for each capital plan cycle beginning thereafter), unless the Board determines that a later disclosure date is appropriate.

(3) *Request for reconsideration or hearing*—(i) *General.* Within 10 calendar days of receipt of a notice of objection to a capital plan by the Board or the appropriate Reserve Bank:

(A) A bank holding company may submit a written request to the Board requesting reconsideration of the objection, including an explanation of why reconsideration should be granted. Within 10 calendar days of receipt of the bank holding company's request, the Board will notify the company of its decision to affirm or withdraw the objection to the bank holding company's capital plan or a specific capital distribution; or

(B) As an alternative to paragraph (f)(3)(i)(A) of this section, a bank holding company may request an informal hearing on the objection.

(ii) *Request for an informal hearing.* (A) A request for an informal hearing shall be in writing and shall be submitted within 15 days of a notice of an objection. The Board may, in its sole discretion, order an informal hearing if the Board finds that a hearing is appropriate or necessary to resolve disputes regarding material issues of fact.

(B) An informal hearing shall be held within 30 days of a request, if granted, provided that the Board may extend this period upon notice to the requesting party.

(C) Written notice of the final decision of the Board shall be given to the bank holding company within 60 days of the conclusion of any informal hearing ordered by the Board, provided that the Board may extend this period upon notice to the requesting party.

(D) While the Board's final decision is pending and until such time as the Board or the appropriate Reserve Bank with concurrence of the Board, issues a non-objection to the bank holding company's capital plan, the bank holding company may not make any capital distribution, other than those capital distributions with respect to which the Board or the appropriate Reserve Bank has indicated in writing its non-objection.

(4) *Application of this section to other bank holding companies.* The Board may apply this section, in whole or in part, to any other bank holding company by order based on the institution's size, level of complexity, risk profile, scope of operations, or financial condition.

(g) *Approval requirements for certain capital actions*—(1) *Circumstances requiring approval.* Notwithstanding a notice of non-objection under paragraph (e)(2)(i) of this section, a bank holding company may not make a capital distribution (excluding any capital distribution arising from the issuance of a debt or equity capital instrument that is eligible for inclusion in the numerator of a minimum regulatory capital ratio) under the following circumstances, unless it receives prior approval from

the Board or appropriate Reserve Bank pursuant to paragraph (g)(4) of this section:

(i) After giving effect to the capital distribution, the bank holding company would not meet a minimum regulatory capital ratio or a tier 1 common ratio of at least 5 percent;

(ii) The Board or the appropriate Reserve Bank with concurrence of the Board, notifies the company in writing that the Federal Reserve has determined that the capital distribution would result in a material adverse change to the organization's capital or liquidity structure or that the company's earnings were materially underperforming projections;

(iii) Except as provided in paragraph (g)(2) of this section, the dollar amount of the capital distribution in a given calendar quarter, will exceed the amount described in the capital plan for that quarter for which a non-objection was issued under this section; or

(iv) The capital distribution would occur after the occurrence of an event requiring resubmission under paragraphs (g)(4)(i)(A) or (B) of this section and before the Federal Reserve has acted on the resubmitted capital plan.

(2) *Exception for well capitalized bank holding companies.* (i) A bank holding company may make a capital distribution for which the dollar amount exceeds the amount described in the capital plan for which a non-objection was issued under this section if the following conditions are satisfied:

(A) The bank holding company is, and after the capital distribution would remain, well capitalized as defined in § 225.2(r) of Regulation Y (12 CFR 225.2(r));

(B) The bank holding company's performance and capital levels are, and after the capital distribution would remain, consistent with its projections under expected conditions as set forth in its capital plan under paragraph (e)(2)(i) of this section;

(C) The annual aggregate dollar amount of all capital distributions (for purposes of the capital plan cycle beginning October 1, 2014, in the period beginning April 1, 2015 and ending on March 31, 2016, and for purposes of each capital plan cycle beginning thereafter, in the period beginning July 1 of a calendar year and ending on June 30 of the following calendar year) would not exceed the total amounts described in the company's capital plan for which the bank holding company received a notice of non-objection by more than 1.00 percent multiplied by the bank holding company's tier 1 capital, as reported to the Federal Reserve on the bank holding company's first quarter FR Y–9C;

(D) The bank holding company provides the appropriate Reserve Bank with notice 15 calendar days prior to a capital distribution that includes the elements described in paragraph (g)(3) of this section; and

(E) The Board or the appropriate Reserve Bank with concurrence of the Board, does not object to the transaction proposed in the notice. In determining whether to object to the proposed transaction, the Board or the appropriate Reserve Bank shall apply the criteria described in paragraph (g)(4)(iv) of this section.

(ii) The exception in this paragraph (g)(2) shall not apply if the Board or the appropriate Reserve Bank notifies the bank holding company in writing that it may not take advantage of this exception.

(3) *Contents of request.* (i) A request for a capital distribution under this section shall be filed with the appropriate Reserve Bank and the Board and shall contain the following information:

(A) The bank holding company's current capital plan or an attestation that there have been no changes to the capital plan since it was last submitted to the Federal Reserve;

(B) The purpose of the transaction;

(C) A description of the capital distribution, including for redemptions or repurchases of securities, the gross consideration to be paid and the terms and sources of funding for the transaction, and for dividends, the amount of the dividend(s); and

(D) Any additional information requested by the Board or the appropriate Reserve Bank (which may include, among other things, an assessment of the bank holding company's capital adequacy under a revised stress scenario provided by the Federal Reserve, a revised capital plan, and supporting data).

(ii) Any request submitted with respect to a capital distribution described in paragraph (g)(1)(i) of this section shall also include a plan for restoring the bank holding company's capital to an amount above a minimum level within 30 days and a rationale for why the capital distribution would be appropriate.

(4) *Approval of certain capital distributions.* (i) The Board or the appropriate Reserve Bank with concurrence of the Board, will act on a request under this paragraph (g)(4) within 30 calendar days after the receipt of all the information required under paragraph (g)(3) of this section.

(ii) In acting on a request under this paragraph, the Board or appropriate Reserve Bank will apply the considerations and principles in paragraph (f) of this section. In addition, the Board or the appropriate Reserve Bank may disapprove the transaction if the bank holding company does not provide all of the information required to be submitted under paragraph (g)(3) of this section.

(5) *Disapproval and hearing.* (i) The Board or the appropriate Reserve Bank will notify the bank holding company in writing of the reasons for a decision to disapprove any proposed capital distribution. Within 15 calendar days after receipt of a disapproval by the Board, the bank holding company may submit a written request for a hearing.

(A) The Board may, in its sole discretion, order an informal hearing if the Board finds that a hearing is appropriate or necessary to resolve disputes regarding material issues of fact.

(B) An informal hearing shall be held within 30 days of a request, if granted, provided that the Board may extend this period upon notice to the requesting party.

(C) Written notice of the final decision of the Board shall be given to the bank holding company within 60 days of the conclusion of any informal hearing ordered by the Board, provided that the Board may extend this period upon notice to the requesting party.

(D) While the Board's final decision is pending and until such time as the Board or the appropriate Reserve Bank with concurrence of the Board, approves the capital distribution at issue, the bank holding company may not make such capital distribution.

■ 3. The removal of appendix A to part 225 at 78 FR 62017 (October 11, 2013) is withdrawn.

PART 252—ENHANCED PRUDENTIAL STANDARDS (REGULATION YY)

■ 4. The authority citation for part 252 is revised to read as follows:

Authority: 12 U.S.C. 321–338a, 1467a(g), 1818, 1831p–1, 1844(b), 1844(c), 5361, 5365, 5366.

■ 5. Subpart B is revised to read as follows:

Subpart B—Company-Run Stress Test Requirements for Certain U.S. Banking Organizations With Total Consolidated Assets Over $10 Billion and Less Than $50 Billion

Sec.

252.10 [Reserved]
252.11 Authority and purpose.
252.12 Definitions.
252.13 Applicability.

252.14 Annual stress test.
252.15 Methodologies and practices.
252.16 Reports of stress test results.
252.17 Disclosure of stress test results.

§ 252.10 [Reserved]

§ 252.11 Authority and purpose.

(a) *Authority.* 12 U.S.C. 321–338a, 1467a(g), 1818, 1831o, 1831p-1, 1844(b), 1844(c), 3906–3909, 5365.

(b) *Purpose.* This subpart implements section 165(i)(2) of the Dodd-Frank Act (12 U.S.C. 5365(i)(2)), which requires a bank holding company with total consolidated assets of greater than $10 billion but less than $50 billion and savings and loan holding companies and state member banks with total consolidated assets of greater than $10 billion to conduct annual stress tests. This subpart also establishes definitions of stress test and related terms, methodologies for conducting stress tests, and reporting and disclosure requirements.

§ 252.12 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Advanced approaches* means the regulatory capital requirements at 12 CFR part 217, subpart E, as applicable, and any successor regulation.

(b) *Adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a bank holding company, savings and loan holding company, or state member bank that are more adverse than those associated with the baseline scenario and may include trading or other additional components.

(c) *Asset threshold* means:

(1) For a bank holding company, average total consolidated assets of greater than $10 billion but less than $50 billion, and

(2) For a savings and loan holding company or state member bank, average total consolidated assets of greater than $10 billion.

(d) *Average total consolidated assets* means the average of the total consolidated assets as reported by a bank holding company, savings and loan holding company, or state member bank on its Consolidated Financial Statements for Bank Holding Companies (FR Y–9C) or Consolidated Report of Condition and Income (Call Report), as applicable, for the four most recent consecutive quarters. If the bank holding company, savings and loan holding company, or state member bank has not filed the FR Y–9C or Call Report, as applicable, for each of the four most recent consecutive quarters, average total consolidated assets means the average of the company's total consolidated assets, as reported on the company's FR Y–9C or Call Report, as applicable, for the most recent quarter or consecutive quarters. Average total consolidated assets are measured on the as-of date of the most recent FR Y–9C or Call Report, as applicable, used in the calculation of the average.

(e) *Bank holding company* has the same meaning as in § 225.2(c) of the Board's Regulation Y (12 CFR 225.2(c)).

(f) *Baseline scenario* means a set of conditions that affect the U.S. economy or the financial condition of a bank holding company, savings and loan holding company, or state member bank, and that reflect the consensus views of the economic and financial outlook.

(g) *Capital action* has the same meaning as in § 225.8(c)(2) of the Board's Regulation Y (12 CFR 225.8(c)(2)).

(h) *Covered company subsidiary* means a state member bank that is a subsidiary of a covered company as defined in subpart F of this part.

(i) *Depository institution* has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)).

(j) *Foreign banking organization* has the same meaning as in § 211.21(o) of the Board's Regulation K (12 CFR 211.21(o)).

(k) *Planning horizon* means the period of at least nine consecutive quarters, beginning on the first day of a stress test cycle over which the relevant projections extend.

(l) *Pre-provision net revenue* means the sum of net interest income and non-interest income less expenses before adjusting for loss provisions.

(m) *Provision for loan and lease losses* means the provision for loan and lease losses as reported by the bank holding company, savings and loan holding company, or state member bank on the FR Y–9C or Call Report, as appropriate.

(n) *Regulatory capital ratio* means a capital ratio for which the Board established minimum requirements for the company by regulation or order, including, as applicable, a company's tier 1 and supplementary leverage ratio and common equity tier 1, tier 1, and total risk-based capital ratios as calculated under the Board's regulations, including appendices A, D, and E to 12 CFR part 225, appendices A, B, and E to 12 CFR part 208, and 12 CFR part 217, as applicable, including the transition provisions at 12 CFR 217.1(f)(4) and 12 CFR 217.300, or any successor regulation. For state member banks other than covered company subsidiaries and for all bank holding companies, for the stress test cycle that commences on October 1, 2013, regulatory capital ratios must be calculated pursuant to the regulatory capital framework set forth in 12 CFR part 225, appendix A, and not the regulatory capital framework set forth in 12 CFR part 217.

(o) *Savings and loan holding company* has the same meaning as in § 238.2(m) of the Board's Regulation LL (12 CFR 238.2(m)).

(p) *Scenarios* are those sets of conditions that affect the U.S. economy or the financial condition of a bank holding company, savings and loan holding company, or state member bank that the Board annually determines are appropriate for use in the company-run stress tests, including, but not limited to, baseline, adverse, and severely adverse scenarios.

(q) *Severely adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a bank holding company, savings and loan holding company, or state member bank and that overall are more severe than those associated with the adverse scenario and may include trading or other additional components.

(r) *State member bank* has the same meaning as in § 208.2(g) of the Board's Regulation H (12 CFR 208.2(g)).

(s) *Stress test* means a process to assess the potential impact of scenarios on the consolidated earnings, losses, and capital of a bank holding company, savings and loan holding company, or state member bank over the planning horizon, taking into account the current condition, risks, exposures, strategies, and activities.

(t) *Stress test cycle* means:

(i) Until September 30, 2015, the period beginning October 1 of a calendar year and ending on September 30 of the following calendar year, and

(ii) Beginning October 1, 2015, the period beginning January 1 of a calendar year and ending on December 31 of that year.

(u) *Subsidiary* has the same meaning as in § 225.2(o) the Board's Regulation Y (12 CFR 225.2(o)).

§ 252.13 Applicability.

(a) *Scope*—(1) *Applicability.* Except as provided in paragraph (b) of this section, this subpart applies to:

(i) Any bank holding company with average total consolidated assets (as defined in § 252.12(d)) of greater than $10 billion but less than $50 billion;

(ii) Any savings and loan holding company with average total consolidated assets (as defined in § 252.12(d)) of greater than $10 billion; and

(iii) Any state member bank with average total consolidated assets (as

defined in § 252.12(d)) of greater than $10 billion.

(2) *Ongoing applicability.* (i) A bank holding company, savings and loan holding company, or state member bank (including any successor company) that is subject to any requirement in subpart shall remain subject to the requirement unless and until its total consolidated assets fall below $10 billion for each of four consecutive quarters, as reported on the FR Y–9C or Call Report, as applicable and effective on the as-of date of the fourth consecutive FR Y–9C or Call Report, as applicable.

(ii) A bank holding company or savings and loan holding company that becomes a covered company as defined in subpart F of this part and conducts a stress test pursuant to that subpart is not subject to the requirements of this subpart.

(b) *Transitional arrangements*—(1) *Transition periods for bank holding companies and state member banks.* (i) A bank holding company or state member bank that exceeds the asset threshold for the first time after October 1, 2014, but on or before March 31 of a given year, must comply with the requirements of this subpart beginning on January 1 of the following year, unless that time is extended by the Board in writing.

(ii) A bank holding company or state member bank that exceeds the asset threshold for the first time after October 1, 2014, and after March 31 of a given year must comply with the requirements of this subpart beginning on January 1 of the second year following that given year, unless that time is extended by the Board in writing.

(iii) *Bank holding companies that rely on SR Letter 01–01.* Notwithstanding paragraphs (b)(1)(i) or (ii), a bank holding company that meets the asset threshold (as defined in § 252.12(c)) and that is relying as of July 20, 2015, on Supervision and Regulation Letter SR 01–01 issued by the Board (as in effect on May 19, 2010) must comply with the requirements of this subpart beginning on January 1, 2016, unless that time is extended by the Board in writing.

(2) *Transition period for savings and loan holding companies.* (i) A savings and loan holding company that is subject to minimum regulatory capital requirements and exceeds the asset threshold for the first time after October 1, 2014, but on or before March 31 of a given year, must comply with the requirements of this subpart beginning on January 1 of the following year, unless that time is extended by the Board in writing.

(ii) A savings and loan holding company that is subject to minimum regulatory capital requirements and exceeds the asset threshold for the first time after October 1, 2014, and after March 31 of a given year must comply with the requirements of this subpart beginning on January 1 of the second year following that given year, unless that time is extended by the Board in writing.

(3) *Transition periods for companies subject to the advanced approaches.* Notwithstanding any other requirement in this section:

(i) A bank holding company, savings and loan holding company, or state member bank must use 12 CFR part 225, appendices A and E (as applicable), and 12 CFR part 252, subpart D and E, as applicable, to estimate its pro forma regulatory capital ratios and its pro forma tier 1 common ratio for the stress test cycle beginning October 1, 2014, and may not use the advanced approaches until January 1, 2016; and

(ii) Beginning January 1, 2016, a bank holding company, savings and loan holding company, or state member bank must use the advanced approaches to estimate its pro forma regulatory capital ratios and its pro forma tier 1 common ratio for purposes of its stress test under § 252.14 if the Board notifies the company before the first day of the stress test cycle that the company is required to use the advanced approaches to determine its risk-based capital requirements.

§ 252.14 Annual stress test.

(a) *General requirements*—(1) *General.* A savings and loan holding company, bank holding company, and state member bank must conduct an annual stress test in accordance with paragraphs (a)(2) through (3) of this section.

(2) *Timing for the stress test cycle beginning October 1, 2014.* For the stress test cycle beginning October 1, 2014:

(i) A state member bank that is a covered company subsidiary must conduct its stress test by January 5, 2015, based on data as of September 30, 2014, unless the time or the as-of date is extended by the Board in writing; and

(ii) A state member bank that is not a covered company subsidiary and a bank holding company must conduct its stress test by March 31, 2015 based on data as of September 30, 2014, unless the time or the as-of date is extended by the Board in writing.

(2) *Timing for each stress test cycle beginning after October 1, 2014.* For each stress test cycle beginning after October 1, 2014:

(i) A state member bank that is a covered company subsidiary and a savings and loan holding company with average total consolidated assets of $50 billion or more must conduct its stress test by April 5 of each calendar year based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing; and

(ii) A state member bank that is not a covered company subsidiary, a bank holding company, and a savings and loan holding company with average total consolidated assets of less than $50 billion must conduct its stress test by July 31 of each calendar year using financial statement data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.

(b) *Scenarios provided by the Board*—(1) *In general.* In conducting a stress test under this section, a bank holding company, savings and loan holding company, or state member bank must, at a minimum, use the scenarios provided by the Board. Except as provided in paragraphs (b)(2) and (3) of this section, the Board will provide a description of the scenarios to each bank holding company, savings and loan holding company, or state member bank no later than November 15, 2014 (for the stress test cycle beginning October 1, 2014) and no later than February 15 of that calendar year (for each stress test cycle beginning thereafter).

(2) *Additional components.* (i) The Board may require a bank holding company, savings and loan holding company, or state member bank with significant trading activity, as determined by the Board and specified in the Capital Assessments and Stress Testing report (FR Y–14), to include a trading and counterparty component in its adverse and severely adverse scenarios in the stress test required by this section. The Board may also require a state member bank that is subject to 12 CFR part 208, appendix E (or, beginning January 1, 2015, 12 CFR 217, subpart F) or that is a subsidiary of a bank holding company that is subject to either this paragraph or § 252.54(b)(2)(i) to include a trading and counterparty component in the state member bank's adverse and severely adverse scenarios in the stress test required by this section. For the stress test cycle beginning October 1, 2014, the data used in this component must be as of a date between October 1 and December 1 of 2014 selected by the Board, and the Board will communicate the as-of date and a description of the component to the company no later than December 1 of the calendar year. For each stress test cycle beginning thereafter, the data used in this component must be as of a date between January 1 and March 1 of that

calendar year selected by the Board, and the Board will communicate the as-of date and a description of the component to the company no later than March 1 of that calendar year.

(ii) The Board may require a bank holding company, savings and loan holding company, or state member bank to include one or more additional components in its adverse and severely adverse scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Additional scenarios.* The Board may require a bank holding company, savings and loan holding company, or state member bank to include one or more additional scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(4) *Notice and response*—(i) *Notification of additional component.* If the Board requires a bank holding company, savings and loan holding company, or state member bank to include one or more additional components in its adverse and severely adverse scenarios under paragraph (b)(2) of this section or to use one or more additional scenarios under paragraph (b)(3) of this section, the Board will notify the company in writing by September 30, 2014 (for the stress test cycle beginning October 1, 2014) and by December 31 (for each stress test cycle beginning thereafter).

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under this paragraph, the bank holding company, savings and loan holding company, or state member bank may request in writing that the Board reconsider the requirement that the company include the additional component(s) or additional scenario(s), including an explanation as to why the reconsideration should be granted. The Board will respond in writing within 14 calendar days of receipt of the company's request.

(iii) *Description of component.* The Board will provide the bank holding company, savings and loan holding company, or state member bank with a description of any additional component(s) or additional scenario(s) by December 1, 2014 (for the stress test cycle beginning October 1, 2014) and by March 1 (for each stress test cycle beginning thereafter).

§ 252.15 Methodologies and practices.

(a) *Potential impact on capital.* In conducting a stress test under § 252.14, for each quarter of the planning horizon, a bank holding company, savings and loan holding company, or state member bank must estimate the following for each scenario required to be used:

(1) Losses, pre-provision net revenue, provision for loan and lease losses, and net income; and

(2) The potential impact on pro forma regulatory capital levels and pro forma capital ratios (including regulatory capital ratios and any other capital ratios specified by the Board), incorporating the effects of any capital actions over the planning horizon and maintenance of an allowance for loan losses appropriate for credit exposures throughout the planning horizon.

(b) *Assumptions regarding capital actions.* In conducting a stress test under § 252.14, a bank holding company or savings and loan holding company is required to make the following assumptions regarding its capital actions over the planning horizon:

(1) For the first quarter of the planning horizon, the bank holding company or savings and loan holding company must take into account its actual capital actions as of the end of that quarter; and

(2) For each of the second through ninth quarters of the planning horizon, the bank holding company or savings and loan holding company must include in the projections of capital:

(i) Common stock dividends equal to the quarterly average dollar amount of common stock dividends that the company paid in the previous year (that is, the first quarter of the planning horizon and the preceding three calendar quarters);

(ii) Payments on any other instrument that is eligible for inclusion in the numerator of a regulatory capital ratio equal to the stated dividend, interest, or principal due on such instrument during the quarter;

(iii) An assumption of no redemption or repurchase of any capital instrument that is eligible for inclusion in the numerator of a regulatory capital ratio; and

(iv) An assumption of no issuances of common stock or preferred stock, except for issuances related to expensed employee compensation.

(c) *Controls and oversight of stress testing processes*—(1) *In general.* The senior management of a bank holding company, savings and loan holding company, or state member bank must establish and maintain a system of controls, oversight, and documentation, including policies and procedures, that are designed to ensure that its stress testing processes are effective in meeting the requirements in this subpart. These policies and procedures must, at a minimum, describe the company's stress testing practices and methodologies, and processes for validating and updating the company's stress test practices and methodologies consistent with applicable laws, regulations, and supervisory guidance.

(2) *Oversight of stress testing processes.* The board of directors, or a committee thereof, of a bank holding company, savings and loan holding company, or state member bank must review and approve the policies and procedures of the stress testing processes as frequently as economic conditions or the condition of the company may warrant, but no less than annually. The board of directors and senior management of the bank holding company, savings and loan holding company, or state member bank must receive a summary of the results of the stress test conducted under this section.

(3) *Role of stress testing results.* The board of directors and senior management of a bank holding company, savings and loan holding company, or state member bank must consider the results of the stress test in the normal course of business, including but not limited to, the banking organization's capital planning, assessment of capital adequacy, and risk management practices.

§ 252.16 Reports of stress test results.

(a) *Reports to the Board of stress test results*—(1) *General.* A savings and loan holding company, bank holding company, and state member bank must report the results of the stress test to the Board in the manner and form prescribed by the Board, in accordance with paragraphs (a)(2) and (3) of this section.

(2) *Timing for the stress test cycle beginning October 1, 2014.* For the stress test cycle beginning October 1, 2014:

(i) A state member bank that is a covered company subsidiary must report the results of its stress test to the Board by January 5, 2015, unless that time is extended by the Board in writing; and

(ii) A state member bank that is not a covered company subsidiary and a bank holding company must report the results of its stress test to the Board by March 31, 2015, unless that time is extended by the Board in writing.

(3) *Timing for each stress test cycle beginning after October 1, 2014.* For each stress test cycle beginning after October 1, 2014:

(i) A state member bank that is a covered company subsidiary and a savings and loan holding company that has average total consolidated assets of $50 billion or more must report the results of the stress test to the Board by April 5, unless that time is extended by the Board in writing; and

(ii) A state member bank that is not a covered company subsidiary, a bank holding company, and a savings and loan holding company with average total consolidated assets of less than $50 billion must report the results of the stress test to the Board by July 31, unless that time is extended by the Board in writing.

(b) *Contents of reports.* The report required under paragraph (a) of this section must include the following information for the baseline scenario, adverse scenario, severely adverse scenario, and any other scenario required under § 252.14(b)(3):

(1) A description of the types of risks being included in the stress test;

(2) A summary description of the methodologies used in the stress test; and

(3) For each quarter of the planning horizon, estimates of aggregate losses, pre-provision net revenue, provision for loan and lease losses, net income, and regulatory capital ratios;

(4) An explanation of the most significant causes for the changes in regulatory capital ratios; and

(5) Any other information required by the Board.

(c) *Confidential treatment of information submitted.* The confidentiality of information submitted to the Board under this subpart and related materials shall be determined in accordance with applicable exemptions under the Freedom of Information Act (5 U.S.C. 552(b)) and the Board's Rules Regarding Availability of Information (12 CFR part 261).

§ 252.17 Disclosure of stress test results.

(a) *Public disclosure of results*—(1) *General.* (i) A bank holding company, savings and loan holding company, and state member bank must publicly disclose a summary of the results of the stress test required under this subpart.

(2) *Timing for the stress test cycle beginning October 1, 2014.* For the stress test cycle beginning October 1, 2014:

(i) A state member bank that is a covered company subsidiary must publicly disclose a summary of the results of the stress test within 15 days after the Board discloses the results of its supervisory stress test of the covered company pursuant to § 252.46(c), unless that time is extended by the Board in writing; and

(ii) A state member bank that is not a covered company subsidiary and a bank holding company must publicly disclose a summary of the results of the stress test in the period beginning June 15 and ending June 30, 2015, unless that time is extended by the Board in writing.

(3) *Timing for each stress test cycle beginning after October 1, 2014.* For each stress test cycle beginning after October 1, 2014:

(i) A state member bank that is a covered company subsidiary must publicly disclose a summary of the results of the stress test within 15 days after the Board discloses the results of its supervisory stress test of the covered company pursuant to § 252.46(c), unless that time is extended by the Board in writing;

(ii) A savings and loan holding company with average total consolidated assets of $50 billion or more must publicly disclose a summary of the results of the stress test in the period beginning June 15 and ending June 30, unless that time is extended by the Board in writing; and

(iii) A state member bank that is not a covered company subsidiary, a bank holding company, and a savings and loan holding company with average total consolidated assets of less than $50 billion must publicly disclose a summary of the results of the stress test in the period beginning October 15 and ending October 31, unless that time is extended by the Board in writing.

(3) *Disclosure method.* The summary required under this section may be disclosed on the Web site of a bank holding company, savings and loan holding company, or state member bank, or in any other forum that is reasonably accessible to the public.

(b) *Summary of results*—(1) *Bank holding companies and savings and loan holding companies.* The summary of the results of a bank holding company or savings and loan holding company must, at a minimum, contain the following information regarding the severely adverse scenario:

(i) A description of the types of risks included in the stress test;

(ii) A summary description of the methodologies used in the stress test;

(iii) Estimates of—

(A) Aggregate losses;

(B) Pre-provision net revenue;

(C) Provision for loan and lease losses;

(D) Net income; and

(E) Pro forma regulatory capital ratios and any other capital ratios specified by the Board;

(iv) An explanation of the most significant causes for the changes in regulatory capital ratios; and

(v) With respect to any depository institution subsidiary that is subject to stress testing requirements pursuant to 12 U.S.C. 5365(i)(2), as implemented by this subpart, 12 CFR part 46 (OCC), or 12 CFR part 325, subpart C (FDIC), changes over the planning horizon in regulatory capital ratios and any other capital ratios specified by the Board and an explanation of the most significant causes for the changes in regulatory capital ratios.

(2) *State member banks that are subsidiaries of bank holding companies.* A state member bank that is a subsidiary of a bank holding company satisfies the public disclosure requirements under this subpart if the bank holding company publicly discloses summary results of its stress test pursuant to this section or § 252.58, unless the Board determines that the disclosures at the holding company level do not adequately capture the potential impact of the scenarios on the capital of the state member bank and requires the state member bank to make public disclosures.

(3) *State member banks that are not subsidiaries of bank holding companies.* A state member bank that is not a subsidiary of a bank holding company or that is required to make disclosures under paragraph (b)(2) of this section must publicly disclose, at a minimum, the following information regarding the severely adverse scenario:

(i) A description of the types of risks being included in the stress test;

(ii) A summary description of the methodologies used in the stress test;

(iii) Estimates of—

(A) Aggregate losses;

(B) Pre-provision net revenue

(C) Provision for loan and lease losses;

(D) Net income; and

(E) Pro forma regulatory capital ratios and any other capital ratios specified by the Board; and

(iv) An explanation of the most significant causes for the changes in regulatory capital ratios.

(c) *Content of results.* (1) The disclosure of aggregate losses, pre-provision net revenue, provision for loan and lease losses, and net income that is required under paragraph (b) of this section must be on a cumulative basis over the planning horizon.

(2) The disclosure of pro forma regulatory capital ratios and any other capital ratios specified by the Board that is required under paragraph (b) of this section must include the beginning value, ending value and minimum value of each ratio over the planning horizon.

6. Subpart E is revised to read as follows:

Subpart E—Supervisory Stress Test Requirements for U.S. Bank Holding Companies With $50 Billion or More in Total Consolidated Assets and Nonbank Financial Companies Supervised by the Board.

Sec.
252.40 [Reserved]
252.41 Authority and purpose.
252.42 Definitions.
252.43 Applicability.
252.44 Annual analysis conducted by the Board.
252.45 Data and information required to be submitted in support of the Board's analyses.
252.46 Review of the Board's analysis; publication of summary results.
252.47 Corporate use of stress test results.

§ 252.40 [Reserved]

§ 252.41 Authority and purpose.

(a) *Authority.* 12 U.S.C. 321–338a, 1467a(g), 1818, 1831p–1, 1844(b), 1844(c), 5361, 5365, 5366.

(b) *Purpose.* This subpart implements section 165(i)(1) of the Dodd-Frank Act (12 U.S.C. 5365(i)(1)), which requires the Board to conduct annual analyses of nonbank financial companies supervised by the Board and bank holding companies with $50 billion or more in total consolidated assets to evaluate whether such companies have the capital, on a total consolidated basis, necessary to absorb losses as a result of adverse economic conditions.

§ 252.42 Definitions.

For purposes of this subpart F, the following definitions apply:

(a) *Advanced approaches* means the risk-weighted assets calculation methodologies at 12 CFR part 217, subpart E, as applicable, and any successor regulation.

(b) *Adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company that are more adverse than those associated with the baseline scenario and may include trading or other additional components.

(c) *Average total consolidated assets* means the average of the total consolidated assets as reported by a bank holding company on its Consolidated Financial Statements for Bank Holding Companies (FR Y–9C) for the four most recent consecutive quarters. If the bank holding company has not filed the FR Y–9C for each of the four most recent consecutive quarters, average total consolidated assets means the average of the company's total consolidated assets, as reported on the company's FR Y–9C, for the most recent quarter or consecutive quarters. Average total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average.

(d) *Bank holding company* has the same meaning as in § 225.2(c) of the Board's Regulation Y (12 CFR 225.2(c)).

(e) *Baseline scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that reflect the consensus views of the economic and financial outlook.

(f) *Covered company* means:

(1) A bank holding company (other than a foreign banking organization) with average total consolidated assets of $50 billion or more;

(2) A U.S. intermediate holding company subject to this section pursuant to § 252.153; and

(3) A nonbank financial company supervised by the Board.

(g) *Depository institution* has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)).

(h) *Foreign banking organization* has the same meaning as in § 211.21(o) of the Board's Regulation K (12 CFR 211.21(o)).

(i) *Nonbank financial company supervised by the Board* means a nonbank financial company that the Financial Stability Oversight Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect.

(j) *Planning horizon* means the period of at least nine consecutive quarters, beginning on the first day of a stress test cycle over which the relevant projections extend.

(k) *Pre-provision net revenue* means the sum of net interest income and non-interest income less expenses before adjusting for loss provisions.

(l) *Provision for loan and lease losses* means the provision for loan and lease losses as reported by the covered company on the FR Y–9C.

(m) *Regulatory capital ratio* means a capital ratio for which the Board established minimum requirements for the company by regulation or order, including, as applicable, the company's tier 1 and supplementary leverage ratios and common equity tier 1, tier 1, and total risk-based capital ratios as calculated under appendices A, D, and E to this part (12 CFR part 225) and 12 CFR part 217, as applicable, including the transition provisions at 12 CFR 217.1(f)(4) and 12 CFR 217.300, or any successor regulation.

(n) *Scenarios* are those sets of conditions that affect the U.S. economy or the financial condition of a covered company that the Board annually determines are appropriate for use in the supervisory stress tests, including, but not limited to, baseline, adverse, and severely adverse scenarios.

(o) *Severely adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that overall are more severe than those associated with the adverse scenario and may include trading or other additional components.

(p) *Stress test cycle* means:

(i) Until September 30, 2015, the period beginning October 1 of a calendar year and ending on September 30 of the following calendar year, and

(ii) Beginning October 1, 2015, the period beginning January 1 of a calendar year and ending on December 31 of that year.

(q) *Subsidiary* has the same meaning as in § 225.2(o) the Board's Regulation Y (12 CFR 225.2).

(r) *Tier 1 common ratio* has the same meaning as in the Board's Regulation Y (12 CFR 225.8).

§ 252.43 Applicability.

(a) *Scope*—(1) *Applicability.* Except as provided in paragraph (b) of this section, this subpart applies to any covered company, which includes:

(i) Any bank holding company with average total consolidated assets (as defined in § 252.42(c)) of $50 billion or more;

(ii) Any U.S. intermediate holding company subject to this section pursuant to § 252.153; and

(iii) Any nonbank financial company supervised by the Board that is made subject to this section pursuant to a rule or order of the Board.

(2) *Ongoing applicability.* A bank holding company (including any successor company) that is subject to any requirement in subpart shall remain subject to the requirement unless and until its total consolidated assets fall below $50 billion for each of four consecutive quarters, as reported on the FR Y–9C and effective on the as-of date of the fourth consecutive FR Y–9C.

(b) *Transitional arrangements*—(1) *Transition periods for bank holding companies that become covered companies after October 1, 2014.* (i) A bank holding company that becomes a covered company after October 1, 2014, but on or before March 31 of a given year must comply with the requirements of this subpart beginning on January 1 of the following year, unless that time is extended by the Board in writing.

(ii) A bank holding company that becomes a covered company after October 1, 2014, and after March 31 of

a given year must comply with the requirements of this subpart beginning on January 1 of the second year following that given year, unless that time is extended by the Board in writing.

(2) *Bank holding companies that rely on SR Letter 01–01.* A covered company that is relying as of July 20, 2015, on Supervision and Regulation Letter SR 01–01 issued by the Board (as in effect on May 19, 2010) must comply with the requirements of this subpart beginning January 1, 2016, unless that time is extended by the Board in writing.

(3) *Nonbank financial companies supervised by the Board.* (i) The Board will apply this subpart to a nonbank financial company by rule or order.

(ii) If the Board issues the rule or order described in paragraph (b)(3)(i) of this section on or before March 31 of a given year, the nonbank financial company supervised by the Board will be required to comply with the requirements of this subpart on January 1 of the following year, unless that time is accelerated or extended by the Board in writing.

(iii) If the Board issues the rule or order described in paragraph (b)(3)(i) of this section after March 31 of a given year, the nonbank financial company supervised by the Board will be required to comply with the requirements of this subpart on January 1 of the second year following that given year, unless that time is accelerated or extended by the Board in writing.

(c) *Transition periods for covered companies subject to the advanced approaches.* Notwithstanding any other requirement in this section, for a given stress test cycle:

(1) The Board will use 12 CFR part 225, appendices A and E (as applicable), and 12 CFR part 252, subpart D and E, as applicable, to estimate a covered company's pro forma regulatory capital ratios and its pro forma tier 1 common ratio for the stress test cycle beginning October 1, 2014 and will not use the advanced approaches until January 1, 2016; and

(2) Beginning January 1, 2016, the Board will use the advanced approaches to estimate a covered company's pro forma regulatory capital ratios and pro forma tier 1 common ratio if the Board notified the covered company before the first day of the stress test cycle that the covered company is required to use the advanced approaches to determine its risk-based capital requirements.

§ 252.44 Annual analysis conducted by the Board.

(a) *In general.* (1) On an annual basis, the Board will conduct an analysis of each covered company's capital, on a total consolidated basis, taking into account all relevant exposures and activities of that covered company, to evaluate the ability of the covered company to absorb losses in specified economic and financial conditions.

(2) The analysis will include an assessment of the projected losses, net income, and pro forma capital levels and regulatory capital ratios, tier 1 common ratio, and other capital ratios for the covered company and use such analytical techniques that the Board determines are appropriate to identify, measure, and monitor risks of the covered company that may affect the financial stability of the United States.

(3) In conducting the analyses, the Board will coordinate with the appropriate primary financial regulatory agencies and the Federal Insurance Office, as appropriate.

(b) *Economic and financial scenarios related to the Board's analysis.* The Board will conduct its analysis under this section using a minimum of three different scenarios, including a baseline scenario, adverse scenario, and severely adverse scenario. For the stress test cycle beginning October 1, 2014, the Board will notify covered companies of the scenarios that the Board will apply to conduct the analysis for each stress test cycle by no later than November 15, 2014, except with respect to trading or any other components of the scenarios and any additional scenarios that the Board will apply to conduct the analysis, which will be communicated by no later than December 1, 2014. For each stress test cycle beginning thereafter, the Board will notify covered companies of the scenarios that the Board will apply to conduct the analysis for each stress test cycle by no later than February 15 of each year, except with respect to trading or any other components of the scenarios and any additional scenarios that the Board will apply to conduct the analysis, which will be communicated by no later than March 1 of that year.

§ 252.45 Data and information required to be submitted in support of the Board's analyses.

(a) *Regular submissions.* Each covered company must submit to the Board such data, on a consolidated basis, that the Board determines is necessary in order for the Board to derive the relevant pro forma estimates of the covered company over the planning horizon under the scenarios described in § 252.44(b).

(b) *Additional submissions required by the Board.* The Board may require a covered company to submit any other information on a consolidated basis that the Board deems necessary in order to:

(1) Ensure that the Board has sufficient information to conduct its analysis under this subpart; and

(2) Project a company's pre-provision net revenue, losses, provision for loan and lease losses, and net income; and, pro forma capital levels, regulatory capital ratios, tier 1 common ratio, and any other capital ratio specified by the Board under the scenarios described in § 252.44(b).

(c) *Confidential treatment of information submitted.* The confidentiality of information submitted to the Board under this subpart and related materials shall be determined in accordance with the Freedom of Information Act (5 U.S.C. 552(b)) and the Board's Rules Regarding Availability of Information (12 CFR part 261).

§ 252.46 Review of the Board's analysis; publication of summary results.

(a) *Review of results.* Based on the results of the analysis conducted under this subpart, the Board will conduct an evaluation to determine whether the covered company has the capital, on a total consolidated basis, necessary to absorb losses and continue its operation by maintaining ready access to funding, meeting its obligations to creditors and other counterparties, and continuing to serve as a credit intermediary under baseline, adverse and severely adverse scenarios, and any additional scenarios.

(b) *Publication of results by the Board.* (1) The Board will publicly disclose a summary of the results of the Board's analyses of a covered company by March 31, 2015 (for the stress test cycle beginning October 1, 2014) and by June 30 (for each stress test cycle beginning thereafter).

(2) The Board will notify companies of the date on which it expects to publicly disclose a summary of the Board's analyses pursuant to paragraph (b)(1) of this section at least 14 calendar days prior to the expected disclosure date.

§ 252.47 Corporate use of stress test results.

(a) *In general.* The board of directors and senior management of each covered company must consider the results of the analysis conducted by the Board under this subpart, as appropriate:

(1) As part of the covered company's capital plan and capital planning process, including when making changes to the covered company's capital structure (including the level and composition of capital);

(2) When assessing the covered company's exposures, concentrations, and risk positions; and

(3) In the development or implementation of any plans of the covered company for recovery or resolution.

(b) *Resolution plan updates.* Each covered company must update its resolution plan as the Board determines appropriate, based on the results of the Board's analyses of the covered company under this subpart.

■ 7. Subpart F is revised to read as follows:

Subpart F—Company-Run Stress Test Requirements for U.S. Bank Holding Companies With $50 Billion or More in Total Consolidated Assets and Nonbank Financial Companies Supervised by the Board.

Sec.
252.50 [Reserved]
252.51 Authority and purpose.
252.52 Definitions.
252.53 Applicability.
252.54 Annual stress test.
252.55 Mid-cycle stress test.
252.56 Methodologies and practices.
252.57 Reports of stress test results.
252.58 Disclosure of stress test results.

§ 252.50 [Reserved]

§ 252.51 Authority and purpose.

(a) *Authority.* 12 U.S.C. 321–338a, 1467a(g), 1818, 1831p–1, 1844(b), 1844(c), 5361, 5365, 5366.

(b) *Purpose.* This subpart implements section 165(i)(2) of the Dodd-Frank Act (12 U.S.C. 5365(i)(2)), which requires a covered company to conduct annual and semi-annual stress tests. This subpart also establishes definitions of stress test and related terms, methodologies for conducting stress tests, and reporting and disclosure requirements.

§ 252.52 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Advanced approaches* means the risk-weighted assets calculation methodologies at 12 CFR part 217, subpart E, as applicable, and any successor regulation.

(b) *Adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company that are more adverse than those associated with the baseline scenario and may include trading or other additional components.

(c) *Average total consolidated assets* means the average of the total consolidated assets as reported by a bank holding company on its Consolidated Financial Statements for Bank Holding Companies (FR Y–9C) for the four most recent consecutive quarters. If the bank holding company has not filed the FR Y–9C for each of the four most recent consecutive quarters, average total consolidated assets means the average of the company's total consolidated assets, as reported on the company's FR Y–9C, for the most recent quarter or consecutive quarters. Average total consolidated assets are measured on the as-of date of the most recent FR Y–9C used in the calculation of the average.

(d) *Bank holding company* has the same meaning as in § 225.2(c) of the Board's Regulation Y (12 CFR 225.2(c)).

(e) *Baseline scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that reflect the consensus views of the economic and financial outlook.

(f) *Capital action* has the same meaning as in § 225.8(c)(2) of the Board's Regulation Y (12 CFR 225.8(c)(2)).

(g) *Covered company* means:

(1) A bank holding company (other than a foreign banking organization) with average total consolidated assets of $50 billion or more;

(2) A U.S. intermediate holding company subject to this section pursuant to § 252.153; and

(3) A nonbank financial company supervised by the Board.

(h) *Depository institution* has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)).

(i) *Foreign banking organization* has the same meaning as in § 211.21(o) of the Board's Regulation K (12 CFR 211.21(o)).

(j) *Nonbank financial company supervised by the Board* means a nonbank financial company that the Financial Stability Oversight Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect.

(k) *Planning horizon* means the period of at least nine consecutive quarters, beginning on the first day of a stress test cycle (on October 1 or April 1, as appropriate) over which the relevant projections extend.

(l) *Pre-provision net revenue* means the sum of net interest income and non-interest income less expenses before adjusting for loss provisions.

(m) *Provision for loan and lease losses* means the provision for loan and lease losses as reported by the covered company on the FR Y–9C.

(n) *Regulatory capital ratio* means a capital ratio for which the Board established minimum requirements for the company by regulation or order, including, as applicable, the company's tier 1 and supplementary leverage ratios and common equity tier 1, tier 1, and total risk-based capital ratios as calculated under appendices A, D, and E to this part (12 CFR part 225) and 12 CFR part 217, as applicable, including the transition provisions at 12 CFR 217.1(f)(4) and 12 CFR 217.300, or any successor regulation.

(o) *Scenarios* are those sets of conditions that affect the U.S. economy or the financial condition of a covered company that the Board, or with respect to the mid-cycle stress test required under § 252.55, the covered company, annually determines are appropriate for use in the company-run stress tests, including, but not limited to, baseline, adverse, and severely adverse scenarios.

(p) *Severely adverse scenario* means a set of conditions that affect the U.S. economy or the financial condition of a covered company and that overall are more severe than those associated with the adverse scenario and may include trading or other additional components.

(q) *Stress test* means a process to assess the potential impact of scenarios on the consolidated earnings, losses, and capital of a covered company over the planning horizon, taking into account its current condition, risks, exposures, strategies, and activities.

(r) *Stress test cycle* means:

(i) Until September 30, 2015, the period beginning October 1 of a calendar year and ending on September 30 of the following calendar year, and

(ii) Beginning October 1, 2015, the period beginning January 1 of a calendar year and ending on December 31 of that year.

(s) *Subsidiary* has the same meaning as in § 225.2(o) the Board's Regulation Y (12 CFR 225.2).

(t) *Tier 1 common ratio* has the same meaning as in § 225.8 of the Board's Regulation Y (12 CFR 225.8).

§ 252.53 Applicability.

(a) *Scope*—(1) *Applicability.* Except as provided in paragraph (b) of this section, this subpart applies to any covered company, which includes:

(i) Any bank holding company with average total consolidated assets (as defined in § 252.42(c)) of $50 billion or more;

(ii) Any U.S. intermediate holding company subject to this section pursuant to § 252.153; and

(iii) Any nonbank financial company supervised by the Board that is made subject to this section pursuant to a rule or order of the Board.

(2) *Ongoing applicability.* A bank holding company (including any successor company) that is subject to

any requirement in subpart shall remain subject to the requirement unless and until its total consolidated assets fall below $50 billion for each of four consecutive quarters, as reported on the FR Y–9C and effective on the as-of date of the fourth consecutive FR Y–9C.

(b) *Transitional arrangements*—(1) *Transition periods for bank holding companies that become covered companies after October 1, 2014.* (i) A bank holding company that becomes a covered company after October 1, 2014, but on or before March 31 of a given year must comply with the requirements of this subpart beginning on January 1 of the following year, unless that time is extended by the Board in writing.

(ii) A bank holding company that becomes a covered company after October 1, 2014, and after March 31 of a given year must comply with the requirements of this subpart beginning on January 1 of the second year following that given year, unless that time is extended by the Board in writing.

(2) *Bank holding companies that rely on SR Letter 01–01.* A covered company that is relying as of July 20, 2015, on Supervision and Regulation Letter SR 01–01 issued by the Board (as in effect on May 19, 2010) must comply with the requirements of this subpart beginning January 1, 2016, unless that time is extended by the Board in writing.

(3) *Nonbank financial companies supervised by the Board.* (i) The Board will apply this subpart to a nonbank financial company supervised by the Board by rule or order.

(ii) If the Board issues the rule or order described in paragraph (b)(3)(i) of this section on or before March 31 of a given year, the nonbank financial company supervised by the Board will be required to comply with the requirements of this subpart on January 1 of the following year, unless that time is accelerated or extended by the Board in writing.

(iii) If the Board issues the rule or order described in paragraph (b)(3)(i) of this section after March 31 of a given year, the nonbank financial company supervised by the Board will be required to comply with the requirements of this subpart on January 1 of the second year following that given year, unless that time is accelerated or extended by the Board in writing.

(3) *Transition periods for covered companies subject to the advanced approaches.* Notwithstanding any other requirement in this section:

(i) A covered company must use 12 CFR part 225, appendices A and E (as applicable), and 12 CFR part 252, subpart D and E, as applicable, to estimate its pro forma regulatory capital ratios and its pro forma tier 1 common ratio for the stress test cycle beginning October 1, 2014, and may not use the advanced approaches until January 1, 2016; and

(ii) Beginning January 1, 2016, a covered company must use the advanced approaches to estimate its pro forma regulatory capital ratios and its pro forma tier 1 common ratio for purposes of its stress test under § 252.54 if the Board notifies the company before the first day of the stress test cycle that the company is required to use the advanced approaches to determine its risk-based capital requirements.

§ 252.54 Annual stress test.

(a) *In general.* A covered company must conduct an annual stress test. For the stress test cycle beginning October 1, 2014, the stress test must be conducted by January 5, 2015, based on data as of September 30, 2014, unless the time or the as-of date is extended by the Board in writing. For each stress test cycle beginning thereafter, the stress test must be conducted by April 5 of each calendar year based on data as of December 31 of the preceding calendar year, unless the time or the as-of date is extended by the Board in writing.

(b) *Scenarios provided by the Board*—(1) *In general.* In conducting a stress test under this section, a covered company must, at a minimum, use the scenarios provided by the Board. Except as provided in paragraphs (b)(2) and (3) of this section, for the stress test cycle beginning October 1, 2014, the Board will provide a description of the scenarios to each covered company no later than November 15, 2014. Except as provided in paragraphs (b)(2) and (3) of this section, for each stress test cycle beginning thereafter, the Board will provide a description of the scenarios to each covered company no later than February 15 of that calendar year.

(2) *Additional components.* (i) The Board may require a covered company with significant trading activity, as determined by the Board and specified in the Capital Assessments and Stress Testing report (FR Y–14), to include a trading and counterparty component in its adverse and severely adverse scenarios in the stress test required by this section. For the stress test cycle beginning October 1, 2014, the data used in this component must be as of a date between October 1 and December 1, 2014, as selected by the Board, and the Board will communicate the as-of date and a description of the component to the company no later than December 1, 2014. For the stress test cycle beginning January 1, 2016, and for each stress test cycle beginning thereafter, the data used in this component must be as of a date between January 1 and March 1 of that calendar year selected by the Board, and the Board will communicate the as-of date and a description of the component to the company no later than March 1 of the relevant calendar year.

(ii) The Board may require a covered company to include one or more additional components in its adverse and severely adverse scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Additional scenarios.* The Board may require a covered company to use one or more additional scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(4) *Notice and response*—(i) *Notification of additional component.* If the Board requires a covered company to include one or more additional components in its adverse and severely adverse scenarios under paragraph (b)(2) of this section or to use one or more additional scenarios under paragraph (b)(3) of this section, the Board will notify the company in writing. For the stress test cycle beginning October 1, 2014, the Board will provide such notification no later than September 30, 2014, and for each stress test cycle beginning thereafter, the Board will provide such notification no later than December 31 of the preceding calendar year. The notification will include a general description of the additional component(s) or additional scenario(s) and the basis for requiring the company to include the additional component(s) or additional scenario(s).

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under this paragraph, the covered company may request in writing that the Board reconsider the requirement that the company include the additional component(s) or additional scenario(s), including an explanation as to why the reconsideration should be granted.

(iii) *Description of component.* The Board will respond in writing within 14 calendar days of receipt of the company's request. The Board will provide the covered company with a description of any additional component(s) or additional scenario(s) by December 1, 2014 (for the stress test cycle beginning October 1, 2014) and by March 1 (for each stress test cycle beginning thereafter).

§ 252.55 Mid-cycle stress test.

(a) *Mid-cycle stress test requirement.* In addition to the stress test required under § 252.54, a covered company must conduct a mid-cycle stress test. For the stress test cycle beginning October 1, 2014, the mid-cycle stress test must be conducted by July 5 based on data as of March 31 of that calendar year, unless the time or the as-of date is extended by the Board in writing. For each stress test cycle beginning thereafter, the stress test must be conducted by September 30 of each calendar year based on data as of June 30 of that calendar year, unless the time or the as-of date is extended by the Board in writing.

(b) *Scenarios related to mid-cycle stress tests*—(1) *In general.* A covered company must develop and employ a minimum of three scenarios, including a baseline scenario, adverse scenario, and severely adverse scenario, that are appropriate for its own risk profile and operations, in conducting the stress test required by this section.

(2) *Additional components.* The Board may require a covered company to include one or more additional components in its adverse and severely adverse scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(3) *Additional scenarios.* The Board may require a covered company to use one or more additional scenarios in the stress test required by this section based on the company's financial condition, size, complexity, risk profile, scope of operations, or activities, or risks to the U.S. economy.

(4) *Notice and response*—(i) *Notification of additional component.* If the Board requires a covered company to include one or more additional components in its adverse and severely adverse scenarios under paragraph (b)(2) of this section or one or more additional scenarios under paragraph (b)(3) of this section, the Board will notify the company in writing. For the stress test cycle beginning October 1, 2014, the Board will provide such notification no later than March 31, and for each stress test cycle beginning thereafter, the Board will provide such notification no later than June 30. The notification will include a general description of the additional component(s) or additional scenario(s) and the basis for requiring the company to include the additional component(s) or additional scenario(s).

(ii) *Request for reconsideration and Board response.* Within 14 calendar days of receipt of a notification under this paragraph, the covered company may request in writing that the Board reconsider the requirement that the company include the additional component(s) or additional scenario(s), including an explanation as to why the reconsideration should be granted. The Board will respond in writing within 14 calendar days of receipt of the company's request.

(iii) *Description of component.* The Board will provide the covered company with a description of any additional component(s) or additional scenario(s) by June 1 (for the stress test cycle beginning October 1, 2014) and by September 1 (for each stress test cycle beginning thereafter).

§ 252.56 Methodologies and practices.

(a) *Potential impact on capital.* In conducting a stress test under §§ 252.54 and 252.55, for each quarter of the planning horizon, a covered company must estimate the following for each scenario required to be used:

(1) Losses, pre-provision net revenue, provision for loan and lease losses, and net income; and

(2) The potential impact on pro forma regulatory capital levels and pro forma capital ratios (including regulatory capital ratios, the tier 1 common ratio, and any other capital ratios specified by the Board), incorporating the effects of any capital actions over the planning horizon and maintenance of an allowance for loan losses appropriate for credit exposures throughout the planning horizon.

(b) *Assumptions regarding capital actions.* In conducting a stress test under §§ 252.54 and 252.55, a covered company is required to make the following assumptions regarding its capital actions over the planning horizon:

(1) For the first quarter of the planning horizon, the covered company must take into account its actual capital actions as of the end of that quarter; and

(2) For each of the second through ninth quarters of the planning horizon, the covered company must include in the projections of capital:

(i) Common stock dividends equal to the quarterly average dollar amount of common stock dividends that the company paid in the previous year (that is, the first quarter of the planning horizon and the preceding three calendar quarters);

(ii) Payments on any other instrument that is eligible for inclusion in the numerator of a regulatory capital ratio equal to the stated dividend, interest, or principal due on such instrument during the quarter;

(iii) An assumption of no redemption or repurchase of any capital instrument that is eligible for inclusion in the numerator of a regulatory capital ratio; and

(iv) An assumption of no issuances of common stock or preferred stock, except for issuances related to expensed employee compensation.

(c) *Controls and oversight of stress testing processes*—(1) *In general.* The senior management of a covered company must establish and maintain a system of controls, oversight, and documentation, including policies and procedures, that are designed to ensure that its stress testing processes are effective in meeting the requirements in this subpart. These policies and procedures must, at a minimum, describe the covered company's stress testing practices and methodologies, and processes for validating and updating the company's stress test practices and methodologies consistent with applicable laws, regulations, and supervisory guidance. Policies of covered companies must also describe processes for scenario development for the mid-cycle stress test required under § 252.55.

(2) *Oversight of stress testing processes.* The board of directors, or a committee thereof, of a covered company must review and approve the policies and procedures of the stress testing processes as frequently as economic conditions or the condition of the covered company may warrant, but no less than annually. The board of directors and senior management of the covered company must receive a summary of the results of any stress test conducted under this subpart.

(3) *Role of stress testing results.* The board of directors and senior management of each covered company must consider the results of the analysis it conducts under this subpart, as appropriate:

(i) As part of the covered company's capital plan and capital planning process, including when making changes to the covered company's capital structure (including the level and composition of capital);

(ii) When assessing the covered company's exposures, concentrations, and risk positions; and

(iii) In the development or implementation of any plans of the covered company for recovery or resolution.

§ 252.57 Reports of stress test results.

(a) *Reports to the Board of stress test results.* (1) A covered company must report the results of the stress test required under § 252.54 to the Board in

the manner and form prescribed by the Board. For the stress test cycle beginning October 1, 2014, such results must be submitted by January 5, unless that time is extended by the Board in writing. For each stress test cycle beginning thereafter, such results must be submitted by April 5, unless that time is extended by the Board in writing.

(2) A covered company must report the results of the stress test required under § 252.55 to the Board in the manner and form prescribed by the Board. For the stress test cycle beginning October 1, 2014, such results must be submitted by July 5, unless that time is extended by the Board in writing. For each stress test cycle beginning thereafter, such results must be submitted by October 5, unless that time is extended by the Board in writing.

(b) *Confidential treatment of information submitted.* The confidentiality of information submitted to the Board under this subpart and related materials shall be determined in accordance with applicable exemptions under the Freedom of Information Act (5 U.S.C. 552(b)) and the Board's Rules Regarding Availability of Information (12 CFR part 261).

§ 252.58 Disclosure of stress test results.

(a) *Public disclosure of results*—(1) *In general.* (i) A covered company must publicly disclose a summary of the results of the stress test required under § 252.54 within the period that is 15 days after the Board publicly discloses the results of its supervisory stress test of the covered company pursuant to § 252.46(c), unless that time is extended by the Board in writing.

(ii) A covered company must publicly disclose a summary of the results of the stress test required under § 252.55. For the stress test cycle beginning October 1, 2014, this disclosure must occur in the period beginning July 5 and ending July 20, unless that time is extended by the Board in writing. For all stress test cycles beginning thereafter, this disclosure must occur in the period beginning October 5 and ending October 20, unless that time is extended by the Board in writing.

(2) *Disclosure method.* The summary required under this section may be disclosed on the Web site of a covered company, or in any other forum that is reasonably accessible to the public.

(b) *Summary of results.* The summary results must, at a minimum, contain the following information regarding the severely adverse scenario:

(1) A description of the types of risks included in the stress test;

(2) A general description of the methodologies used in the stress test, including those employed to estimate losses, revenues, provision for loan and lease losses, and changes in capital positions over the planning horizon;

(3) Estimates of—

(i) Pre-provision net revenue and other revenue;

(ii) Provision for loan and lease losses, realized losses or gains on available-for-sale and held-to-maturity securities, trading and counterparty losses, and other losses or gains;

(iii) Net income before taxes;

(iv) Loan losses (dollar amount and as a percentage of average portfolio balance) in the aggregate and by subportfolio, including: domestic closed-end first-lien mortgages; domestic junior lien mortgages and home equity lines of credit; commercial and industrial loans; commercial real estate loans; credit card exposures; other consumer loans; and all other loans; and

(v) Pro forma regulatory capital ratios and the tier 1 common ratio and any other capital ratios specified by the Board;

(4) An explanation of the most significant causes for the changes in regulatory capital ratios and the tier 1 common ratio; and

(5) With respect to any depository institution subsidiary that is subject to stress testing requirements pursuant to 12 U.S.C. 5365(i)(2), as implemented by subpart B of this part, 12 CFR part 46 (OCC), or 12 CFR part 325, subpart C (FDIC), changes over the planning horizon in regulatory capital ratios and any other capital ratios specified by the Board and an explanation of the most significant causes for the changes in regulatory capital ratios.

(c) *Content of results.* (1) The following disclosures required under paragraph (b) of this section must be on a cumulative basis over the planning horizon:

(i) Pre-provision net revenue and other revenue;

(ii) Provision for loan and lease losses, realized losses/gains on available-for-sale and held-to-maturity securities, trading and counterparty losses, and other losses or gains;

(iii) Net income before taxes; and

(iv) Loan losses in the aggregate and by subportfolio.

(2) The disclosure of pro forma regulatory capital ratios, the tier 1 common ratio, and any other capital ratios specified by the Board that is required under paragraph (b) of this section must include the beginning value, ending value, and minimum value of each ratio over the planning horizon.

Subpart O—Enhanced Prudential Standards for Foreign Banking Organizations With Total Consolidated Assets of $50 Billion or More and Combined U.S. Assets of $50 Billion or More

■ 8. In § 252.153, revise paragraph (e) to read as follows:

§ 252.153 U.S. intermediate holding company requirement for foreign banking organizations with U.S. non-branch assets of $50 billion or more.

* * * * *

(e) *Enhanced prudential standards for U.S. intermediate holding companies*—(1) *Applicability*—(i) *Ongoing application.* Subject to the initial applicability provisions in paragraph (e)(1)(ii) of this section, a U.S. intermediate holding company must comply with the capital, risk management, and liquidity requirements set forth in paragraphs (e)(2)(i), (e)(3), and (e)(4) of this section beginning on the date it is required to be established, comply with the capital plan requirements set forth in paragraph (e)(2)(ii) of this section in accordance with § 225.8(c)(2), and comply with the stress test requirements set forth in paragraph (e)(5) beginning with the stress test cycle the calendar year following that in which it becomes subject to regulatory capital requirements.

(ii) *Initial applicability*—(A) *General.* A U.S. intermediate holding company required to be established by July 1, 2016 must comply with the risk-based capital, risk management, and liquidity requirements set forth in paragraphs (e)(2)(i), (e)(3), and (e)(4) of this section beginning on July 1, 2016, and comply with the capital planning requirements set forth in (e)(2)(ii) of this section in accordance with § 225.8(c)(2).

(B) *Transition provisions for leverage.* (1) A U.S. intermediate holding company required to be established by July 1, 2016 must comply with the leverage capital requirements set forth in paragraph (e)(2)(i) of this section beginning on January 1, 2018, provided that each subsidiary bank holding company and insured depository institution controlled by the foreign banking organization immediately prior to the establishment or designation of the U.S. intermediate holding company, and each bank holding company and insured depository institution acquired by the foreign banking organization after establishment of the intermediate holding company, is subject to leverage capital requirements under 12 CFR part 217 until December 31, 2017.

(2) The Board may accelerate the application of the leverage ratio to a

U.S. intermediate holding company if it determines that the foreign banking organization has taken actions to evade the application of this subpart.

(C) *Transition provisions for stress testing.* (*1*) A U.S. intermediate holding company required to be established by July 1, 2016 must comply with the stress test requirements set forth in paragraph (e)(5) of this section beginning on January 1, 2018, provided that each subsidiary bank holding company and insured depository institution controlled by the foreign banking organization immediately prior to the establishment or designation of the U.S. intermediate holding company, and each bank holding company and insured depository institution acquired by the foreign banking organization after establishment of the intermediate holding company, must comply with the stress test requirements in subparts B, E, or F of this subpart, as applicable, until December 31, 2017.

■ 9. Appendix A to part 252 is amended by:

■ a. Redesignating footnotes 21 through 40 as footnotes 1 through 20.

■ b. Revising Footnotes 1, 2, 9, 19, and 20; and

■ c. Revising paragraphs 1.b, 2.a, and 7.a

The revisions read as follows:

Appendix A to Part 252—Policy Statement on the Scenario Design Framework for Stress Testing

* * * * *

1. Background

[1] 12 U.S.C. 5365(i)(1), 12 CFR part 252, subpart E.

[2] 12 U.S.C. 5365(i)(2); 12 CFR part 252, subparts B and F.

* * * * *

[9] 12 CFR 252.14(b), 12 CFR 252.44(b), 12 CFR 252.54(b).

* * * * *

[19] 12 CFR 252.55.

[20] 12 CFR 252.55.

b. The stress test rules provide that, for the stress test cycle beginning October 1, 2014, the Board will notify covered companies by no later than November 15, 2014 of the scenarios it will use to conduct its annual supervisory stress tests and the scenarios that covered companies must use to conduct their annual company-run stress tests.[4] For each stress test cycle beginning thereafter, the Board will provide a description of these scenarios to covered companies by no later than February 15 of that calendar year. Under the stress test rules, the Board may require certain companies to use additional components in the adverse or severely adverse scenario or additional scenarios.[5] For example, the Board expects to require large banking organizations with significant trading activities to include a trading and counterparty component (market shock, described in the following sections) in their adverse and severely adverse scenarios. The Board will provide any additional components or scenario by no later than December 1 of each year.[6] The Board expects that the scenarios it will require the companies to use will be the same as those the Board will use to conduct its supervisory stress tests (together, stress test scenarios).

* * * * *

2. Overview and Scope

a. This policy statement provides more detail on the characteristics of the stress test scenarios and explains the considerations and procedures that underlie the approach for formulating these scenarios. The considerations and procedures described in this policy statement apply to the Board's stress testing framework, including to the stress tests required under 12 CFR part 252, subparts E, F, and G, as well as the Board's capital plan rule (12 CFR 225.8).[8]

* * * * *

7. Timeline for Scenario Publication

a. The Board will provide a description of the macroeconomic scenarios by no later than November 15, 2014 (for the stress test cycle beginning October 1, 2014) and no later than February 15 (for each stress test cycle beginning thereafter). During the period immediately preceding the publication of the scenarios, the Board will collect and consider information from academics, professional forecasters, international organizations, domestic and foreign supervisors, and other private-sector analysts that regularly conduct stress tests based on U.S. and global economic and financial scenarios, including analysts at the covered companies. In addition, the Board will consult with the FDIC and the OCC on the salient risks to be considered in the scenarios. For the stress test cycle beginning October 1, 2014, the Board expects to conduct this process in July and August of 2014 and to update the scenarios based on incoming macroeconomic data releases and other information through the end of October. For each stress test cycle beginning thereafter, the Board expects to conduct this process in October and November of each year and to update the scenarios based on incoming macroeconomic data releases and other information through the end of January.

* * * * *

By order of the Board of Governors of the Federal Reserve System, June 12, 2014.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2014–14357 Filed 6–30–14; 8:45 am]

BILLING CODE 6210–01–P

[4] 12 CFR 252.44(b), 12 CFR 252.54(b). For the stress test cycle beginning October 1, 2014, the annual company-run stress tests use data as of September 30 of each calendar year. For each stress test cycle beginning thereafter, the annual company-run stress tests use data as of December 31 of each calendar year.

[5] *Id.*

[6] *Id.*

[8] The Board may determine that modifications to the approach are appropriate, for instance, to address a broader range of risks, such as, operational risk.

FEDERAL REGISTER

Vol. 79 Tuesday,

No. 126 July 1, 2014

Part IV

Federal Communications Commission

47 CFR Part 8

Protecting and Promoting the Open Internet; Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 8

[WC Docket No. 14–28, FCC 14–61]

Protecting and Promoting the Open Internet

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Communications Commission initiates a rulemaking seeking public comment on how best to protect and promote an open Internet following the D.C. Circuit Court of Appeals' remand of portions of the Commission's *2010 Open Internet Order,* 76 FR 59192 (Sept. 23, 2011). In this document, among other things, we propose enhancements to the transparency rule, adopting the text of the no-blocking rule from the *Open Internet Order* with a revised rationale, and creating a separate screen that requires broadband providers to adhere to an enforceable legal standard of commercially reasonable practices. The proposed rules and the comment process that follows will help the Commission determine the right public policy to ensure that the Internet remains open.

DATES: Submit comments on or before July 15, 2014. Submit reply comments on or before September 10, 2014. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before September 2, 2014.

ADDRESSES: You may submit comments, identified by WC Docket No. 14–28, by any of the following methods:

- *Federal Communications Commission's Web site: http://fjallfoss.fcc.gov/ecfs2/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

FOR FURTHER INFORMATION CONTACT: Kristine Fargotstein, Competition Policy Division, Wireline Competition Bureau, at (202) 418–2774 or by email at *Kristine.Fargotstein@fcc.gov.* To submit Paperwork Reduction Act (PRA) comments, send an email to *PRA@fcc.gov.* For further information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Les Smith at (202) 418–0217.

SUPPLEMENTARY INFORMATION: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington DC 20554.
- People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Synopsis

In this Notice of Proposed Rulemaking (NPRM), we address the D.C. Circuit Court of Appeals' remand of portions of the Commission's 2010 *Open Internet Order* and seek comment on the right public policy to ensure that the Internet remains open.

I. Introduction

1. The Internet is America's most important platform for economic growth, innovation, competition, free expression, and broadband investment and deployment. As a ''general purpose technology,'' the Internet has been, and remains to date, the preeminent 21st century engine for innovation and the economic and social benefits that follow. These benefits flow, in large part, from the open, end-to-end architecture of the Internet, which is characterized by low barriers to entry for developers of new content, applications, services, and devices and a consumer-demand-driven marketplace for their products. As the Commission explained in its 2010 *Open Internet Order,* the Internet's open architecture allows innovators and consumers at the edges of the network ''to create and determine the success or failure of content, applications, services and devices,'' without requiring permission from the broadband provider to reach end users. As an open platform, it fosters diversity and it enables people to build communities.

2. We start with a fundamental question: What is the right public policy to ensure that the Internet remains open? This Notice of Proposed Rulemaking (NPRM), and the comment process that follows, will turn on this fundamental question.

3. Today, there are no legally enforceable rules by which the Commission can stop broadband providers from limiting Internet openness. This NPRM begins the process of closing that gap, by proposing to reinstitute the no-blocking rule adopted in 2010 and creating a new rule that would bar commercially unreasonable actions from threatening Internet openness (as well as enhancing the transparency rule that is currently in effect).

4. The goal of this proceeding is to find the best approach to protecting and promoting Internet openness. Per the blueprint offered by the D.C. Circuit in its decision in *Verizon v. FCC,* the Commission proposes to rely on Section 706 of the Telecommunications Act of 1996. At the same time, the Commission will seriously consider the use of Title II of the Communications Act as the basis for legal authority. This Notice seeks comment on the benefits of both Section 706 and Title II, including the benefits of one approach over the other. Under all available sources of legal authority (including also Title III for mobile services), the Commission seeks

comment on the best ways to define, prevent and punish the practices that threaten an open Internet. We emphasize in this Notice that the Commission recognizes that both Section 706 and Title II are viable solutions and seek comment on their potential use.

5. It is important to always remember that the Internet is a collection of networks, not a single network. And that means that each broadband provider can either add to the benefits that the Internet delivers to Americans—by maintaining Internet openness and by extending the reach of broadband networks—or it can threaten those benefits—by restricting its customers from the Internet and preventing edge providers from reaching consumers over robust, fast and continuously improving networks. This is a real threat, not merely a hypothetical concern.

6. In its 2010 *Order,* the Commission found that providers of broadband Internet access service had three types of incentives to limit Internet openness. First, broadband providers may have economic incentives to block or disadvantage a particular edge provider or class of edge providers. Second, broadband providers may have incentives to increase revenues by charging edge providers for access or prioritized access to the broadband provider's end users. In particular, excessive fees could reduce edge provider entry, suppress innovation, and depress consumer demand. Third, if providers could profitably charge edge providers they would have an incentive ''to degrade or decline to increase the quality of service they provide to non-prioritized traffic.''

7. Those threats are even more important today because Americans and American businesses have become even more dependent on the Internet. For example, according to the Pew Research Internet Project, as of January 2014, 87 percent of Americans used the Internet, compared to 14 percent in 1995. And it is a critical route of commerce, supporting an e-commerce marketplace that now boasts U.S. revenues of $263.3 billion.

8. Of particular concern are threats to American innovation. In ''the end-to-end architecture, different economic actors can independently choose their innovation projects.'' Innovation is the chief driver of American economic growth, which means that all Americans lose if the opportunity to innovate is curbed. For example, an economic study originally released in February 2012 and updated in July 2013 reported that the app economy is responsible for roughly 752,000 jobs in the United States, which is an increase from zero in 2007 when the iPhone was introduced. But equally important are the jobs that could be—but might not be—created if edge innovation and investment were to be chilled by doubt that the Internet will remain open or, even worse, if openness were defeated.

9. Although the Commission has emphasized for almost a decade the importance of legally enforceable standards, the United States Court of Appeals for the District of Columbia Circuit has twice invalidated the Commission's attempts, most recently in *Verizon* v. *FCC*, decided this January. It is in the absence of these protections for the open Internet that the Commission must act to ensure that new legally enforceable rules are put in place. That is a gap that must be closed as quickly as possible.

10. The remainder of the NPRM proceeds as follows. First, we generally propose to retain the definitions and scope of the 2010 rules. Second, we tentatively conclude that the Commission should enhance the transparency rule that was upheld by the D.C. Circuit so that the public and the Commission have the benefit of sunlight on broadband provider actions and to ensure that consumers and edge providers—indeed, the Internet community at large—have the information they need to understand the services they are receiving and to monitor practices that could undermine the open Internet. Third, we tentatively conclude that the Commission should adopt the text of the no-blocking rule from the *Open Internet Order* with a revised rationale, in order to ensure that all end users and edge providers can enjoy the use of robust, fast and dynamic Internet access. Fourth, and where conduct would otherwise be permissible under the no-blocking rule, we propose to create a separate screen that requires broadband providers to adhere to an enforceable legal standard of commercially reasonable practices, asking how harm can best be identified and prohibited and whether certain practices, like paid prioritization, should be barred altogether. Fifth, we propose a multi-faceted dispute resolution process to provide effective access for end users, edge providers, and broadband network providers alike and the creation of an ombudsperson to act as a watchdog to represent the interests of consumers, start-ups, and small businesses. Sixth, and finally, we ask how either Section 706 or Title II (or other sources of legal authority such as Title III for mobile services) could be applied to ensure that the Internet remains open.

II. Background

11. Today's NPRM rests upon over a decade of consistent action by the Commission to protect and promote the Internet as an open platform for innovation, competition, economic growth, and free expression. At the core of all of these Commission efforts has been a view endorsed by four Chairmen and a majority of the Commission's members in office during that time: That FCC oversight is essential to protect the openness that is critical to the Internet's success. In recognition of this, the Commission has demonstrated a steadfast commitment to safeguarding that openness.

12. In 2004, former Chairman Michael Powell first articulated basic guiding principles for preserving Internet freedom in an address at Silicon Flatirons. Chairman Powell recognized that ''consumers' hunger for an ever-expanding array of high-value content, applications, and devices'' fueled investment in broadband networks as the ''impressive generators of economic growth, innovation, and empowerment.'' He explained that ''ensuring that consumers can obtain and use the content, applications and devices they want . . . is critical to unlocking the vast potential of the broadband Internet.''

13. A year later, reinforcing Chairman Powell's guidance, the Commission unanimously approved the *Internet Policy Statement* setting forth four general Internet policy principles intended ''[t]o encourage broadband deployment and preserve and promote the open and interconnected nature of the Internet.'' Specifically, subject to ''reasonable network management,'' the principles entitle consumers to (1) ''access the lawful Internet content of their choice;'' (2) ''run applications and use services of their choice, subject to the needs of law enforcement;'' (3) ''connect their choice of legal devices that do not harm the network;'' and (4) enjoy ''competition among network providers, application and service providers, and content providers.''

14. The Commission incorporated these open Internet principles in a series of merger proceedings. In 2005, the Commission conditioned approval of the SBC/AT&T and Verizon/MCI mergers on the merged entities' compliance with the *Internet Policy Statement.* Although the Commission did not adopt any formal open Internet conditions on the Adelphia/Time Warner/Comcast transactions, the Commission made clear that its *Internet*

Policy Statement ''contains principles against which the conduct of Comcast [and] Time Warner . . . can be measured.'' So too, in 2006, the Commission accepted the AT&T and BellSouth commitment to ''maintain a neutral network and neutral routing in [the merged entity's] wireline broadband Internet access service,'' as a formal condition of the merger. Likewise, in the 2011 Comcast-NBCU merger, the Commission adopted the commitments of the merged entity to not ''prioritize affiliated Internet content over unaffiliated Internet content . . . [or] treat affiliated network traffic differently from unaffiliated network traffic'' as well as to comply with the Commission's open Internet rules, regardless of the effect of ''any judicial challenge'' affecting those rules.

15. The Commission likewise incorporated openness principles for mobile services, adopting an open platform requirement for licensees in the Upper 700 MHz C Block in 2007. Specifically, the rules require Upper 700 MHz C-Block licensees to allow customers, device manufacturers, third-party application developers, and others to use or develop the devices and applications of their choice for Upper 700 MHz C-Block networks, provided those devices and applications meet all applicable regulatory requirements and comply with reasonable conditions related to management of the wireless network (i.e., do not cause harm to the network). Further, the Commission prohibited Upper 700 MHz C-Block licensees from disabling features or functionality in handsets where such action is not related to reasonable network management and protection, or compliance with applicable regulatory requirements.

16. Also in 2007, the Commission unanimously adopted the *Broadband Industry Practices Notice of Inquiry,* explaining that vigilance and a willingness to act were necessary to keep the Internet open. The *Broadband Industry Practices Notice* specifically sought comment on whether the *Internet Policy Statement* should be amended or expanded.

17. Meanwhile, the Commission applied open Internet principles in the context of particular enforcement proceedings. Just before the Commission adopted the *Internet Policy Statement,* the Enforcement Bureau had entered into a consent decree with Madison River Communications, a telephone company and provider of digital subscriber line (DSL) service, arising from complaints by Vonage that Madison River was blocking ports that were typically used by Vonage customers to make Voice over Internet Protocol (VoIP) telephone calls. The consent decree required Madison River to stop blocking VoIP ports and refrain from otherwise inhibiting customers from using the VoIP applications of their choice.

18. In 2007, several parties filed complaints with the Commission alleging that Comcast was interfering with its customers' use of peer-to-peer applications in violation of the *Internet Policy Statement.* Such applications allow users to share large files directly with one another without going through a central server, but also can consume significant amounts of bandwidth. In response, Comcast asserted that its conduct was a reasonable network management practice necessary to ease congestion. The Commission disagreed and, in a 2008 Order, concluded that the company's practice ''contravene[d] . . . federal policy'' by ''significantly imped[ing] consumers' ability to access the content and use the applications of their choice.'' As the Commission explained, Comcast's ''practice unduly squelch[ed] the dynamic benefits of an open and accessible Internet,'' harm that was further compounded by Comcast's failure to disclose its practice to its customers. In the *Comcast Order,* the Commission asserted ancillary jurisdiction under Title I of the Communications Act and concluded that it could resolve the dispute through adjudication rather than rulemaking.

19. Comcast challenged that decision in the D.C. Circuit, arguing (among other things) that the Commission lacked authority to prohibit a broadband Internet service provider from engaging in discriminatory practices that violate the four principles the Commission announced in 2005. On April 6, 2010, the D.C. Circuit granted Comcast's petition for review and vacated the Commission's enforcement decision. As to Section 706 of the Telecommunications Act of 1996, the court noted that the agency had previously interpreted Section 706 as not constituting a grant of authority and held that the Commission was bound by that interpretation for purposes of the case.

20. While the Comcast case was pending, the Commission issued a Notice of Proposed Rulemaking seeking comment on whether the Commission should codify the four principles stated in the *Internet Policy Statement,* plus proposed nondiscrimination and transparency rules, all subject to reasonable network management.

21. In December 2010, the Commission released the *Open Internet Order,* adopting three basic rules grounded in the Commission's prior decisions and broadly accepted Internet norms. First, the *Order* imposed a transparency rule, requiring both fixed and mobile providers to ''publically disclose accurate information regarding the network management practices, performance, and commercial terms'' of their broadband Internet access service. The rule specified that such disclosures be ''sufficient for consumers to make informed choices regarding the use of such services and for content, application, service, and device providers to develop, market, and maintain Internet offerings.'' Second, the *Order* adopted anti-blocking requirements. The rule barred fixed providers from blocking ''lawful content, applications, services, or non-harmful devices subject to reasonable network management.'' It prohibited mobile providers from blocking ''consumers from accessing lawful Web sites,'' as well as ''applications that compete with the provider's voice or video telephony services,'' subject to ''reasonable network management.'' Third, the *Order* adopted an anti-discrimination rule for fixed providers, barring them from ''unreasonably discriminat[ing] in transmitting lawful network traffic,'' subject to ''reasonable network management.''

22. Verizon challenged the *Open Internet Order* in the D.C. Circuit on several grounds. It argued that the Commission lacked statutory authority to adopt the rules, that the blocking and non-discrimination rules violated the Communications Act by imposing common carriage regulation on an information service, that the *Order* was arbitrary and capricious, and that the rules violated the First and Fifth Amendments to the U.S. Constitution.

23. On January 14, 2014, the D.C. Circuit ruled on Verizon's challenge to the *Open Internet Order.* As discussed further below, the court upheld the Commission's reading that Sections 706(a) and (b) of the Telecommunications Act grant the Commission affirmative authority to encourage and accelerate the deployment of broadband capability to all Americans through, among other things, measures that promote competition in the local telecommunications market or remove barriers to infrastructure investment. The court further held that the Commission could utilize that Section 706 authority to regulate broadband Internet access service. It concluded that the Commission had adequately justified the adoption of open Internet rules by finding that such rules would preserve and facilitate the ''virtuous

circle'' of innovation, demand for Internet services, and deployment of broadband infrastructure and that, absent such rules, broadband providers would have the incentive and ability to inhibit that deployment. The court therefore rejected Verizon's challenge to the transparency rule. However, the court struck down the ''anti-blocking'' and ''anti-discrimination'' rules, explaining that the Commission had chosen an impermissible mechanism by which to implement its legitimate goals. Specifically, the court held that the Commission had imposed *per se* common carriage requirements on providers of Internet access services. Such treatment was impermissible because the Commission had classified fixed broadband Internet access service as an information service, not a telecommunications service, and had classified mobile broadband Internet access service as a private mobile service rather than a commercial mobile service. The court remanded the case to the Commission for further proceedings consistent with its opinion.

24. Today, we respond directly to that remand and propose to adopt enforceable rules of the road, consistent with the court's opinion, to protect and promote the open Internet. As the above history demonstrates, our action builds on the foundation begun under Chairman Powell, continued under Chairmen Martin and Genachowski, and reinforced by a decade of Commission policy.

III. Discussion

A. The Continuing Need for Open Internet Protections

1. An Open Internet Promotes Innovation, Competition, Free Expression, and Infrastructure Deployment

25. In the *Open Internet Order,* the Commission reiterated the conclusion underlying its prior policies—that the Internet's openness promotes innovation, investment, competition, free expression and other national broadband goals. The Commission also found that the Internet's openness is critical to its ability to serve as a platform for speech and civic engagement and can help close the digital divide by facilitating the development of diverse content, applications, and services. Further, the *Order* found that the benefits of Internet openness—increased consumer choice, freedom of expression, and innovation—applied to end users accessing the Internet using mobile services as well as fixed services.

26. In the *Open Internet Order,* the Commission specifically found that the Internet's openness enabled a ''virtuous circle of innovation in which new uses of the network—including new content, applications, services, and devices—lead to increased end-user demand for broadband, which drives network improvements, which in turn lead to further innovative network uses.'' For example, the Commission explained that innovative streaming video applications and independent sources of video content have spurred end-user demand, which, in turn, has led to network investments and increased broadband deployment. By contrast, the Commission reasoned, ''[r]estricting edge providers' ability to reach end users, and limiting end users' ability to choose which edge providers to patronize, would reduce the rate of innovation at the edge and, in turn, the likely rate of improvements to network infrastructure.'' As discussed further below, the Commission found that, despite the advantages of the virtuous circle, broadband providers have short-term incentives to limit openness, generating harms to edge providers and users, among others. Thus, the risk of broadband provider practices that may reward them in the short term but over the long run erode Internet openness threatens to slow or even break the virtuous circle—chilling entry and innovation by edge providers, impeding competition in many sectors, dampening consumer demand, and deterring broadband deployment—in ways that may be irreversible or very costly to undo. Also, innovation that does not occur due to lack of Internet openness may be hard to detect.

27. The *Open Internet Order* acknowledged that there were tradeoffs to consider in adopting the 2010 rules. The Commission concluded, however, that any small costs of imposing the rules were outweighed by the positive effect on network investment from the preservation of the openness that drives the virtuous circle, as well as the increased certainty in continued openness under the rules.

28. The D.C. Circuit held that ''the Commission [had] more than adequately supported and explained its conclusion that edge provider innovation leads to the expansion and improvement of broadband infrastructure.'' The court also found ''reasonable and grounded in substantial evidence'' the Commission's finding that Internet openness fosters the edge provider innovation that drives the virtuous circle.

29. We believe that these findings, made by the Commission in 2010 and upheld by the court, remain valid. If anything, the remarkable increases in investment and innovation seen in recent years—while the rules were in place—appear to have borne out much of the Commission's view. Both within the network and at its edges, investment and innovation have flourished while the open Internet rules were in force.

30. According to a June 2013 report by the White House Office of Science and Technology Policy, for example, nearly $250 billion in private capital has been invested in U.S. wired and wireless broadband networks since 2009. USTelecom reports that broadband capital expenditures have risen steadily, from $64 billion in 2009 to $68 billion in 2012. Wireline providers alone invested $25 billion in 2012. And venture capital financing of ''Internet-specific'' businesses has doubled in the past four years, from $3.5 billion in 2009 to $7.1 billion in 2013. Annual investment in U.S. wireless networks grew more than 40 percent between 2009 and 2012, from $21 billion to $30 billion, and exceeds investment by the major oil and gas or auto companies.

31. Whole new product markets have blossomed in recent years, and the market for applications has both diversified and exploded. A total of $8.33 billion has been raised since 2007 on mobile media ventures, a majority of the funds ($4.7 billion) to companies that provide software services, including mobile Web development, carrier-backend software, app development, and cloud-based services in the United States. In April 2010, Apple released the first version of the iPad, which launched the tablet market. The number of tablet users in the United States has increased from 9.7 million in 2010 to almost 70 million by the end of 2012, and is projected to grow to more than 160 million (approximately 50 percent of the U.S. population) by 2016. In 2013, over $1 billion in venture capital funding was invested in mobile media startups, and overall app use in 2013 posted 115 percent year-over-year growth. According to CTIA, in 2012 there were more than 20 independent non-carrier mobile application stores, offering over 3.5 million apps for 14 different operating systems. The Wall Street Journal reported in March 2013 that Apple and Google each offered about 700,000 apps, and that application sales were approaching $25 billion.

32. Finally, we have seen tremendous growth in the online voice and video markets. The number of hours Americans spend watching video over the Internet has grown 70 percent since June 2010. Between 2010 and 2013, revenues from online video services

grew 175 percent, from $1.86 billion to $5.12 billion. Real-time entertainment (that is, programming that is viewed as it is delivered, such as video streamed by Netflix and Hulu) grew from 42.7 percent of the downstream fixed access traffic at peak time (generally 8:00 p.m. to 10:00 p.m.) in 2010 to 67 percent of the downstream fixed access traffic at peak time by September 2013. VoIP usage has similarly continued to increase. The number of global over-the-top mobile VoIP subscribers increased by 550 percent in 2012.

33. We have also, however, witnessed a growing digital divide that threatens to undo the work of the Commission's open Internet policies. As certain cities get connected with fiber or other technologies capable of providing broadband speeds of 25 Mbps up to 1 Gigabit, rural America and even some parts of urban America are falling farther and farther behind. Recent data suggest that a majority of Americans living in urban areas (64 percent) have access to at least 25 Mbps/10 Mbps service, while only a substantial minority of Americans residing in rural areas (only 21 percent) have access to that same 25 Mbps/10 Mbps service. We are similarly concerned as to whether advanced networks are being deployed to all Americans in urban areas, as the construction of new networks, especially competitive networks, is an outcome that must be encouraged.

34. In light of developments in the Internet ecosystem since 2010, we wish to refresh the record on the importance of protecting and promoting an open Internet. We seek comment on the current role of the Internet's openness in facilitating innovation, economic growth, free expression, civic engagement, competition, and broadband investment and deployment. Particularly, we seek comment on the role the open Internet rules have had in investment in the broadband marketplace—networks and edge providers alike. We are similarly interested in understanding the role that the open Internet may play in the promotion of competition or in identifying barriers to infrastructure investment that an open Internet may eliminate or lessen. We also seek comment on the role that the open Internet has for public institutions, such as public and school libraries, research libraries, and colleges and universities.

35. Additionally, we seek comment on the impact of the openness of the Internet on free expression and civic engagement. For example, the percentage of Americans who use the Internet reached 87 percent in 2014—an increase of 8 percent from 2010, the year in which the *Open Internet Order* was adopted—marking ''explosive adoption'' that has had ''wide-ranging impacts on everything from: the way people get, share and create news . . . the way they learn; the nature of their political activity; their interactions with government; the style and scope of their communications with friends and family; and the way they organize in communities.'' In light of the important role that the Internet now plays as a vehicle for communication of all sorts—both for consumers and content providers—how should we consider the potential impact on social and personal expression of an Internet whose openness was not protected? For example, would there be particular impacts on political speech, on the ability of consumers to use the Internet to express themselves, or on the Internet's role as a ''marketplace of ideas'' that serves the interests of democracy in general, serving even the interests of those Americans who listen even if they do not actively speak? Are there other ways in which we should understand free-expression interests and whether they may be impaired by a lack of openness?

36. At the same time, we are mindful of the possible tradeoffs the Commission recognized at the time it adopted the *Open Internet Order.* When it adopted the rules in 2010, the Commission's primary focus was on the market between broadband providers and their end-user subscribers. The record contained no evidence of U.S. broadband providers engaging in pay-for-priority arrangements, in which the broadband provider would agree with a third party to directly or indirectly prioritize some traffic over other traffic to reach the provider's subscribers. As such, the Commission found that such arrangements would be a ''significant departure from historical and current practice.''

37. In the years since, this second side of the market—between broadband providers and edge providers or other third parties—has gotten increasing attention. In its arguments challenging the *Order,* Verizon expressed interest in pursuing commercial agreements with edge providers to govern the carriage of the edge providers' traffic. We also note that such arrangements between broadband and edge providers have begun to emerge. In January 2014, for example, AT&T launched a new sponsored data service, in which an edge provider enters an agreement with AT&T to sponsor and pay for data charges resulting from eligible uses of the sponsor's content by an AT&T mobile subscriber.

38. We seek comment on the potential for, and development of, new business arrangements in the market between broadband providers and edge providers. What does the multi-sided market look like, and what are its effects on Internet openness? Do some types of broadband and edge provider arrangements (or aspects of such arrangements) raise greater concerns about Internet openness than others?

2. Broadband Providers Have the Incentive and Ability To Limit Openness

39. The *Open Internet Order* found that broadband Internet providers had the incentives and ability to limit Internet openness, and that they had done so in the past. And the D.C. Circuit found that the Commission ''adequately supported and explained'' that absent open Internet rules, ''broadband providers represent a threat to Internet openness and could act in ways that would ultimately inhibit the speed and extent of future broadband deployment.'' As discussed further below, we seek to update the record to reflect marketplace, technical, and other changes since the 2010 *Open Internet Order* was adopted that may have either exacerbated or mitigated broadband providers' incentives and ability to limit Internet openness. We seek general comment on the Commission's approach to analyzing broadband providers' incentives and ability to engage in practices that would limit the open Internet, as well as more targeted comment as addressed below.

40. As noted above, the Commission has pursued policies to safeguard Internet openness for over a decade. Thus, while the number of existing cases has been relatively few, we believe this to be primarily due to the fact that the Commission has had policies in place during the period in question that it has been ready to enforce. This is different from the experience under the European legal framework, which for the most part has not contained rules or policies prohibiting blocking and discriminatory practices like the Commission's open Internet regulatory policies. In the absence of such rules and policies, commenters note more instances of broadband providers engaging in some level of restriction in Europe than the Commission has witnessed in the United States under its open Internet policies. The European Parliament voted to adopt net neutrality rules in April 2014 that will now be considered by the 28 European Union Member States in order to become binding regulation. To date, among European countries only the

Netherlands and Slovenia have net neutrality regulations. For example, a survey conducted by the Body of European Regulators for Electronic Communications (BEREC) shows that European Internet service providers reported engaging in specific restrictions such as traffic degradation as well as blocking and throttling when accessing ''specific applications (such as gaming, streaming, email or instant messaging service) and, to a much lesser extent, when [accessing] specific content and application providers.'' We seek comment on this analysis and ask whether there is some other explanation to account for this phenomenon.

41. We also note that concerns related to the open Internet rules and norms have continued to occur. For example, in 2012, the Commission reached a $1.25 million settlement with Verizon for refusing to allow tethering apps on Verizon smartphones, based on openness requirements attached to Verizon's Upper 700 MHz C-Block license. In the same year, consumers also complained when AT&T refused to permit Apple's FaceTime iPhone and iPad application to use its mobile network, restricting its use to times when the end user was connected to Wi-Fi and thus to another broadband provider, although the Commission did not conclude whether such a practice violated our open Internet principles. We seek identification of, and comment on, actions taken by broadband providers—both domestically and internationally—since the adoption of the *Open Internet Order* that have threatened or could potentially threaten the Internet's openness. How should such incidents inform how we craft our rules on remand?

a. Economic Incentives and Ability

42. In the *Open Internet Order,* the Commission found that providers of broadband Internet access service had multiple incentives to limit Internet openness. The *Order* concluded that the threat of broadband provider interference with Internet openness would be exacerbated by—but did not depend on—such providers possessing market power over potential subscribers in their choice of broadband provider. However, the Commission found that most residential customers have only one or two options for wireline broadband Internet access service, increasing the risk of market power, and found the future of mobile Internet access service as a competing substitute remained unclear. Moreover, the Commission emphasized that customers may incur significant costs in switching from one provider to another, thus creating ''terminating monopolies'' for content providers needing high-speed broadband service to reach end users.

43. The D.C. Circuit found that the Commission's assessment of broadband providers' incentives and economic ability to threaten Internet openness was not just supported by the record but also grounded in ''common sense and economic reality.'' It affirmed the Commission's conclusions that vertically integrated broadband providers have incentives to interfere with competitive services and that broadband providers generally have incentives to accept fees from edge providers. And the court cited with approval the Commission's conclusion that a broadband provider would be unlikely to fully account for the harms resulting from such practices. The court also upheld the agency's conclusion that such incentives could ''produce widespread interference with the Internet's openness in the absence of Commission action.'' Finally, the court agreed that the Commission need not engage in a market power analysis to justify its rules, explaining that broadband providers' ability to block or disadvantage edge providers depended on ''end users not being fully responsive to the imposition of such restrictions,'' not on ''the sort of market concentration that would enable them to impose substantial price increases on end users.''

44. We seek to update the record underlying the *Open Internet Order*'s conclusion that broadband providers have incentives and the economic ability to limit Internet openness in ways that threaten to weaken or break the virtuous circle. How have changes in the marketplace or technology since 2010 affected broadband providers incentives and economic ability to engage in such practices? To what extent do broadband providers today have economic incentives and mechanisms to block or disadvantage a particular edge provider or class of edge providers? To what extent do vertically integrated providers have particularized incentives to discriminate—on price, quality, or other bases—in favor of affiliated products? What are broadband providers' incentives to increase revenues by charging edge providers for access or prioritized access to the broadband provider's end users? Are there features of the Internet ecosystem that facilitate or impede a broadband provider's ability to internalize the harms caused by practices that limit openness? Are there justifications for charging fees to edge providers that were not present in 2010? We seek comment on these and other economic incentives and abilities that broadband providers may have to limit openness.

45. We generally seek comment on what economic tools broadband providers utilize to manage traffic on their networks. Broadband providers may address traffic management through commercial terms and conditions on end users, such as pricing for different levels of throughput or through the use of ''data caps.'' To what extent and in what ways do broadband providers use such tools to manage traffic, such as by excluding certain content from such an end user data cap? Might these tools be used to exploit market power or reduce competition?

46. In addition, we seek comment on end users' ability to switch providers if a particular broadband service does not meet their needs. What is the extent of switching costs, and how do switching costs affect the incentives and economic ability of providers to limit Internet openness? As discussed in the *Open Internet Order* and affirmed by the D.C. Circuit, both edge providers seeking access to end users and end users seeking access to edge providers are subject to the gatekeeper effect of a retail broadband provider. Absent multi-homing, an end user has only one option to reach a given edge provider's content. To reach any given end user, an edge provider must ensure that it or its broadband provider can reach the end user's broadband provider. Terms and conditions, price, or lack of other broadband providers, among other factors, can raise switching costs to the point where switching is inefficient, infeasible, or even impossible. We seek comment on these conclusions. To what extent do consumers face significant switching costs in choosing to change broadband access providers? Which services, if any, are most vulnerable to a broadband provider's market power because of the inability to effectively reach subscribers through other means? To the extent that such switching costs exist, to what extent, if any, are they exacerbated by additional factors, such as the difficulty consumers may have in effectively monitoring the extent to which edge providers have difficulty reaching them, the number of effective substitutes a consumer may have among broadband providers, or the impact of bundled pricing and switching costs attached to the purchase or use of bundled services, such as a combined offering of broadband access along with video services and voice telephony? Would all likely alternatives have similar incentives to limit openness, possibly for a different set of services? We also seek comment on an end user's ability to switch broadband providers in

response to specific broadband provider practice, for example a broadband provider's decision to charge an edge provider to reach the customer. Are switching costs relevant to an edge provider's interaction with a broadband provider and, if so, how? Finally, what are the implications when consumers have no ability to switch providers because there is only one provider offering service to the consumer's location?

47. We also seek comment on the state of competition in broadband Internet access service, and its effect on providers' incentives to limit openness. We seek comment on the appropriate view of whether broadband services with substantially different technical characteristics are competitive substitutes. For example, how should we regard the ability of DSL service with speeds of, for example, 3 Mbps downstream and 768 kbps upstream to constrain conduct by a provider of high-speed broadband with speeds of, for example, 25 Mbps downstream and 3 Mbps upstream (or higher)? How should we regard the geography of broadband competition? From an end user's point of view, do national practices or market shares have any impact on edge providers, without regard to the definition of a geographic market?

48. In the fixed broadband context, we have seen evidence of limited choice between broadband providers in many areas of the country. As the speed threshold increases to 6 Mbps downstream and 1.5 Mbps upstream, the number of households that are located in census tracts with at least three providers that report serving customers at those higher speeds dips down to a mere 34 percent. In many areas of the country, with respect to fixed Internet access, consumers may have only limited options, i.e., one or two fixed providers available. We seek comment on the extent to which commercial practices differ in places where consumers have only one choice of a wireline broadband provider, two choices, or more than two choices. We therefore also seek comment as to whether increased spectrum availability and technological developments in the mobile broadband marketplace, e.g., growth in 4G/LTE availability, would affect the market power of fixed broadband providers.

49. We further seek general comment on our approach towards analyzing broadband provider incentives. Under the Commission's reading, which the court upheld, our Section 706 authority is not predicated on a finding of market power, specifically, that broadband providers need not be found to be ''benefiting from the sort of market concentration that would enable them to impose substantial price increases on end users.'' Nor do we believe that the open Internet concerns described above solely arise in markets where broadband providers possess market power over subscriber prices. We recognize, however, that the presence or absence of market power—over broadband subscriptions, over end users once they have chosen a broadband provider, and over content providers who wish to reach those end users—may inform an understanding of a broadband provider's behavior in the Internet marketplace and its incentives to engage in practices that limit Internet openness. Thus, we seek comment on whether the Commission should engage in a market power analysis with respect to broadband providers and, if so, how we should go about that analysis.

50. We further seek comment on whether there are other economic theories that the Commission should consider to better understand and assess broadband providers' incentives to engage in practices that affect the Internet's openness. For example, do broadband providers have an incentive to extract rents from upstream services whose price significantly exceeds the marginal cost of delivering those services to an additional customer? Are there positive network effects from widespread adoption of broadband services by consumers that we should recognize? Do edge providers that incur significant sunk costs in the delivery of their output face ''lock-in'' problems if they become dependent on a particular pathway to their current or potential users? In the absence of open Internet protections, would those edge providers face uncertainty that would hamper their ability to attract capital? Does the trend towards the caching of content closer to end users either increase such lock-in problems or, separately, limit the number of pathways by which an edge provider's output can effectively reach current or potential end users? We seek comment on whether and how other theories and new evidence may supplement or supplant the original *Open Internet Order* analysis.

b. Technical Ability

51. The *Open Internet Order* likewise found that broadband providers have the technical ability to limit Internet openness. As the *Order* explained, increasingly sophisticated network management tools enable providers to identify and differentiate the treatment of traffic on their own broadband Internet access service networks. We recognize that broadband providers also have the ability to impact traffic and congestion in ways that go beyond the management of traffic within their networks. In particular, we understand that broadband providers also manage traffic in the context of their relationships with other autonomous networks. For example, traffic and congestion may be affected by interconnection arrangements for the exchange of Internet traffic between two networks as well as CDN-type arrangements in which third parties place equipment in or adjacent to the providers' network. As discussed in Section III.B, the rules we propose today reflect the scope of the 2010 *Open Internet Order,* which applied to broadband provider conduct within its own network. The D.C. Circuit agreed, finding ''little dispute that broadband providers have the technological ability to distinguish between and discriminate against certain types of Internet traffic.'' We seek comment on this general conclusion and on how this ability to impose restrictions on edge providers and end users has increased or decreased with further developments in technology or business practices since the *Open Internet Order.* We also seek comment on provider abilities that were not identified in the *Open Internet Order* or elsewhere in this NPRM, including identifying the particular ability and its relevance to this proceeding. For example, one commenter has expressed concern about broadband providers offering prioritized service in a manner that may harm rural or minority end users. Is it technically feasible for a broadband provider to block or degrade based on the location or neighborhood of the end user? Is it likely that it would do so? If so, how should our rules address this concern?

52. We seek comment on broadband providers' ability to limit Internet openness through management of traffic on their own networks and limitations imposed on their end users. Providers generally have the ability to manage traffic and congestion on their own networks and have developed a number of techniques to do so. For example, a provider can use technical methods like packet classification, admission control and resource reservation, rate control and traffic shaping, as well as packet dropping and packet scheduling to identify and manage traffic on its network. Such techniques may provide additional ability to discriminate in a way that is largely opaque to edge providers and end users. We note that other forms of discrimination in the Internet ecosystem may exist, but such conduct is beyond the scope of this

proceeding. We seek comment on the technical tools broadband providers can and do use to manage traffic on their networks.

53. The *Open Internet Order* found that providers had in fact used their ability to limit openness, citing several instances where broadband providers had been subject to Commission enforcement proceedings for violating open Internet norms. In the *Order,* the Commission cited the Madison River case, the Comcast-BitTorrent case, as well as various mobile wireless Internet providers' refusal to allow customers to use competitive payment applications, competitive voice applications, and remote video applications. The Commission also noted other allegations of blocking or degrading peer-to-peer traffic, but did not determine whether those specific practices violated open Internet principles. The D.C. Circuit noted these examples along with the Commission's as persuasive justification for adopting open Internet rules.

B. Scope of the Rules

54. The rules adopted in the *Open Internet Order* applied to ''broadband Internet access service,'' which was defined as:

> A mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. This term also encompasses any service that the Commission finds to be providing a functional equivalent of the service described in the previous sentence, or that is used to evade the protections set forth in this Part.

The *Order* defined ''mass market'' to mean a service marketed and sold on a standardized basis to residential customers, small businesses, and other end-user customers such as schools and libraries, including services purchased with support of the E-rate program.

55. The *Verizon* decision upheld the Commission's regulation of broadband Internet access service pursuant to Section 706 and did not disturb this aspect of the *Open Internet Order.* Thus, the definition of ''broadband Internet access service'' remains a part of the Commission's regulations. We tentatively conclude that we should retain this definition without modification. We seek comment on that conclusion. The court in *Verizon* also stated that, apart from the service provided to end users, ''broadband providers furnish a service to edge providers, thus undoubtedly functioning as edge providers' 'carriers.' '' We seek comment on whether this should be identified as a separate service and, if so, how we should define that service and what the regulatory consequences are, if any, of that definition.

56. We also seek comment on the following issues that arise in connection with the scope of the application of the rules we propose today.

57. *Specifically Identified Services.* The *Open Internet Order* excluded certain categories of services from the definition of broadband Internet access service, such as dial-up Internet access service and multichannel video programming, the latter of which the Commission understood not to meet the definition of ''provid[ing] the capability to transmit data to and receive data from all or substantially all Internet endpoints.'' We tentatively conclude that we would maintain this approach, but seek comment on whether we should change this conclusion.

58. *Enterprise Services.* The *Open Internet Order* excluded enterprise service offerings, which are typically offered to larger organizations through customized or individually negotiated arrangements. Similarly, the *Open Internet Order* excluded virtual private network services, hosting, or data storage services. The Commission explained that such services ''typically are not mass market services and/or do not provide the capability to transmit data to and receive data from all or substantially all Internet endpoints.'' We also note that our rules apply only as far as the limits of a broadband provider's control over the transmission of data to or from its broadband customers. The *Open Internet Order* also established that the rules did not apply to: (1) Edge provider activities, such as the provision of content on the Internet; and (2) premise operators, entities like coffee shops or bookstores, which offer Internet access services to their patrons. We tentatively conclude that we would maintain this approach, but seek comment on whether we should change this conclusion.

59. *Internet Traffic Exchange.* The *Open Internet Order* explained that its rules did not apply beyond ''the limits of a broadband provider's control over the transmission of data to or from its broadband customers.'' In other words, the *Order* applied to a broadband provider's use of its own network but did not apply the no-blocking or unreasonable discrimination rules to the exchange of traffic between networks, whether peering, paid peering, content delivery network (CDN) connection, or any other form of inter-network transmission of data, as well as provider-owned facilities that are dedicated solely to such interconnection. Thus, the *Order* noted that the rules were not intended ''to affect existing arrangements for network interconnection, including existing paid peering arrangements.'' We tentatively conclude that we should maintain this approach, but seek comment on whether we should change our conclusion. Some commenters have suggested that we should expand the scope of the open Internet rules to cover issues related to traffic exchange. We seek comment on these suggestions. For example, how can we ensure that a broadband provider would not be able to evade our open Internet rules by engaging in traffic exchange practices that would be outside the scope of the rules as proposed?

60. *Specialized Services.* In the *Open Internet Order,* the Commission recognized that broadband providers may offer ''specialized services'' over the same last-mile connections used to provide broadband service. The Commission stated that these services can benefit end users and spur investment, but also noted the potential for specialized services to jeopardize the open Internet. Due to these concerns, the Commission stated that it would monitor these services, but that its rules would ''not prevent broadband providers from offering specialized services such as facilities-based VoIP.'' We tentatively conclude that we should maintain this approach and continue to closely monitor the development of specialized services to ensure that broadband providers are not using them to bypass the open Internet rules or otherwise undermine a free and open Internet. We seek comment on this tentative conclusion. How can we ensure that the specialized services exception is not used to circumvent our open Internet rules? In addition, should specialized services be addressed within the scope of the ''commercially reasonable'' rule either as a safe harbor or among the factors for consideration? Should the Commission define ''specialized services''? The *Open Internet Order* did not formally define ''specialized services,'' but described them as ''services that share capacity with broadband Internet access service over providers' last-mile facilities.'' By contrast, the net neutrality rules that the European Parliament voted to adopt in April 2014 included a specific definition for ''specialized services'' as ''an electronic communications service optimised for specific content, applications or services, or a combination thereof, provided over logically distinct capacity, relying on

strict admission control, offering functionality requiring enhanced quality from end to end, and that is not marketed or usable as a substitute for internet access service.''

61. *Reasonable Network Management.* Although the *Open Internet Order's* definition of broadband Internet access service did not itself address reasonable network management, the concept was incorporated into each of the 2010 rules. Specifically, the transparency rule ''does not require public disclosure of competitively sensitive information or information that would compromise network security or undermine the efficacy of reasonable network management practices.'' The 2010 no-blocking rule was made expressly subject to ''reasonable network management.'' And the unreasonable discrimination rule expressly provided for reasonable network management, which was defined as follows: ''A network management practice is reasonable if it is appropriate and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband Internet access service.'' The Commission further concluded that it would ''develop the scope of reasonable network management on a case-by-case basis.'' We tentatively conclude that we should continue the same approach. We seek comment on this conclusion as applied to an enhanced transparency rule, our re-adoption of the no-blocking rule, and the proposal to adopt a ''commercially reasonable'' standard. How can we ensure that the ability of providers to engage in reasonable network management is not used to circumvent the open Internet protections implemented by our proposed rules?

62. *Mobile Services.* The *Open Internet Order* also adopted definitions for ''fixed'' and ''mobile'' Internet access service. It defined ''fixed broadband Internet access service'' to expressly include ''broadband Internet access service that serves end users primarily at fixed endpoints using stationary equipment, . . . fixed wireless services (including fixed unlicensed wireless services), and fixed satellite services.'' It defined ''mobile broadband Internet access service'' as ''a broadband Internet access service that serves end users primarily using mobile stations.'' The impact of this distinction varied by rule. The transparency rule applies equally to both fixed and mobile broadband Internet access service. The no-blocking rule applied a different standard to mobile broadband Internet access services, and mobile Internet access service was excluded from the unreasonable discrimination rule. We tentatively conclude that we should maintain the same approach in today's NPRM. We seek comment on this approach, which is discussed in more detail in the context of each of the proposed rules below. We recognize that there have been significant changes since 2010 in the mobile marketplace, including how mobile providers manage their networks, the increased use of Wi-Fi, and the increased use of mobile devices and applications. We seek comment on whether and, if so, how these changes should lead us to revisit our treatment of mobile broadband service. Specifically, we seek comment below on whether the no-blocking rule should continue to distinguish between fixed and mobile broadband and whether, under the commercially reasonable rule, mobile networks should be subject to the same totality-of-the-circumstances test as fixed broadband. In addition, how should the definitions of ''fixed'' and ''mobile'' services be applied to a fixed broadband provider's commercially deployed Wi-Fi service that is made available to the provider's fixed broadband customers? How should such changes affect our treatment of reasonable network management for mobile providers? Similarly, how should we treat mobile services that are deployed and/or marketed as express substitutes for traditional telecommunications or broadband services? Finally, have there been changes in technology or the marketplace for the provision of satellite broadband Internet access service that should lead the Commission to reassess how its rules should apply to such services?

C. Transparency Requirements To Protect and Promote Internet Openness

1. The 2010 Transparency Rule

63. In the *Open Internet Order,* the Commission concluded that effective disclosure of broadband providers' network management practices, performance, and commercial terms of service promotes competition, innovation, investment, end-user choice, and broadband adoption. To that end, the Commission adopted the following transparency rule:

> A person engaged in the provision of broadband Internet access service shall publicly disclose accurate information regarding the network management practices, performance, and commercial terms of its broadband Internet access services sufficient for consumers to make informed choices regarding the use of such services and for content, application, service, and device providers to develop, market, and maintain Internet offerings.

64. The Commission determined that the best approach to implementing the transparency rule was to allow broadband providers flexibility, while providing guidance concerning effective disclosure. The Commission stated that ''effective disclosures will likely include'' information concerning ''some or all'' of the following topics: (1) Network practices, including congestion management, application-specific behavior, device attachment rules, and security measures; (2) performance characteristics, including a general description of system performance (such as speed and latency) and the effects of specialized services on available capacity; and (3) commercial terms, including pricing, privacy policies, and redress options. In 2011, the Commission's Enforcement Bureau and Office of General Counsel issued advisory guidance to further clarify compliance with the transparency requirements regarding point-of-sale disclosures, service descriptions, security measures, and the extent of required disclosures, while noting that ''these particular methods of compliance are not required or exclusive; broadband providers may comply with the transparency rule in other ways.''

65. The D.C. Circuit's decision in *Verizon* v. *FCC* upheld the transparency rule, which remains in full force, applicable to both fixed and mobile providers. In today's NPRM, we inquire as to ways that the transparency rule can be improved, taking into account changes in the nature of the provision of broadband services since 2010. We believe we have ample authority not only for our existing transparency rule, but also for the enhanced transparency rule we propose today, whether the Commission ultimately relies on Section 706, Title II, or another source of legal authority. We seek comment on whether and how—if at all—the source of the Commission's legal authority relied upon to adopt other open Internet rules would affect the authority or authorities that provide the strongest basis for any improvements to the transparency rule or otherwise would inform how we define the goal of transparency in general.

2. Enhancing Transparency To Protect and Promote Internet Openness

66. ''Sunlight,'' as Justice Brandeis has explained, ''is . . . the best of disinfectants.'' If designed correctly, disclosure policies are among the most effective and least intrusive regulatory measures at the Commission's disposal.

Applied here, the Commission continues to believe that access to accurate information about broadband provider practices encourages the competition, innovation, and high-quality services that drive consumer demand and broadband investment and deployment. The transparency rule thereby reflects the ''virtuous circle'' that, in the long term, unites the interests of end users, edge providers, and the broader Internet community. As the Commission explained in the *Open Internet Order,* disclosures under the rule: (1) Help end users make informed choices regarding the purchase and use of broadband services and increase end users' confidence in broadband providers' practices; (2) ensure that edge providers have access to broadband providers' network information necessary to develop innovative new applications and services; and (3) inform the Internet community and the Commission about broadband providers' practices and conduct that could impact Internet openness. In today's NPRM, we seek comment on the effectiveness of the existing transparency rule and on whether and, if so, how the rule should be enhanced to meet its goals with respect to end users, edge providers, the Internet community, and the Commission.

67. Today, we seek general comment on how well the Commission's existing transparency rule is working. We are especially interested in comments that describe the current operation, benefits, and shortcomings of the existing rule, how broadband providers are complying with it, and how we should measure such compliance. We note that an informal review of broadband provider disclosures conducted by Commission staff found that the majority are providing some form of disclosure statements, but that many do not appear to provide all the information the rule was designed to disclose. We are also mindful that the additional rules we propose today to protect Internet openness consistent with the D.C. Circuit's decision may place even greater importance on the extent to which information about broadband providers' practices is disclosed to end users, edge providers, and the Commission. Taking all of that into account, we tentatively conclude that we should enhance the transparency rule to improve its effectiveness for end users, edge providers, the Internet community, and the Commission. We seek comment on this tentative conclusion and on what burdens or compliance issues may be associated with this approach, including for smaller providers.

68. *Tailored disclosures.* In the *Open Internet Order,* the Commission stated that broadband providers may be able to satisfy the transparency rule through use of a single disclosure, and therefore did not require different types of disclosures to different parties such as individual end users, edge providers, the broader Internet community, and the Commission. We have concerns that a single disclosure may not provide the required disclosures in a manner that adequately satisfies the informational needs of all affected parties. For example, some recent research suggests that consumers have difficulty understanding commonly used terms associated with the provision of broadband services. Edge providers, however, may benefit from descriptions that are more technically detailed. We therefore tentatively conclude that it would be more effective to require broadband providers to more specifically tailor disclosures to the needs of these affected parties. We seek comment on this tentative conclusion, on the nature of the disclosures that should be tailored, and on what burdens or compliance issues, if any, may be associated with more targeted disclosures.

a. Transparency to End Users

69. Since the Commission adopted the transparency rule, we have received hundreds of complaints from consumers suggesting that, under the rule, broadband providers may not be providing end user consumers the accurate information they need and have a right to receive. Our analysis of consumer complaints received since the transparency rule took effect shows a significant number of consumer complaints about provider speeds, charges, and other commercial practices that the rule was designed to disclose. In some cases, however, it is difficult to discern whether the consumer's frustration is with slow speeds or high prices generally, or instead with how the service as actually provided differs from what the provider has advertised. Of particular concern to many consumers is that the speed of their service falls short of the advertised speed. Many consumers complain that they have been charged amounts greater than advertised rates, including fees and charges beyond basic rates. We have also received a number of consumer complaints raising questions about the source of slow or congested services. Consumers have also reported surprise at broadband providers' statements about slowed or terminated service based on consumers' ''excessive use.'' Other consumers report confusion about how data consumption is calculated for purposes of data caps.

70. We seek comment on the extent to which the existing transparency rule is effectively informing end users. We are interested both in what information broadband providers are disclosing to end users and how that information is being disclosed. In addition, we seek comment on the incentives and ability of broadband providers to provide service at lower quality or higher prices than their subscribers expected when they enrolled, and on the incentives and ability of subscribers to choose other options if their broadband providers fail to live up to these expectations. If a subscriber is locked in to a particular provider, how can transparency rules bring the performance of that provider up to the subscriber's expectations?

71. In light of the consumer complaints discussed above, we also consider enhancements to the existing rule with respect to the content, form, and method of broadband providers' disclosures to end users.

72. *Content and Form of Disclosure.* We seek comment on whether there are ways to make the content and format of disclosures more accessible and understandable to end users. With respect to content, should the Commission require the disclosure of specific broadband provider network practices, performance characteristics (e.g., effective download speeds, upload speeds, latency, and packet loss), and/or terms and conditions of service to end users (e.g., data caps)? We are particularly interested in whether there are network practices, performance characteristics, or commercial terms relating to broadband service that are particularly essential but not easily discoverable by end users absent effective disclosure. With respect to format, both academic research and the Commission's experience with consumer issues have demonstrated that the manner in which providers display information to consumers can have as much impact on consumer decisions as the information itself. We therefore seek comment on best practices for displaying and formatting relevant disclosures for end users, including any potential costs and burdens to broadband providers. For example, the Open Internet Advisory Committee (OIAC) has proposed the use of a standardized label for Internet service that includes basic information such as performance speed (i.e., upload and download speed), price (i.e., monthly fee averaged over three years), and usage restrictions (i.e., any points at which the

applicable terms of service change, including data usage caps and any charges, speed reductions, or other penalties for exceeding a cap) that consumers can use to comparison shop for service. Are there lessons we can learn regarding effective disclosure practices from independent consumer research or disclosure in other approaches to standardized labels? Should the information be made available in a machine-readable format, such as XML, that might allow the Commission, industry associations, or other organizations to easily access and synthesize information for consumers?

73. *Network Practices.* With respect to data caps, should we require disclosures that permit end users to identify application-specific usage or to distinguish which user or device contributed to which part of the total data usage? Should we require disclosure of any type of traffic exempted from any data caps, and how end users can find their current consumption levels? Should we require that disclosures explain any restrictions on tethering for mobile devices? Should the Commission expand its transparency efforts to include measurement of other aspects of service such as packet loss, packet corruption, latency, and jitter in addition to upstream and downstream speed? Should the Commission require the reporting of actual achieved results for each category? If providers offer different tiers of service to their end users, should providers be required to make disclosures by tier? What should be the required timing of any such disclosures? Is it important that network practices be disclosed in advance of their implementation?

74. *Method of Disclosure.* The *Transparency Compliance PN* advised broadband providers that they can comply with the point-of-sale disclosure requirement by, for instance, ''directing prospective customers at the point of sale, orally and/or prominently in writing, to a web address at which the required disclosures are clearly posted and updated.'' We seek comment on whether that approach is adequate or whether the Commission should consider alternative approaches.

b. Transparency to Edge Providers

75. As noted above, the Commission also adopted the transparency rule to ensure that broadband providers would disclose sufficient information to permit ''content, application, service, and device providers to develop, market, and maintain Internet offerings.'' Some commenters have suggested that current disclosures provide insufficient information for edge providers. We seek comment on how the existing transparency rule is working and how we can enhance its effectiveness with respect to edge providers. Should we view some categories of edge providers, such as start-up companies, as having distinct needs and, if so, what would be the implications for an enhanced transparency rule?

76. We also seek comment on the extent to which the transparency rule does, or should, disclose useful information to providers who seek to exchange traffic with broadband provider networks. In other words, should we view transit, CDN, or other providers engaged in Internet traffic exchange as a class of persons whose interests are similar to those of edge providers who wish ''to develop, market, and maintain Internet offerings,'' perhaps because they may have such edge providers as their customers? For instance, many edge providers utilize the services of an intermediary CDN, such as Akamai, EdgeCast, Limelight, or Level 3, or cloud service providers such as Amazon, Microsoft, or RackSpace, which provide the servers upon which the applications run and also interconnect directly with broadband providers. Other edge providers bypass these networks and interconnect directly with broadband providers through peering arrangements. Some edge providers, such as Google or Amazon, may act both as content providers for their own services and as CDNs or cloud service providers for other services. We seek comment on whether these subgroups have distinguishable needs for information that could be provided through disclosure and, if so, what kind of information would be most useful.

c. Transparency to the Internet Community and the Commission

77. *The Common Interests of End Users, Edge Providers, and the Broader Internet Community.* We seek comment on the extent to which the existing transparency rule fully reflects the ''virtuous circle'' that, in the long term, unites the interests of end users, edge providers, the broader Internet community, and the Commission. Are there ways to enhance the transparency rule to further facilitate the virtuous circle? What other disclosures might encourage and improve the deployment of broadband in the United States?

78. We also seek comment—relevant to all stakeholders—on whether and, if so, how the Commission should enhance the existing transparency rule to ensure the effectiveness of, and compliance with, the other rules we propose in today's NPRM. For example, to ensure the effectiveness of the no-blocking rule proposed below, should the Commission mandate that broadband providers disclose—in a more rigorous and consistent way—the expected performance end users can expect from their broadband service? To improve information about broadband provider practices for end users, edge providers, and the broader Internet community, we tentatively conclude that broadband providers must disclose in a timely manner to consumers, edge providers, and the public (and, of course, the Commission) when they make changes to their network practices as well as any instances of blocking, throttling, and pay-for-priority arrangements, or the parameters of default or ''best effort'' service as distinct from any priority service.

79. *Measuring Broadband Performance.* The *Open Internet Order* requires broadband providers to disclose accurate information regarding network performance for each broadband service they provide. The accuracy and availability of such network performance information is a common linchpin for end users, edge providers, and all stakeholders in the Internet community. As noted in the *Order,* the Commission launched a broadband performance measurement project called ''Measuring Broadband America'' (MBA) to accurately measure key performance metrics, including baseline connection speed and latency. To satisfy their obligations under the transparency rule, all of the 12 largest fixed broadband providers chose to participate in the measurement program. Last year the Commission expanded its MBA program to include mobile broadband by releasing a Mobile Broadband Speed Test App, an open-source, crowdsourcing program to assess mobile broadband network performance nationwide. The app measures mobile broadband and Wi-Fi network performance and delivers to consumers an in-depth view of key metrics related to their mobile broadband experience. We seek comment on the effectiveness of this approach for providing consumers with useful information regarding the performance of both fixed and mobile broadband networks. We seek comment on whether participation in MBA should continue to satisfy the requirement that actual speeds be disclosed. Are there areas of this program that can be improved to provide more useful information to consumers?

80. More generally, are there more efficient or more comprehensive ways to

measure network performance metrics, including for broadband providers not participating in MBA? For example, could the ability to measure and report network performance be included in the end user's own network modem or residential gateway? Do such functionalities currently exist, or are they in development? Are there academic or other external research organizations that could assist the Commission in collecting and analyzing information about traffic, congestion, and other features of the Internet? Should the Commission mandate the use of monitoring devices, like those used in MBA? How can performance metrics most accurately measure the actual download and upload speeds a consumer can expect to experience, rather than ''up to'' speeds or ''last-mile'' performance? Should the Commission look to an external advisory group to aid in the development and feasibility of performance metrics and measurement?

81. *Congestion.* The *Open Internet Order* highlighted the value of providing end users with information about the sources of congestion that might impair the performance of edge-provider services. As the *Open Internet Order* explained, ''it is often difficult for end users to determine the causes of slow or poor performance of content, applications, services or devices.'' At the same time, the Commission recognized that ''congestion management may be a legitimate network management purpose.'' But the Commission also emphasized the importance of the disclosure to end users of ''descriptions of congestion management practices'' including ''indicators of congestion'' and ''the typical frequency of congestion.''

82. Since the 2010 *Open Internet Order,* some have suggested that sources of congestion that impact end users may originate beyond the broadband provider's network or in the exchange of traffic between that network and others. An end user's inability to ascertain the source of congestion could lead to confusion, for example, to the filing of an unjustified complaint against a broadband provider (if the source of the congestion were elsewhere) or a mistaken decision by the end user to purchase additional bandwidth to improve performance (again, if the source of congestion were elsewhere). Edge providers and other stakeholders also have expressed a need for greater information about network congestion.

83. In light of these concerns, we tentatively conclude that we should require that broadband providers disclose meaningful information regarding the source, location, timing, speed, packet loss, and duration of network congestion. We seek comment on this tentative conclusion, including on how to implement it in a practical manner that provides meaningful information to end users, edge providers, and other stakeholders without causing undue burden on broadband providers. For example, should the information to be disclosed be based upon a sampling taken at given points in time, and if so, what would be an appropriate interval for such sampling? We note that Cogent has made suggestions about enhancements to the transparency rule along these lines and proposing specific means of implementation, upon which we seek comment. In making the foregoing tentative conclusion and seeking comment on how to implement it, we emphasize that we are positing that the public would be served by additional information concerning the existence and duration of congestion, regardless of its cause, so that there is greater understanding of the impact of that congestion on the performance of a broadband provider's network, if any. We do not, however, propose to expand the scope of the open Internet rules in any fashion to regulate traffic exchange, though, as noted above, we ask for public input on this tentative conclusion.

d. Transparency for Mobile Broadband

84. The Commission currently applies the same transparency requirement to both fixed and mobile providers, reasoning that end users need a clear understanding of ''network management practices, performance, and commercial terms, regardless of the broadband platform they use to access the Internet.'' We seek comment on how we should assess the effectiveness of the existing rule in the mobile broadband context. For example, most mobile broadband plan offerings have generally had lower data usage limits than those offered for fixed broadband services. Accordingly, do mobile broadband subscribers have an enhanced need to understand, monitor, and more flexibly adjust their mobile data usage needs than the fixed broadband users?

85. We seek comment on whether and, if so, how enhancements to the transparency rule should apply to mobile broadband network providers. Would the enhanced transparency requirements described herein, or others, help meet the information needs of mobile broadband device and application developers as well as the needs of end users? How can we make sure that the disclosure requirements discussed above are appropriate and effective for mobile broadband in view of the many operational factors that may influence performance of mobile broadband networks, including the mobile access technology, the weather, the distance to the serving cell site, the number of users in a cell site, and device capability? Should the nature of disclosure to customers of wireless networks be different if the wireless service is provided by a network as an explicit substitute for copper-based, traditional service, including voice and DSL?

e. Burdens of Enhanced Transparency on Broadband Providers

86. We seek comment on the extent to which adopting enhanced transparency requirements would create particular burdens in either the fixed or the mobile broadband environment and whether and how such burdens would affect the pace of innovation, investment, and growth. How can we achieve the public benefits of enhanced disclosure requirements without imposing unreasonable burdens on the broadband providers? Are there ways to minimize the costs and burdens associated with any enhanced disclosure requirements? Are there ways the Commission or industry associations could reduce any such burdens, for example through the use of a voluntary industry standardized glossary, or through the creation of a dashboard that permits easy comparison of the policies, procedures, and prices of various broadband providers throughout the country?

3. Compliance and Enforcement

87. In the *Open Internet Order,* the Commission noted that a key objective of the transparency rule is to enable the Commission to collect information necessary to assess, report, and enforce the open Internet rules. As discussed further below, we seek comment on how the Commission can best design a process for enforcing the transparency rule that provides certainty, flexibility, and access for all affected parties. Should the Commission permit individuals to report possible noncompliance with our open Internet rules anonymously or take other steps to protect the identity of individuals who may be concerned about retaliation for raising concerns? We propose that the consequences of a failure to comply with our transparency rule should be significant and include monetary penalties. We seek comment on the most effective methods to ensure ongoing compliance with the transparency rule. How can we ensure that these disclosure requirements are as

effective and effectively enforced as disclosure requirements in other areas of the law, such as disclosures to the Securities and Exchange Commission? Should the Commission require broadband providers to certify that they are in compliance with the required disclosures, particularly if the current flexible approach is amended to require more specific disclosures? Should we also require broadband providers to submit reports containing descriptions of current disclosure practices? If so, should we modify our existing process for protecting the confidentiality of competitively sensitive information?

88. We also seek comment on whether the Commission can better promote transparency through its own outreach and reporting mechanisms. Should the Commission establish and make public a list of those broadband providers that block or otherwise limit certain types of traffic? Should the Commission collect and publish information on pay-for-priority arrangements? In what timeframe should the Commission require providers to report such changes in their traffic management policies to the Commission? We invite comment on the merits of these options, and any other suggestions commenters may deem relevant, to ensure full compliance with the transparency rule, including identification of any regulatory burdens this might entail for broadband providers.

D. Preventing Blocking of Lawful Content, Applications, Services, and Nonharmful Devices

89. We believe that, as the Commission found in the *Open Internet Order,* ''the freedom to send and receive lawful content and to use and provide applications and services without fear of blocking is essential to the Internet's openness and to competition in adjacent markets such as voice communications and video and audio programming.'' The D.C. Circuit acknowledged the validity of this policy rationale for the no-blocking rule adopted in the *Open Internet Order,* but vacated the rule because it found that the Commission had failed to provide a legal rationale under which the prohibition would not impermissibly subject broadband providers to common carriage regulation. To address the ongoing concerns with the harmful effects that blocking of Internet traffic would have on Internet openness, we propose to adopt the text of the no-blocking rule that the Commission adopted in 2010, with a clarification that it does not preclude broadband providers from negotiating individualized, differentiated arrangements with similarly situated edge providers (subject to the separate commercial reasonableness rule or its equivalent). So long as broadband providers do not degrade lawful content or service to below a minimum level of access, they would not run afoul of the proposed rule. We also seek comment below on how to define that minimum level of service. Alternatively, we seek comment on whether we should adopt a no-blocking rule that does not allow for priority agreements with edge providers and how we would do so consistent with sources of legal authority other than Section 706, including Title II. See infra Section III.F. For example, to the extent the Commission relies on Title II, would Sections 201(b) and 202(a) of the Act compel a different result than provision of a minimum level of service? See 47 U.S.C. 201(b) (prohibiting unjust or unreasonable ''charges, practices, [or] classifications''); 47 U.S.C. 202(a) (prohibiting ''unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services'').

90. It is important to understand the relationship between the proposed no-blocking and commercial reasonableness rules. Although the proposed no-blocking rule only establishes a minimum level of service, and thus allows room for individualized negotiations, the proposed commercial reasonableness rule separately applies to any and all conduct, including by asking whether paid prioritization can be barred outright and by asking whether to bar practices that harm competition, consumers, and the free exercise of speech.

1. The 2010 No-Blocking Rule

91. *2010 Open Internet Order.* In the *Open Internet Order,* the Commission adopted a no-blocking rule to preserve the openness that was and remains a core expectation of end users. The *Open Internet Order* noted that a no-blocking principle had been broadly accepted since its inclusion in the Commission's 2005 *Internet Policy Statement,* and the *Internet Policy Statement* itself reflected expectations and practices of how the Internet should and did work. A more limited variation of the rule applied to mobile broadband providers, due to the operational constraints that affect mobile broadband services, the rapidly evolving nature of the mobile broadband technologies, and the generally greater amount of consumer choice for mobile broadband services than for fixed.

92. *D.C. Circuit Opinion in Verizon* v. *FCC.* The D.C. Circuit struck down the no-blocking rule after finding that the Commission had failed to provide a legal justification that would take the rule out of the realm of impermissible common carriage. The court stated that it was ''somewhat less clear'' whether the no-blocking rule constituted *per se* common carriage regulation than whether the antidiscrimination rule did. Nonetheless, the court concluded that the no-blocking rule, at least as described in the *Open Internet Order,* required broadband providers to serve edge providers indiscriminately. The no-blocking rule thereby imposed *per se* common carriage rules and thus violated the Communications Act's prohibition on the imposition of common carrier obligations on providers of information services.

93. The court intimated that the no-blocking rule could pass scrutiny, however, if broadband providers could engage in individualized bargaining while subject to the rule. The court reasoned that ''if the relevant service that broadband providers furnish is access to their subscribers generally, as opposed to access to their subscribers at the specific minimum speed necessary to satisfy the anti-blocking rules, then these rules, while perhaps establishing a lower limit on the forms that broadband providers' arrangements with edge providers could take, might nonetheless leave sufficient 'room for individualized bargaining and discrimination in terms' so as not to run afoul of the statutory prohibitions of common carrier treatment.'' Such a practice would allow for individualized bargaining where providers would not be required ''to hold themselves out to serve all comers indiscriminately on the same or standardized terms.'' If the Commission's no-blocking rule allowed individualized bargaining above the minimum level of service necessary, then the rule might not create *per se* common carriage obligations. The court noted that although the Commission had asserted this interpretation of the rule at oral argument, the court could not consider it as a possible basis for upholding the rule because the Commission had not advanced this position in the *Open Internet Order.*

2. Proposal To Adopt a No-Blocking Rule

94. We continue to believe that safeguarding consumers' ability to access and effectively use the lawful content, applications, services, and devices of their choice on the Internet is an essential component of protecting and promoting the open Internet. Therefore, we tentatively conclude that we should adopt the text of the rule that

the Commission adopted in the *Open Internet Order,* which provided:

> A person engaged in the provision of fixed broadband Internet access service, insofar as such person is so engaged, shall not block lawful content, applications, services, or non-harmful devices, subject to reasonable network management. Consistent with the 2010 rule, the phrase ''content, applications, services'' in the proposed rule for fixed broadband service ''refers to all traffic transmitted to or from end users of a broadband Internet access service, including traffic that may not fit cleanly into any of these categories.'' A person engaged in the provision of mobile broadband Internet access service, insofar as such person is so engaged, shall not block consumers from accessing lawful Web sites, subject to reasonable network management; nor shall such person block applications that compete with the provider's voice or video telephony services, subject to reasonable network management.

95. We believe this to be the public policy that will best serve Internet openness. While maintaining this rule text, we propose to make clear that the no-blocking rule would allow individualized bargaining above a minimum level of access to a broadband provider's subscribers—the revised rationale the court suggested would be permissible rather than *per se* common carriage—but, also consistent with the court's analysis, separately subject such practices to scrutiny under the commercially reasonable practices rule (or its equivalent). We believe that by preserving end users' ability to access the Internet content of their choice, reinstating a no-blocking rule would increase demand for broadband services and thus increase investment in broadband network infrastructure and technologies. We seek comment on the proposed no-blocking rule and its potential effect on broadband investment and deployment, including whether and under what circumstances broadband providers have incentives to block content. We also seek comment on possible approaches other than adopting the text of the 2010 rule. Should we modify the text of the rule to explicitly address the minimum level of access required, as discussed below?

96. Alternatively, we seek comment on whether we should adopt a no-blocking rule that either itself prohibits broadband providers from entering into priority agreements with edge providers or acts in combination with a separate rule prohibiting such conduct. As discussed below, the record in this proceeding reflects numerous public concerns about the potential for priority agreements to harm an open Internet. How could we address such concerns in the context of the no-blocking rule? If the Commission were to proceed down this alternative path, how should the Commission define ''priority''? Are ''priority'' agreements broader than ''pay-for-priority,'' possibly including the exchange of consideration other than money? Are there other arrangements between broadband providers and edge providers that have the potential to harm Internet openness and should be addressed within the no-blocking rule? Commenters should address the legal bases and theories, including Title II, that the Commission could rely on for such a no-blocking rule, and how different sources of authority might lead to different formulations of the no-blocking rule.

3. Establishing the Minimum Level of Access Under the No-Blocking Rule

97. As noted above, the D.C. Circuit suggested that the Commission's 2010 no-blocking rule could be interpreted as requiring broadband providers to ''furnish . . . access to their subscribers generally'' while ''establishing a lower limit on the forms that broadband providers' arrangements with edge providers could take''—and that under that interpretation the rule might not impose common carrier status on broadband providers. Consistent with the court's ruling, we tentatively conclude that the revived no-blocking rule should be interpreted as requiring broadband providers to furnish edge providers with a minimum level of access to their end-user subscribers. Such actions, permissible under the no-blocking rule, would, of course, be separately subject to the proposed commercially reasonable practices standard set out below. We tentatively conclude that our proposed no-blocking rule would allow broadband providers sufficient flexibility to negotiate terms of service individually with edge providers, consistent with the court's view that we must permit providers to ''adapt . . . to individualized circumstances without having to hold themselves out to serve all comers indiscriminately on the same or standardized terms.'' In this regard, we view the operation of the no-blocking rule separate from any other impact on broadband providers that might arise from application of the legal standard, factors, and dispute resolution framework discussed below. We reiterate that, as discussed further below, under the proposed rules contained herein such individualized arrangements for priority treatment would be subject to scrutiny under the proposed commercial reasonableness rule and prohibited under that rule if they harm Internet openness. We seek comment on these tentative conclusions.

98. Requiring this minimum level of access under the no-blocking rule will ensure that all users have access to an Internet experience that is sufficiently robust, fast, and effectively usable. This includes both end-user consumers and edge providers of all types and sizes, including those content providers who do not enter into specific arrangements with broadband providers. In short, our approach will enable consumers to access the content, services, and applications they demand and ensure that innovators and edge providers have the ability to offer new products and services. We seek comment on this analysis.

99. Under the approach described by the D.C. Circuit, ''broadband providers [would] have no obligation to actually provide an edge provider with the minimum service necessary to satisfy the rules,'' because they could instead ''deliver all edge providers' traffic'' in a manner that exceeds that minimum, and they would then be free to ''negotiate separate agreements with each individual edge provider'' and also to ''charge similarly-situated edge providers completely different prices for the same service.'' We note that a broadband provider's discretion in setting rates could be constrained to some degree by the commercially reasonable standard and dispute resolution framework discussed below, if adopted by the Commission. As we explain below, that proposed standard would not constitute per se common carriage. Are there alternative approaches that, consistent with the *Verizon* decision, would avoid *per se* common carriage? Are there forms of price discrimination that, even if appropriate under the no-blocking rule, should be separately subject to the commercial reasonableness rule or its equivalent?

100. We also seek comment on how, consistent with this interpretation, we should define or clarify the minimum level of access required by the rule, or otherwise define what provider conduct would constitute ''blocking'' under the rule. In our view, a defined minimum level of access provides assurances both to end users, by helping them understand the potential uses of their service, and to edge providers. Such assurances should enhance consumer demand, which drives investment both in the network and at the edge.

101. We also seek comment on how ''minimum level of access'' should be defined to provide the robust, fast, and effectively usable access discussed above. Should we define the minimum

level of access from the perspective of end users, edge providers, or both? Should the minimum level of access be dynamic, evolving over time, and if so, how can that flexibility be incorporated into the rule? In the following paragraphs, we describe in alphabetical order several possible options by which we may define a minimum level of access under the no-blocking rule. We seek comment on these options and on any approaches by which the Commission should define the minimum level of access. For each of these potential options, we seek comment on its advantages and disadvantages, on its legal sustainability under *Verizon,* and on how effective it would be at protecting the open Internet, including the ease or difficulty with which violations can be identified and remedied. We seek comment on how the Commission should implement, monitor compliance with, and enforce the rule, under each of the options described. For each option, we also seek comment on whether the minimum level of access should be reflected in providers' disclosures under an enhanced transparency rule. Under any of these options, we seek comment on how the minimum level of access should be measured. Should the Commission measure technical parameters, based on a sample, focusing on speed, packet loss, latency, or other factors? Where in the network should such measurement take place to ensure an accurate measure of the broadband provider's performance? Finally, we recognize that from time to time a provider may be unable to provide such a minimum level of access temporarily for a variety of reasons. Aside from complete outages (which are not the subject of this NPRM), we note that in some cases inadvertent action or circumstances outside a provider's control may cause a subset of traffic to be blocked. For example, if a connection with one of several peering partners is severed, some Internet traffic may seem unacceptably slow while other traffic appears normal. Alternatively, a provider engaged in reasonable network management (such as blocking the source of a distributed denial of service attack) may inadvertently block other traffic due to a transcription error. If steps are taken in a timely manner to correct such problems, we would not anticipate considering such action to violate a no-blocking rule. We seek comment on how the Commission should distinguish such temporary inadvertent failures from intentional or prolonged blocking, including whether the Commission should consider exempting incidents of blocking that last for less than a specified amount of time.

102. *Best Effort.* One way to define a minimum level of access is as a requirement that broadband providers apply no less than a ''best effort'' standard to deliver traffic to end users. For any particular type of Internet traffic, best-effort delivery would represent the ''typical'' level of service for that type of traffic—in effect, routing traffic according to the ''traditional'' architecture of the Internet. Broadband providers would be free to negotiate ''better than typical'' delivery with edge providers, and would be prohibited (subject to reasonable network management) from delivering ''worse than typical'' service in the form of degradation or outright blocking. We seek comment on this potential approach. Would ''best effort'' be measured against the technical capacity of a particular broadband provider's network capacity and characteristics?

103. *Minimum Quantitative Performance.* Another way to define a minimum level of access is through specific technical parameters, such as a minimum speed. To the extent that commenters believe that the Commission should promulgate a rule that establishes specific technical parameters for the required minimum level of access, what should those parameters be? Should they identify specific speeds of service, or would it be preferable to identify specific problems that a minimum level of service would avoid (such as preventing latency and jitter for services that tolerate them poorly)? Would the Commission need to differentiate between different broadband access technologies? While this approach would provide greater certainty than other approaches, a specific technical definition of minimum access could become outdated as available broadband network technologies change and available broadband speeds improve. How frequently would we need to revisit a specific technical definition of minimum access to ensure that it keeps up with advances in broadband service?

104. *An Objective, Evolving ''Reasonable Person'' Standard.* Another approach to defining a minimum level of access to broadband providers' end users is to think of it as the level that satisfies the reasonable expectations of a typical end user. We might think of this as a ''reasonable person'' standard of access. For example, a typical end user may reasonably expect the ability to access streaming video from any provider, place and receive telephone calls using the VoIP service of the end user's choosing, and access any lawful web content. Under this approach, a broadband provider that satisfies these and other reasonable expectations would be in compliance with the no-blocking rule. One possible advantage of this approach to defining minimum access is flexibility: the absence of a specific technical definition means that the standard for compliance can evolve as the expectations in the marketplace change without further Commission action. On the other hand, this approach may create less certainty than other approaches might and could be more difficult to enforce. We seek comment generally on a ''reasonable person'' standard for defining minimum access, and in particular, how this standard could be crafted to be sufficiently objective and predictable to provide certainty to broadband providers and edge providers.

4. Application of the No-Blocking Rule to Mobile Broadband

105. As noted above, the 2010 no-blocking rule applied differently to mobile broadband providers than to fixed, and today's NPRM would maintain that approach. The previous rule prohibited mobile broadband providers from blocking consumers from accessing lawful Web sites or blocking applications that compete with the provider's voice or video telephony services. We propose to adopt the same approach as in the 2010 obligation, which would prohibit mobile broadband providers from blocking lawful web content as well as applications that compete with the mobile broadband providers' own voice or video telephony services, subject to reasonable network management. We seek comment on this proposal.

106. In addition, we seek comment on whether it would serve the public interest to expand the rule's scope to include reasonable access to all applications that compete with the mobile broadband Internet access provider's other services, not just those that compete with voice or video telephony services, subject to reasonable network management practices. Should the application of the no-blocking rule to mobile broadband providers turn on whether mobile service was marketed to consumers as a substitute for a fixed telecommunications service previously offered by the provider or its affiliate? How would treating mobile broadband differently from fixed broadband affect consumers in different demographic groups, including those who rely solely on mobile broadband for Internet access? How should the Commission consider applying a no-blocking rule to

facilities-based mobile providers versus resellers?

107. We also seek comment on whether and how we should define a minimum level of access in the context of the proposed no-blocking rule for mobile broadband, or otherwise clarify what constitutes ''blocking,'' and whether that definition should be different for mobile broadband than for fixed. For each of the approaches discussed above to define a ''minimum level of access,'' we seek comment on any particular benefits or difficulties that such approach would present.

108. We recognize that there have been substantial mobile marketplace changes and developments since 2010, including the increased use of Wi-Fi technology, and seek comment on whether and how such changes should impact our no-blocking rule for mobile broadband. We seek comment on the extent to which we should take into account the increasing provision of Wi-Fi by broadband providers, and the growing use of Wi-Fi by end users for the off-load of wireless broadband, as we consider the application of the no-blocking rule to mobile broadband services.

5. Applicability of the No-Blocking Rule to Devices

109. The 2010 no-blocking rule prohibited fixed broadband providers from blocking non-harmful end-user devices, and the rule we propose today would do the same. We seek comment on how this treatment of non-harmful devices fits into the *Verizon* court's interpretation of the rule. Should the ability to attach non-harmful devices to broadband service be included among the reasonable end-user expectations listed above, or should we analyze non-harmful devices differently?

E. Codifying an Enforceable Rule To Protect the Open Internet That Is Not Common Carriage Per Se

110. Separate and distinct from the no-blocking rule, we believe that establishing an enforceable legal standard for broadband provider practices is necessary to preserve Internet openness, protect consumers, and promote competition. While the D.C. Circuit vacated the Commission's rule prohibiting ''unreasonable discrimination'' by fixed broadband providers on the theory that it ''so limited broadband providers' control over edge providers' transmissions that [it] constitute[d] common carriage *per se,*'' the court underscored the validity of the ''commercially reasonable'' legal standard the Commission used in the data roaming context and the court upheld in *Cellco.*

111. Today, we tentatively conclude that the Commission should adopt a revised rule that, consistent with the court's decision, may permit broadband providers to engage in individualized practices, while prohibiting those broadband provider practices that threaten to harm Internet openness. Our proposed approach contains three essential elements: (1) An enforceable legal standard of conduct barring broadband provider practices that threaten to undermine Internet openness, providing certainty to network providers, end users, and edge providers alike, (2) clearly established factors that give additional guidance on the kind of conduct that is likely to violate the enforceable legal standard, and (3) encouragement of individualized negotiation and, if necessary, a mechanism to allow the Commission to evaluate challenged practices on a case-by-case basis, thereby providing flexibility in assessing whether a particular practice comports with the legal standard. We seek comment below on the design and justification of this rule.

112. Alternatively, we also seek comment on whether the Commission should adopt an alternative legal standard to govern broadband providers' practices. How can we ensure that our proposed rule sufficiently protects against harms to the open Internet? How would the rule we propose today change if the Commission were to rely on Title II (or other sources of legal authority) to adopt rules to protect and promote Internet openness? We seek comment on how the goal of the proposed rule—to prevent those broadband provider practices that limit Internet openness—could best be achieved.

1. The 2010 No Unreasonable Discrimination Rule

113. *2010 Open Internet Order.* The Commission adopted a no unreasonable discrimination rule to prevent fixed broadband providers from engaging in harmful conduct when transmitting lawful network traffic over a consumer's broadband Internet access service. The rule stated, ''A person engaged in the provision of fixed broadband Internet access service, insofar as such person is so engaged, shall not unreasonably discriminate in transmitting lawful network traffic over a consumer's broadband Internet access service. Reasonable network management shall not constitute unreasonable discrimination.'' The antidiscrimination rule prohibited fixed broadband providers from unreasonably discriminating against network traffic subject to reasonable network management. Unlike the transparency and no-blocking rules the Commission adopted in 2010, the no unreasonable discrimination rule did not apply to mobile broadband Internet access service providers.

114. *D.C. Circuit Opinion in Verizon* v. *FCC.* The D.C. Circuit vacated the antidiscrimination rule because it found that the rule improperly relegated fixed broadband providers to common carrier status. This violated the statutory ban on common carrier treatment of information service providers because the Commission had classified broadband providers ''not as providers of 'telecommunications services' but instead as providers of 'information services.' '' The court disagreed with the Commission's interpretation to the contrary, finding that by compelling fixed broadband providers to serve all edge providers who provided content, services, and applications over the Internet without unreasonable discrimination, the rule compelled those providers to hold themselves out ''to serve the public indiscriminately''—thus treating them as common carriers.

115. In making its determination, the court relied on its previous decision in *Cellco,* where it upheld the Commission's data roaming requirements against a common carrier challenge. The court suggested that had the Commission shown that the ''no unreasonable discrimination'' standard adopted in the *Open Internet Order* differed from the ''nondiscrimination'' standard applicable to common carriers, the rule might have withstood judicial review similar to the data roaming rule at issue in *Cellco.* This is because the rule in *Cellco* ''expressly permit[ted] providers to adapt roaming agreements to 'individualized circumstances without having to hold themselves out to serve all comers indiscriminately on the same or standardized terms.' '' The court went on to suggest that, unlike the data roaming rules at issue in *Cellco,* which listed specific factors to consider in a case-by-case determination of whether a data roaming provider's conduct and offerings were commercially reasonable based on the totality of the circumstances, the *Open Internet Order* did not attempt to ''ensure that [the] reasonableness standard remains flexible.'' The D.C. Circuit suggested that a rule preventing certain types of conduct by broadband providers might be acceptable, given the manner in which the Commission has classified broadband providers, if the Commission articulated a discrete, flexible standard that prohibited

practices that could reasonably be understood to harm Internet openness, while allowing individualized broadband provider practices, akin to the ''commercially reasonable'' standard adopted by the Commission in the data roaming context.

2. Proposed Elements of an Enforceable Legal Rule

a. Prohibiting Only Commercially Unreasonable Practices

116. Sound public policy requires that Internet openness be the touchstone of a new legal standard. Accordingly, we tentatively conclude that the Commission should adopt a rule requiring broadband providers to use ''commercially reasonable'' practices in the provision of broadband Internet access service. Our proposed approach is both more focused and more flexible than the vacated 2010 non-discrimination rule. It would prohibit as commercially unreasonable those broadband providers' practices that, based on the totality of the circumstances, threaten to harm Internet openness and all that it protects. At the same time, it could permit broadband providers to serve customers and carry traffic on an individually negotiated basis, ''without having to hold themselves out to serve all comers indiscriminately on the same or standardized terms,'' so long as such conduct is commercially reasonable. The D.C. Circuit explained that such an approach distinguished the data roaming rules at issue in *Cellco* from common carrier obligations. We seek general comment on this approach, and more targeted comment below.

117. With respect to this approach in general, we tentatively conclude that it should operate separately from the no-blocking rule that we also propose to adopt. In other words, the presence or absence of the no-blocking rule would have no impact on the presence or absence of the ''commercially reasonable'' standard, and vice versa. This would mean that conduct acceptable under the no-blocking rule would still be subject to independent examination under the ''commercially reasonable'' standard. We seek comment on this approach.

118. The core purpose of the legal standard that we wish to adopt, whether the ''commercially reasonable'' standard or another legal formulation, is to effectively employ the authority that the *Verizon* court held was within the Commission's power under Section 706. In essence, the court upheld the Commission's judgment that (1) Section 706 grants substantive power to the Commission to take actions, including removing barriers to infrastructure investment and promoting competition in telecommunications markets, that will promote the deployment of broadband networks; (2) the Commission was within its authority to conclude that the ''virtuous circle'' can be adversely impacted by broadband network practices that, over the long term, depress end user demand, which then threatens broadband deployment; and (3) threats to the open Internet, such as limitations on users to access the content of their choice or speak their views freely, are therefore within the authority of the Commission to curb. In selecting a legal standard, the Commission not only wishes to avoid subjecting broadband networks to common carriage *per se,* it also wishes to choose a legal standard whose valid adoption renders unnecessary the adjudication of any question other than whether the adopted legal standard has been violated. This is the distinction between the authority to adopt a standard and its subsequent application. It is axiomatic that an as-applied challenge to a rule would invalidate an application of the rule, but the rule itself may otherwise remain broadly applicable. *See Brockett* v. *Spokane Arcades, Inc.,* 472 U.S. 491, 504 (1985). Thus, assuming the rule is facially sustained by a reviewing court, the Commission would not be required to re-litigate its underlying determination that adoption of the rule will promote deployment. 47 U.S.C. 1302(b). Because the commercially reasonable practices rule requires a determination that an entity did not act in a commercially reasonable manner, the inquiry is, then, not whether the Commission has authority to adopt the regulation, but whether the Commission may enforce the regulation in a particular set of circumstances. *See Colo. Right to Life Comm., Inc.* v. *Coffman,* 498 F.3d 1137, 1146 (10th Cir. 2007) (holding that an as-applied challenge is limited to testing ''the application of [a regulation] to the facts of a plaintiff's concrete case''). For example, the D.C. Circuit determined that the Commission's data roaming rule—the legal standard adopted—was facially valid and within the Commission's authority, but that the application of that standard could still be subject to subsequent challenge. *See Cellco,* 700 F.3d at 548.

119. Are there alternative legal standards, whether in analogous contexts or otherwise identified by commenters, that the Commission should consider? Is there an existing standard that would serve a similar purpose to what we propose here and that would prevent the harms to Internet openness? If so, how, and if not, what would any differences be? Could the Commission modify its approach to ''reasonable network management'' in ways that would establish a more flexible legal standard that would not constitute common carriage *per se*? Commenters advocating alternative legal standards should explain why they are preferable, both in terms of the substantive requirements of the alternative standard (such as how they would address providers' conduct, offerings, and practices) and its implementation (such as whether and how it may permit individualized decision-making), and how they would protect an open Internet. And, as to the ''commercially reasonable'' standard or any other, we seek comment on whether there are sources of law or practice the Commission should rely upon in explaining the meaning and application of that standard.

120. We also seek comment on how a rule requiring broadband providers to engage in commercially reasonable practices with respect to delivery of traffic to and from end users should apply in circumstances in which no individualized negotiation occurs between the edge provider and the broadband provider. To cite just a few of many possible examples, consider a start-up VoIP service, a politically oriented Web site with an audience of fewer than 100 unique visitors per day, a social networking application narrowly focused on a particular demographic, or peer-to-peer communications among individuals. Not all of those actors may seek to enter into a contract with a broadband provider; they may simply wish to reach its subscribers. We seek comment on the impact of this difference on the selection and/or application of the general legal standard.

121. As an alternative to our proposed approach, we seek comment on whether the Commission should adopt a different rule to govern broadband providers' practices to protect and promote Internet openness. As mentioned above, a number of parties have expressed concerns about the effect of pay-for-priority agreements on Internet openness. How can the Commission ensure that the rule it adopts sufficiently protects against harms to the open Internet, including broadband providers' incentives to disadvantage edge providers or classes of edge providers in ways that would harm Internet openness? Should the Commission adopt a rule that prohibits unreasonable discrimination and, if so,

what legal authority and theories should we rely upon to do so? If the Commission ultimately adopts a Title II approach, how should the Commission define the rule in light of the requirements under Sections 201 and 202 of the Act?

b. Factors To Guide Application of the General Legal Standard

122. Similar to the Commission's approach in the data roaming context, we propose to identify factors the Commission can use to administer the proposed commercially reasonable practices standard. We recognize that there are significant differences between the open Internet and the data roaming contexts, including a broader range of open Internet practices at issue and a greater diversity of parties affected by such practices. Thus, while we look to our data roaming approach for guidance, we propose to develop factors specific to the open Internet context. These pre-defined factors would provide guidance to encourage commercially reasonable individualized practices and, if disputes arise, provide the basis for the Commission to evaluate whether, taking into account the totality of the circumstances on a case-by-case basis as discussed below, a particular practice satisfies the enforceable legal standard.

123. We seek comment on this approach and what factors the Commission should adopt to ensure commercially reasonable practices that will protect and promote Internet openness. We discuss below several categories of factors, noting that there is considerable overlap between these categories, and that they are not mutually exclusive. As with the data roaming rule, we tentatively conclude that a review of the totality of the circumstances should be preserved through the creation of a ''catch all'' factor designed to ensure that rules can be applied evenly and fairly in response to changing circumstances and that all users have an Internet experience that affords them access to a minimum level of service sufficient to protect and promote an open Internet. Further, we seek comment on providers' experiences with the ''commercially reasonable'' practices standard in the data roaming context, and on how such experiences might inform our thinking as we develop the ''commercially reasonable'' practices standard for the open Internet.

124. *Impact on Present and Future Competition.* The Commission has previously observed that unfair competitive advantages can jeopardize innovation on the edge and impair otherwise lawful delivery of products and services. For that reason, we seek comment on how we should construct factors in applying the commercially reasonable legal standard to assess the impact of broadband provider practices on present and future competition. We understand this competition inquiry to extend beyond an application of antitrust principles to include, for example, the predicted impact of practices on future competition.

125. To what extent should such competition-oriented factors focus on market structure and the extent of competition in a given market? For example, should we consider factors that the Commission has used in case-by-case adjudications under Section 628(b) of the Act, which proscribes certain ''unfair methods of competition'' by cable operators and certain programming vendors? Are there other competition-oriented standards in other contexts (including those outside of telecommunications) that we should look to for guidance?

126. We propose that the competitive factors should also examine the extent of an entity's vertical integration and/or its relationships with affiliated entities. For example, broadband providers sometimes offer an affiliated streaming video service over their broadband network in competition with many other third-party broadband and edge providers' services. How can we ensure that competition is not harmed in such situations? We note that the no-blocking rule as applied to mobile Internet access service specifically prohibits broadband providers from blocking ''applications that compete with the provider's voice or video telephony services.'' And the Commission looked to a similar restriction to address harms raised by the Comcast-NBCU transaction. In light of such concerns, we propose to adopt a rebuttable presumption that a broadband provider's exclusive (or effectively exclusive) arrangement prioritizing service to an affiliate would be commercially unreasonable. We seek comment on this proposal.

127. More generally, we seek comment on the use of rebuttable presumptions as a tool to focus attention on the likely impacts of particular practices. What source or law, either within the Communications Act or in other statutes, would help us craft the creation and use of rebuttable presumptions? Are there particular rebuttable presumptions that should be used, for example, dealing with some or all forms of exclusive contracts, or particularized degradation of services?

128. How can the Commission ensure that parties are acting in a commercially reasonable manner without foreclosing the creation of pro-competitive opportunities through certain forms of price discrimination or exclusivity agreements? Should we develop factors modeled in part after those that the Commission uses in determining whether an exclusive contract between a vertically integrated cable operator and cable-programming vendor would serve the public interest? Should the Commission adopt a rebuttable presumption that broadband provider conduct that forecloses rivals (of the provider or its affiliates) from the competing marketplace is commercially unreasonable?

129. *Impact on Consumers.* In addition to the competitive factors, the Commission proposes to adopt factors to examine the extent to which broadband providers' practices could harm consumers. In the *Open Internet Order,* the Commission looked to, among other things, the extent of transparency and end-user control in assessing whether a practice is unreasonably discriminatory. We believe these factors would likewise be relevant to assessing whether a practice is commercially reasonable. What continued role does the existing or enhanced transparency rule have in ensuring that consumers are receiving correct information from broadband providers and not being misled?

130. We believe that consumers of broadband access service should have the ability to exercise meaningful choices. How can we factor consumer choice into our analysis of what is commercially reasonable? Should the Commission look for guidance to Section 628 of the Act, which makes it unlawful for cable operators and their affiliated satellite cable programming vendors to engage in ''unfair or deceptive acts or practices'' with certain purposes and effects?

131. *Impact on Speech and Civic Engagement.* The open Internet serves as a critical platform for speech and civic engagement. As noted above, the ability of citizens and content providers to use this open platform to communicate with one another and express their views to a wide audience at very low costs drives further Internet use, consumer demand, and broadband investment and deployment. We therefore propose to adopt a factor or factors in applying the commercially reasonable standard that assess the impact of broadband provider practices on free exercise of speech and civic engagement.

132. *Technical Characteristics.* We also propose to examine the relevant technical characteristics associated with broadband providers' practices. In the *Data Roaming Order,* 76 FR 26199 (June 6, 2011), for example, the Commission

looked to the technical characteristics of the service at issue, including the technical feasibility of a requested service as well as the technical compatibility of providers' networks. We seek comment on how the Commission should consider such technical characteristics in assessing whether a broadband provider's practice is commercially reasonable. The application of the legal standard to satellite Internet access service presents one example. How should the Commission account for the technical differences between satellite and terrestrial broadband services when examining commercially reasonable behavior for satellite broadband providers?

133. *''Good Faith'' Negotiation.* The Commission has imposed good faith negotiation requirements in a variety of contexts. For example, the Commission explicitly requires television broadcasters and multichannel video programming distributors (MVPDs) to negotiate retransmission consent agreements in good faith. The Commission also mandated good faith negotiations for dealings between certain spectrum licensees. Would adopting a similar framework for evaluating negotiations between parties in the open Internet context serve the public interest, convenience, and necessity? How should such a ''good faith'' test be applied where parties do not seek to enter into contractual relationships with each other?

134. *Industry Practices.* How, if at all, should the fact that conduct is an industry practice impact the application of the ''commercially reasonable'' rule? What should be treated as an ''industry practice''? For example, should that term be limited to express standards adopted by standards-setting organizations or similar entities? If so, should the make-up or processes used by such a standards-setting organization be considered? If not, how should the existence of an ''industry practice'' be effectively established for purposes of the application of the ''commercially reasonable'' rule, and how should the Commission best evaluate potential harms to competition arising from coordinated conduct in a market with a limited number of participants?

135. *Other Factors.* We seek comment on any additional factors the Commission should consider in assessing whether a particular practice or set of practices by a broadband provider is commercially reasonable, given the importance of preventing harms to an open Internet. Are there other factors that the Commission adopted in the *Data Roaming Order* that we should incorporate here? How can the Commission best include a factor to capture special or extenuating circumstances to ensure that it can take into account the totality of the circumstances, particularly given the rapid evolution of the Internet marketplace and technology?

c. Case-by-Case Evaluations for Commercial Reasonableness

136. As discussed, we tentatively conclude that we will adopt a case-by-case approach, considering the totality of the circumstances, when analyzing whether conduct satisfies the proposed commercially reasonable legal standard, or another legal standard ultimately adopted. We believe that, in conjunction with the factors listed above, this approach will provide the advantage of certainty and guidance to broadband providers and edge providers—particularly smaller entities that might lack experience dealing with broadband providers—while also allowing parties flexibility in their individualized dealings. We seek comment on whether there is another avenue or mechanism we should use when evaluating commercial reasonableness.

3. Potential Conduct That Is *Per Se* Commercially Unreasonable

137. In *Southwestern Cable,* the Supreme Court concluded that a Commission requirement that cable systems carry local broadcast signals did not constitute common carriage even though the Commission's rule applied to all cable systems in defined circumstances. As the Supreme Court later noted, that holding ''was limited to remedying a specific perceived evil [that] did not amount to a duty to hold out facilities indifferently for public use.'' In *Verizon,* the D.C. Circuit likewise explained that the *Southwestern Cable* regulation ''imposed no obligation on cable operators to hold their facilities open to the public generally, but only to certain broadcasters if and when cable operators acted in ways that might harm those broadcasters.'' Thus, consistent with Supreme Court precedent and the *Verizon* decision, the Commission may be able to identify specific practices that do not satisfy the commercially reasonable legal standard. For example, we note that the data roaming rule upheld by the D.C. Circuit's *Cellco* decision states that ''[c]onduct that unreasonably restrains trade . . . is not commercially reasonable.'' Similarly, the Commission recently concluded that certain joint activities between certain television stations, which are not regulated as common carriers, in the negotiation of retransmission consent fees are a *per se* violation of the requirement of ''good faith'' negotiation. Are there any practices that, consistent with the *Verizon* court's reasoning, could be viewed as *per se* commercially unreasonable?

138. Some have suggested that the Commission go even beyond the requirements of the *Open Internet Order* to impose flat bans on pay-for-priority service. We seek comment on these suggestions, including whether all pay-for-priority practices, or some of them, could be treated as *per se* violations of the commercially reasonable standard or under any other standard based on any source of legal authority. We emphasize that Section 706 could not be used to reach some conduct under this judicially recognized approach to circumvent the principle that the proposed rules will not, in any circumstances, constitute common carriage *per se.* If the Commission were to ultimately rely on a source of authority other than Section 706 to adopt a legal standard for broadband provider practices, such as Title II, we seek comment on whether and, if so, how we should prohibit all, or some, pay-for-priority arrangements, consistent with our authority, to protect and promote Internet openness.

4. Potential Safe Harbors

139. Similar to the approach of identifying practices *ex ante* that would not satisfy the commercially reasonable legal standard, the Commission may be able to identify specific services that would be treated separately from the application of the commercially reasonable legal standard. We seek comment on this approach and how the services below should be considered under such an approach.

140. *Application to Mobile Broadband.* The Commission chose not to apply its no unreasonable discrimination rule to mobile broadband providers in 2010 based on considerations including the rapidly evolving nature of mobile technologies, the increased amount of consumer choice in mobile broadband services, and operational constraints that put greater pressure on the concept of reasonable network management for mobile broadband services. We have tentatively concluded that we will continue that approach in the proposed rules. Alternatively, should the Commission account for different characteristics of mobile service as a factor in its application of the commercially reasonable standard, subject to mobile providers' reasonable network management? How would

maintaining our previous approach for mobile broadband affect end users across different demographic groups, including end users who rely solely on mobile broadband for Internet access?

141. *Non-exclusive, non-affiliated agreements.* AT&T has suggested that the Commission exclude from its review of particular practices any agreement between a broadband provider and an edge provider if the agreement is not exclusive and if the edge provider is not an affiliate of the broadband provider. AT&T explains that subjecting broadband providers to case-by-case scrutiny in such cases ''would unnecessarily impede efficient and pro-consumer arms-length commercial dealings.'' We seek comment on whether this approach should be adopted to limit the scope of the commercially reasonable standard and whether it could be made consistent with the protections afforded by the rule.

F. Legal Authority

142. In this NPRM, we propose to adopt rules to protect and promote the open Internet. For the reasons set forth below, we believe we have ample authority to do so. We propose that the Commission exercise its authority under Section 706, consistent with the D.C. Circuit's opinion in *Verizon* v. *FCC,* to adopt our proposed rules. We also seek comment on the nature and the extent of the Commission's authority to adopt open Internet rules relying on Title II, and other possible sources of authority, including Title III. Additionally, we seek comment on the Commission's authority under any of the legal theories discussed below to address any transition or implementation issues associated with any open Internet rules adopted in this proceeding, such as the effect on existing agreements.

1. Section 706

143. We seek comment on our authority under Section 706. 47 U.S.C. 1301 *et seq.* We interpret Sections 706(a) and (b) as independent and overlapping grants of authority that give the Commission the flexibility to encourage deployment of broadband Internet access service through a variety of regulatory methods, including removal of barriers to infrastructure investment and promoting competition in the telecommunications market, and, in the case of Section 706(b), giving the Commission the authority to act swiftly when it makes a negative finding of adequate deployment. The rules we propose today would be authorized by Sections 706(a) and (b) because they would ''encourage the deployment'' of advanced telecommunications capability by promoting competition in the telecommunications market and removing barriers to infrastructure investment. We also seek comment on the relevant differences between Sections 706(a) and (b) and how, if at all, those differences should impact our exercise of authority here. There are significant differences between the authorities granted in each provision. For example, while both Section 706(a) and (b) permit the Commission to enact measures that promote competition in the telecommunications market, Section 706(b) permits the Commission to act by promoting competition in the ''telecommunications market'' while Section 706(a) limits the Commission to promoting competition in the ''local telecommunications market.'' Also, while Section 706(a) gives the Commission general authority to encourage the deployment of broadband regardless of findings under Section 706(b), Section 706(b) gives the Commission authority to take ''immediate action.''

144. To the extent that we rely on our authority under Section 706(b), we seek comment on how we should treat the existence of and the findings in the Commission's Broadband Progress Reports for the purposes of this proceeding. Could and should the Commission incorporate findings that satisfy Section 706(b) in this proceeding? Finally, we seek comment on the extent to which the disparity between metropolitan areas and rural deployment of broadband or within metropolitan areas should impact our conclusions as to whether advanced telecommunications capability is being reasonably and timely deployed.

145. We also seek comment on how to construe the specific terms and definitions in Section 706. For example, ''advanced telecommunications capability'' is defined ''without regard to any transmission media or technology, as high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.'' It is clear that broadband Internet access service is such ''advanced telecommunications capability,'' but we also seek comment on what other broadband-enabled services may fall within the definition of ''advanced telecommunications capability.'' Should the Commission interpret the term ''advanced telecommunications capability'' to require that certain practices accompany a broadband provider's deployment to ensure that end users receive ''high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications?'' In addition, we note that Congress did not define ''deployment.'' We believe Congress intended this term to be construed broadly, and thus, consistent with precedent, we have interpreted it to include the extension of networks as well as the extension of the capabilities and capacities of those networks.

146. In Section 230(b) of the Communications Act, Congress also set forth statutory ''polic[ies] of the United States'': to ''promote the continued development of the Internet,'' to promote ''technologies which maximize user control over what information is received'' over the Internet, and to ''preserve the vibrant and competitive free market *that presently exists for the Internet,* unfettered by Federal or State regulation.'' We continue to believe the Commission's interpretation of Section 706 is bolstered by these congressional policies. We seek comment on how the Commission should read Section 230(b) in exercising its Section 706 authority.

147. We also seek comment generally on how the court's decision in *Verizon* v. *FCC* should inform our exercise of legal authority. The D.C. Circuit upheld the Commission's interpretation of its authority under Section 706, concluding that the factual predicate that the Commission had laid justifying its regulations was reasonable and that such a factual predicate was reasonably linked to the Commission's exercise of authority. However, because the court determined that the Commission's no-blocking and anti-discrimination rules impermissibly regulated broadband providers as common carriers, the court vacated those rules, and remanded for further proceedings consistent with the opinion. We seek comment generally on how the court's *Verizon* decision should impact our exercise of authority here. Are there principles raised in Judge Silberman's separate opinion concurring in part and dissenting in part that are relevant to our exercise of authority as to the new rules proposed, or upon which we otherwise seek comment, here?

2. Title II

148. We seek comment on whether the Commission should rely on its authority under Title II of the Communications Act, including both (1) whether we should revisit the Commission's classification of broadband Internet access service as an information service and (2) whether we should separately identify and classify

as a telecommunications service a service that ''broadband providers . . . furnish to edge providers.'' For either of these possibilities, we seek comment on whether and how the Commission should exercise its authority under Section 10 (or Section 332(c)(1) for mobile services) to forbear from specific obligations under the Act and Commission rules that would flow from the classification of a service as telecommunications service.

149. *Title II—Revisiting the Classification of Broadband Internet Access Service.* In a series of decisions beginning in 2002, the Commission has classified broadband Internet access service offered over cable modem, DSL and other wireline facilities, wireless facilities, and power lines as an information service, which is not subject to Title II and cannot be regulated as common carrier service. In 2010, following the D.C. Circuit's *Comcast* decision, the Commission issued a Notice of Inquiry (*2010 NOI*) that, among other things, asked whether the Commission should revisit these decisions and classify a telecommunications component service of wired broadband Internet access service as a ''telecommunications service.'' Specifically, the Commission sought comment on whether to classify as a telecommunications service ''Internet connectivity,'' which it defined as ''the functions that 'enable [end users] to transmit data communications to and from the rest of the Internet.''' The docket opened by the 2010 NOI remains open. To ensure that it remains current, we hereby direct the Wireline Competition Bureau to issue a public notice to refresh the record in that proceeding including the inquiries contained herein. The Commission also asked whether it should similarly alter its approach to wireless broadband Internet access service, noting that Section 332 requires that wireless services that meet the definition of ''commercial mobile service'' be regulated as common carriers under Title II. In response, the Commission received substantial comments on these issues. We now seek further and updated comment on whether the Commission should revisit its prior classification decisions and apply Title II to broadband Internet access service (or components thereof). How would such a reclassification approach serve our goal to protect and promote Internet openness? What would be the legal bases and theories for particular open Internet rules adopted pursuant to such an approach? Would reclassification and applying Title II for the purpose of protecting and promoting Internet openness impact the Commission's overall policy goals and, if so, how?

150. What factors should the Commission keep in mind as it considers whether to revisit its prior decisions? Have there been changes to the broadband marketplace that should lead us to reconsider our prior classification decisions? To what extent is any telecommunications component of that service integrated with applications and other offerings, such that they are ''inextricably intertwined'' with the underlying connectivity service? Is broadband Internet access service (or any telecommunications component thereof) held out ''for a fee directly to the public, or to such classes of users as to be effectively available directly to the public?'' If not, should the Commission compel the offering of such functionality on a common carrier basis even if not offered as such? For mobile broadband Internet access service, does that service fit within the definition of ''commercial mobile service''? We also note that on May 14, 2014, Representative Henry Waxman, Ranking Member of the Committee on Energy and Commerce of the U.S. House of Representatives, sent a letter to Chairman Wheeler proposing an approach to protecting the open Internet whereby the Commission would proceed under Section 706 but use Title II as a ''backstop authority.'' We seek comment on the viability of that approach.

151. *Title II—Classification of the Broadband Providers' Service to Edge Providers.* Separate from the reclassification of ''broadband Internet access service,'' we seek comment on how the Commission should consider broadband providers' service to edge providers and whether that service (or some portion of it) is subject to Title II regulation. As mentioned above, in *Verizon,* the D.C. Circuit stated that ''broadband providers furnish a service to edge providers, thus undoubtedly functioning as edge providers' 'carriers.''' We understand such service to include the flow of Internet traffic on the broadband providers' own network, and not how it gets to the broadband providers' networks. The Commission in the *Open Internet Order* understood the 2010 rules to regulate ''broadband Internet access service,'' which the Commission classified as an information service. That service, however, is by definition a ''mass-market retail service'' providing the capability to send and receive data from ''all Internet end points.'' Does the ''service'' contemplated by the court between broadband providers and edge providers fit that definition? We seek comment on whether and, if so how, the Commission should separately identify and classify a broadband service that is furnished by broadband providers' to edge providers in order to protect and promote Internet openness.

152. Some have made proposals suggesting that the Commission could apply Title II to such services to achieve our open Internet objectives. For example, on May 5, 2014, Mozilla filed a petition requesting that the Commission (1) recognize remote delivery services in terminating access networks; (2) classify these services as ''telecommunications services'' under Title II of the Act; and (3) forbear from any ''inapplicable or undesirable provisions of Title II'' for such services. Mozilla states that, unlike the end-user facing broadband services the Commission has classified as information services, the Commission has not classified the service that broadband Internet providers to remote endpoints, particularly to entities not in privity with the broadband provider. These services, Mozilla argues, can and should be classified as telecommunications services, subject to whatever Title II regulations the Commission deems appropriate. Similarly, academics from Columbia University have submitted an alternate proposal to classify Internet-facing services that a broadband provider offers. This theory would split broadband Internet access service into two components: first, the subscriber's ''request [for] data from a third-party provider; and second, the content provider's response to the subscriber.'' The proposal would classify the latter ''sender-side'' traffic, sent in response to a broadband provider's customer's request as a telecommunications service, subject to Title II. According to the proposal, this is a stand-alone offer of telecommunications—transmission between points specified by the end-user. We seek comment on these proposals and other suggestions for how the Commission could identify and classify such services and apply Title II to achieve our goals of protecting and promoting Internet openness.

153. *Title II—Forbearance.* If the Commission were to reclassify broadband Internet access service as described above or classify a separate broadband service provided to edge providers as a ''telecommunications service,'' such a service would then be subject to all of the requirements of the Act and Commission rules that would flow from the classification of a service as a telecommunications service or common carrier service. Should the

Commission take such an approach, we seek comment on the extent to which forbearance from certain provisions of the Act or our rules would be justified in order to strike the right balance between minimizing the regulatory burden on providers and ensuring that the public interest is served. For mobile broadband services, we seek comment on whether and how the Commission should apply Section 332(c)(1) in addition to Section 10 forbearance.

154. In the *2010 NOI,* the Commission contemplated that, if it were to classify the Internet connectivity component of broadband Internet access service, it would forbear from applying all but a handful of core statutory provisions—Sections 201, 202, 208, and 254—to the service. In addition, the Commission identified Sections 222 and 255 as provisions that could be excluded from forbearance, noting that they have ''attracted longstanding and broad support in the broadband context.'' We received considerable comment in that proceeding and seek further and updated comment. Commenters should list and explain which provisions should be exempt from forbearance and which should receive it in order to protect and promote Internet openness. Commenters should also detail which services should receive forbearance, list the provisions from which they believe the Commission should forbear, and provide justification for the forbearance. Commenters should also define the relevant geographic and product markets in which the services or providers should receive forbearance.

155. For mobile broadband services, we also seek comment on the extent to which forbearance should apply, if the Commission were to classify mobile broadband Internet access service as a CMRS service subject to Title II. The *2010 NOI* also asked whether the Commission could and should apply Section 332(c)(1) as well as Section 10 in its forbearance analysis for mobile services. We received considerable comment in that proceeding and seek further and updated comment here.

3. Other Sources of Authority

156. *Title III.* We further seek comment on the Commission's authority to adopt open Internet rules for mobile broadband services under Title III of the Communications Act. The Supreme Court has found that Title III endows the Commission with ''expansive powers'' and a ''comprehensive mandate to 'encourage the larger and more effective use of radio in the public interest.''' Section 303 of the Act, in particular, authorizes the Commission to exercise its authority as ''the public interest, convenience, and necessity requires'' to ''[p]rescribe the nature of the service to be rendered by each class of licensed stations and each station within any class,'' and to establish obligations, not inconsistent with law, as may be necessary to carry out the provisions of the Act. It further directs the Commission to ''generally encourage the larger and more effective use of radio in the public interest.'' Likewise, Section 316 of the Act authorizes the Commission to adopt ''new conditions on existing licensees'' when taking such action will ''promote the public interest, convenience, and necessity.'' The Commission may exercise this authority on a license-by-license basis or through a rulemaking, even if the affected licenses were awarded at auction.

157. We find that these provisions provide authority for the Commission to adopt open Internet rules for mobile broadband service providers. Particularly, we find that it is within our authority to ''prescribe the nature of the service to be rendered by each class of licensed stations and each station within any class,'' consistent with what the ''public interest, convenience, and necessity requires'' to apply open Internet rules to mobile broadband service providers. We seek comment on this interpretation of our Title III authority.

158. *Other Sources of Authority.* We seek comment on other sources of authority that the Commission may utilize to underpin the adoption of these rules. For example, the *Open Internet Order* delineated a number of arguments for authority under a variety of statutory provisions. We also seek comment on the theory that the Commission may underpin open Internet rules by using its discretion to define the scope of common carriage. In addition, we seek comment on the Commission's authority to adopt rules under the World Trade Organization's Basic Agreement on Trade in Telecommunications. We seek comment on the efficacy of those, and other justifications for the rules we propose adopting here.

4. Constitutional Considerations

159. Finally we seek comment on other legal limitations and barriers to adoption of the rules we propose today, including First Amendment and Due Process considerations. In the *Open Internet Order,* the Commission concluded that ''broadband providers typically are best described not as 'speakers,' but rather as conduits for speech,'' and that the open Internet rules therefore did not implicate broadband providers' First Amendment rights. The Commission also found that even if the rules ''did implicate expressive activity, they would not violate the First Amendment'' because they would advance an important government interest—''ensur[ing] the public's access to a multiplicity of information sources and maximiz[ing] the Internet's potential to further the public interest''—without burdening '''substantially more speech than is necessary.''' We seek comment on these findings. We do not anticipate constitutional, statutory, or other legal barriers to adopting the rules we propose today, but we nonetheless seek comment on these matters. Are there modifications we could make to the proposals we make today that would avoid constitutional questions?

G. Other Laws and Considerations

160. The *Open Internet Order* provided that the open Internet rules did not alter broadband providers' rights or obligations with respect to other laws or safety and security considerations. The Commission further established that the rules did not prohibit broadband providers from making reasonable efforts to address transfers of unlawful content and unlawful transfers of content. We tentatively conclude that this continues to be the correct approach in light of the rules proposed in today's NPRM. We therefore propose to retain these regulations without modification. We seek comment on this tentative conclusion.

H. Enforcement and Dispute Resolution

1. Background

161. The *Open Internet Order* allowed parties to file informal complaints pursuant to Section 1.41 of the Commission's rules and promulgated a set of formal complaint rules. The formal complaint rules give the Commission flexibility to shift the burden of proof or production where appropriate and to structure and streamline the process to the extent possible. Due to the technical nature of potential disputes, however, the *Open Internet Order* stressed the importance of direct negotiations and consultation with independent technical bodies in hope that parties would be able to resolve disputes before availing themselves of the complaint processes. Thus, the policy of the Commission has been to encourage the filing of informal, rather than formal, complaints, and thus it was not surprising that the Commission did not receive any formal complaints following the adoption of the *Open Internet Order.* As noted above, the Commission has received many informal complaints from

consumers alleging violations of the *Open Internet Order.* In addition, the Commission takes notice of public commentary and events, which may lead the Enforcement Bureau to initiate its own investigation. We seek comment on the efficiency and functionality of the complaint processes adopted in, and used pursuant to, the *Open Internet Order.*

2. Designing an Effective Enforcement Process

162. The *Verizon* decision and our earlier data roaming rules provide a blueprint for the creation of a dispute resolution process to govern the rules we propose today to protect and promote the open Internet. Of course, there are significant potential differences between the data roaming and open Internet environments. For example, in *Cellco,* the D.C. Circuit considered a circumstance in which an identified party, a wireless carrier, would desire to enter into a business arrangement with another identified party, another wireless carrier. The rule at issue was designed to create circumstances that both incented individualized bargaining and, in specific circumstances, curbed the limits of such negotiation where necessary to serve the public interest. A similar circumstance could arise in the open Internet context, if for example, an app developer wished to enter into a contractual arrangement with a broadband provider. But it is just as possible that the entity that feels aggrieved by an alleged violation of an open Internet rule does not seek a direct contractual relationship with a broadband provider. That could arise, for example, if a Web site is blocked or if an edge provider feels that it is being harmed by differential treatment afforded by a broadband provider to its own affiliate. For this reason, the dispute resolution mechanism adopted by the Commission to enforce our proposed open Internet rules should be designed to operate between parties that do not necessarily desire to enter into a binding agreement.

163. We tentatively conclude that an effective institutional design for the rules proposed in today's NPRM must include at least three elements. *First,* there must be a mechanism to provide legal certainty, so that broadband providers, end users and edge providers alike can better plan their activities in light of clear Commission guidance. *Second,* there must be flexibility to consider the totality of the facts in an environment of dynamic innovation. *Third,* there must be effective access to dispute resolutions by end users and edge providers alike. We seek comment on these elements. Are there others that should be considered? Should any be eliminated? What forms of dispute resolution would be the best strategy to implement ''data-driven decision-making''?

164. We believe we have ample legal authority to design an effective enforcement and dispute resolution process, whether the Commission ultimately relies on Section 706, Title II, or another source of legal authority. We seek comment on whether and how, if at all, the source of the Commission's legal authority would affect our dispute resolution and enforcement proposals.

a. Legal Certainty

165. The Commission has a responsibility to provide certainty, guidance, and predictability to the marketplace as we protect and promote the open Internet. The most important form of guidance is, of course, the adoption by the Commission of a particular legal standard in the forthcoming rulemaking. As with the ''commercially reasonable'' standard employed in our data roaming rule, the purpose of such a legal standard is allow broadband providers, end users, and edge providers to measure broadband-provider conduct against a known rule of law, both prospectively and retroactively. Under the existing rules, formal complaints would also result in Commission orders that would both decide a specific complaint and provide useful guidance on the application of our proposed open Internet rules—particularly in those cases where the adjudicated set of facts is representative of a larger industry practice. What other forms of guidance would be helpful? For example, is there value in establishing a business-review-letter approach similar to that of the Antitrust Division of the Department of Justice, whereby entities concerned about certain practices under the new rules may ask the Commission for a statement of its current enforcement intentions with respect to that conduct and by which the Commission would publish both the request for review and its response? If adopted, would it make sense to have such a prospective review process be administered jointly by the Enforcement Bureau and the Office of General Counsel, or should such prospective reviews be considered by the full Commission? Should such guidance be binding or non-binding? How might petitions for declaratory ruling be helpful?

166. *Non-Binding Staff Opinions.* Are there other mechanisms by which the Commission can provide guidance before broadband providers initiate practices that are within the scope of the open Internet rules? For example, the Commission could designate certain staff to offer parties non-binding views on the likelihood that a particular practice by a broadband provider is commercially reasonable or commercially unreasonable (assuming that were the applicable legal standard ultimately adopted). The Commission has some experience with this non-binding, advisory approach to interpretation of its rules. While this type of informal guidance from staff is not binding, it may provide parties with helpful information as they consider whether and how to resolve a dispute privately and outside of the complaint process. Should we establish a similar process for helping parties anticipate issues or resolve disputes that might arise under our proposed open Internet rules? If so, should the non-binding guidance be made public in any way, or should it provide a confidential basis for early consultation? We emphasize that these sorts of non-binding processes would always be in addition to, and not in lieu of, the right of parties to seek binding determinations from the Commission through the formal or informal complaint process, declaratory rulings, or other mechanisms we adopt to resolve disputes and allegations of violations of our open Internet rules.

167. *Enforcement Advisories.* Another type of guidance can come in the form of enforcement advisories. For example, the Enforcement Bureau and the Office of General Counsel issued an enforcement advisory in 2011, providing additional insight into the application of the transparency rule. Is it helpful to have these bureaus issue such advisories periodically where issues of potential general application come to, or are brought to, their attention? Should such enforcement advisories be considered binding policy of the Commission, or merely a recitation of staff views?

b. Flexibility

168. Our process for promoting and protecting Internet openness through the rules we propose today must be flexible enough to account for the totality of circumstances, including Internet evolution and innovation from all sources over time. In the *Open Internet Order,* the Commission stated that it would make certain determinations on a case-by-case basis. The Commission also stated in the *Data Roaming Order* that it would determine whether the terms and conditions of a proffered data roaming arrangement were commercially reasonable on a

case-by-case basis, taking into consideration the totality of the circumstances. Based on the Commission's precedent in using this decision-making process, we tentatively conclude that we will adopt a similar case-by-case analysis and consider the totality of the circumstances to consider alleged violations of our proposed open Internet rules. Such an approach would, for example, allow the Commission to consider any sources of innovation when analyzing whether conduct meets the legal standard ultimately adopted by the Commission. Moreover, this approach helps to ensure that, as new circumstances exist, the Commission and interested parties will be advantaged by a culture of learning that, drawing on the strengths of common-law reasoning, reflects the experiences of the present, as well as the logic of the past. We seek comment on whether the combination of a certain legal standard and a case-by-case approach provides the best means of both providing guidance and cabining administrative discretion, while ensuring that a system of dispute resolution is both focused on facts and founded on the strengths of common-law reasoning.

169. *Fact Finding Processes.* In implementing either an informal or formal complaint process, how should the Commission structure its fact-finding processes? What level of evidence should be required in order to bring a claim? Are there other circumstances where initial pleading standards or burdens of production should be either higher or lower? In general, what is the showing required for the burden of production shift from the party bringing the claim to the other party in a dispute? Should interim relief be available? Should the process permit parties to seek expedited treatment of claims and, if so, under what circumstances?

c. Effective Access To Dispute Resolution

170. To be effective in protecting and promoting Internet openness, the process for enforcing the rules we propose today must be accessible to a diverse array of affected parties. As noted above, the *Open Internet Order* contemplated informal and formal complaints but did not include any alternative mechanisms for either providing guidance beforehand or resolution in the wake of a challenge to an existing practice. But, as also noted above, the rules proposed in today's NPRM will operate in an environment in which a complaining party may not have sought, or may not even want, to enter into a contractual arrangement with a broadband provider. Moreover, the ability of edge providers to effectively access a dispute resolution is important to the administrative effectiveness of any legal regime that the Commission might adopt. To what extent should the structure of edge provider market segments impact the kind of regime that the Commission adopts? For example, although 17 broadband access providers accounted for about 93 percent of U.S. retail subscribers in 2013, near the end of that year there were almost 900 app developers that each served more than one million active users globally. And app developers as a group may be quite a bit smaller than broadband providers; one estimate in 2013 calculated that 65 percent of app developers garner less than $35,000 per year. Moreover, individuals are themselves quite capable of serving as edge providers, for example aspiring musicians who upload videos to sites such as YouTube.

171. How can a dispute resolution system be best structured to account for individuals and small businesses that may not have the same legal resources and effective access to the Commission as broadband providers? We propose to create an ombudsperson whose duty will be to act as a watchdog to protect and promote the interests of edge providers, especially smaller entities. Should initial pleading or procedural requirements be adopted that make access to Commission processes by individuals or small businesses less cumbersome?

3. Complaint Processes, Enforcement, and Additional Forms of Dispute Resolution

172. *Complaint Processes.* We tentatively conclude that the same three means by which the Commission focused on potential open Internet violations after the adoption of the *Open Internet Order,* namely self-initiated investigation, informal complaints, and formal complaints, should be used as well to enforce any new open Internet rules. We seek comment on this tentative conclusion. Are there ways we can improve our informal complaint process to make it easier to access and more effective, especially for consumers and small businesses with limited resources? For example, should the Commission create a separate *Open Internet* complaint category for consumers filing informal complaints under the open Internet rules? Should the Commission permit individuals to report possible noncompliance with our Open Internet rules anonymously or take other steps to protect the identity of individuals who may be concerned about retaliation for raising concerns?

173. *Enforcement.* We tentatively conclude that enforcement of the transparency rule and any enhanced transparency rule that is adopted in this proceeding should proceed under the same dispute mechanisms that will apply to the proposed no-blocking rule and the legal standard for provider practices ultimately adopted by the Commission. We also tentatively conclude that violations of the rules would be subject to forfeiture penalties, as appropriate, under the Act. We seek comment on these tentative conclusions.

174. *Additional Forms of Dispute Resolution—Alternative Dispute Resolution.* In addition to the Commission processes noted above to provide guidance, flexibility, and access, we seek comment on whether additional dispute resolutions should be adopted. Should we adopt measures to require or encourage disputes over the legality of broadband provider practices to be resolved through alternative dispute resolution processes, such as arbitration? Would such an approach be sufficiently accessible to smaller edge providers, or would a different dispute resolution process be more appropriate? Are there any legal considerations, limitations, or concerns that the Commission should consider with adopting an alternative dispute resolution procedure, including arbitration or mediation by a third party? For example, under the Alternative Dispute Resolution Act, an agency ''may not require any person to consent to arbitration as a condition of entering into a contract or obtaining a benefit.'' 5 U.S.C. 575(a)(3). We note, however, that this restriction does not prevent the Commission from requiring parties to submit to third-party arbitration so long as the arbitration is subject to *de novo* review by the Commission. We note that under our informal dispute resolution procedures, Commission staff can mediate disputes if parties voluntarily request such a process. During such mediations, for instance, the staff may ask parties to submit their best offers to facilitate negotiations. We also can adopt specific rules to determine appropriate remedies and rapid resolution of formal complaints, including a requirement that parties provide their best and final offers to help Commission staff determine an appropriate remedy if a violation of the rule is found. We seek comment on the benefits and costs of such an approach in this context.

175. *Additional Forms of Dispute Resolution—Multistakeholder*

Processes. We also seek comment on whether a multistakeholder approach to the enforcement of our proposed open Internet rules would work in this context, in whole or in part. For example, should the Commission provide an initial forum for discussion and thereafter encourage stakeholders, should they so choose, to independently develop standards that they consider to meet the governing legal standards? Such standards might then be shared with the Commission for consideration, or the stakeholders might publicize their proposed standards and encourage industry to use them as best practices. If the Commission employed a model similar to that of NTIA's multistakeholder privacy process, are there lessons we can learn from that experience? How can a multistakeholder process best further the goals of providing guidance, flexibility, and access?

176. *Additional Forms of Dispute Resolution—Technical Advisory Groups.* We also seek comment on whether and how the Commission should incorporate the expertise of technical advisory groups into a new open Internet framework in a manner that could serve the goals of providing guidance, flexibility and access. For example, should we invite the Open Internet Advisory Committee (OIAC), the Broadband Internet Technical Advisory Group (BITAG), the Internet Engineering Task Force (IETF), or the North American Network Operators Group (NANOG) to recommend to the Commission or public more generally industry best practices or other codes of conduct that would either serve as presumptive safe harbors and/or help determine whether a broadband provider is in compliance with our open Internet rules? Or, rather than asking industry groups and other interested parties to play a role *ex ante,* should the Commission instead ask them generally, or specific groups in particular, to weigh in on specific disputes once they are brought to the Commission's attention? We seek comment generally on how the inclusion of advisory groups might strengthen the open Internet framework and reduce the burdens of compliance. Similarly, we seek comment on the potential value of allowing providers to opt into voluntary codes of conduct or other suggested best practices that may serve as presumptive safe harbors.

IV. Procedural Matters

A. Paperwork Reduction Act Analysis

177. This document contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

B. Initial Regulatory Flexibility Analysis

178. As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) for this NPRM, of the possible significant economic impact on small entities of the policies and rules addressed in this document. The IRFA is set forth in Appendix B. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM indicated on the first page of this document. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

C. Ex Parte Rules

179. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

D. Contact Person

180. For further information about this rulemaking proceeding, please contact Kristine Fargotstein, Competition Policy Division, Wireline Competition Bureau, at (202) 418–2774.

V. Ordering Clauses

181. Accordingly, *it is ordered,* pursuant to Sections 1, 2, 4(i)-(j), 303 and 316 of the Communications Act of 1934, as amended, and Section 706 of the Telecommunications Act of 1996, as amended, 47 U.S.C. 151, 152, 154(i)-(j), 303, 316, 1302, that this Notice of Proposed Rulemaking *is adopted.*

182. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities from the policies and rules proposed in this Notice of Proposed Rulemaking (NPRM). The Commission requests written public comment on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided on the first page of the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

2. With this NPRM, the Commission is directly responding to the remand by the U.S. Court of Appeals for the D.C. Circuit in *Verizon* v. *FCC* of portions of the Commission's 2010 *Open Internet Order* and proposing enforceable rules to protect and promote the open Internet. The NPRM seeks comment on a variety of issues relating to the Commission's stated objective of protecting and promoting an open Internet. The Internet's openness promotes innovation, investment, competition, free expression and other national broadband goals. It is also critical to the Internet's ability to serve as a platform for speech and civic engagement and can help close the digital divide by facilitating the development of diverse content, applications, and services. The Commission has specifically found that the Internet's openness enables a ''virtuous circle of innovation in which new uses of the network—including new content, applications, services, and devices—lead to increased end-user demand for broadband, which drives network improvements, which in turn lead to further innovative network uses.'' However, as the Commission has previously found, broadband providers have both the incentive and ability to limit Internet openness. As discussed in the NPRM, the Commission is seeking comment on proposed open Internet rules that will protect against the harms identified in the 2010 *Open Internet Order,* while fostering all sources of innovation on the collection of networks known as the Internet. The NPRM asks for comment in a variety of specific areas and sets forth proposals in the following six key areas: scope of the proposed rules, enhancement of the existing transparency rule, a no-blocking rule, an enforceable rule designed to protect the open Internet that is not *per se* common carriage, the best source of legal authority for protection of Internet openness and an enforcement and dispute resolution process.

3. First, the NPRM proposes to retain the same definitions and scope as the 2010 rules. The NPRM seeks comment, however, on whether the Commission should change the scope of the proposed rules as applied to the following: specifically identified services, enterprise services, Internet traffic exchange, specialized services, and mobile services. The NPRM also proposes to interpret ''reasonable network management'' under the same framework adopted in the 2010 *Open Internet Order* and seeks comment on developing the scope of ''reasonable network management'' on a case-by-case basis under the proposed rules.

4. Second, the NPRM proposes enhancements to the Commission's existing transparency rule, which was upheld by the D.C. Circuit. The NPRM seeks comment on whether disclosures of broadband providers' network management practices, performance, and terms and conditions that are specifically tailored to the needs of affected parties would better ensure that consumers, edge providers, and the Internet community at large have the information they need to understand the services they are receiving and to monitor practices that could undermine the open Internet than the existing rule. The NPRM seeks comment on the burdens of enhanced transparency on broadband providers and specifically asks if there are ways to minimize these potential costs and burdens.

5. Third, the NPRM proposes adopting the text of the no-blocking rule from the 2010 *Open Internet Order,* with a revised rationale, in order to ensure that all end users and edge providers can enjoy the use of robust, fast and dynamic Internet access. To address the ongoing concerns with the harmful effects that blocking of Internet traffic would have on Internet openness and to competition in adjacent markets, the NPRM seeks comment on a draft no-blocking rule that would allow individualized bargaining above a minimum level of access to a broadband provider's subscribers, which the D.C. Circuit suggested would be permissible and take the rule out of the realm of common carriage regulation. The NPRM proposes a variety of ways to establish a minimum level of access under the proposed no-blocking rule and seeks comment on those interpretations. Alternatively, the NPRM seeks comment on whether the Commission should adopt a no-blocking rule that either itself prohibits broadband providers from entering into priority agreements with edge providers or acts in combination with a separate rule prohibiting such conduct. Additionally, consistent with the 2010 *Open Internet Order,* the NPRM proposes to apply the proposed no-blocking rule differently to mobile broadband providers than to fixed broadband providers and seeks comment on that approach.

6. Fourth, where conduct would otherwise be permissible under the no-blocking rule, the NPRM proposes a separate rule that requires broadband providers to adhere to an enforceable legal standard of commercially reasonable practices. The NPRM tentatively concludes that the Commission should adopt a revised rule that, consistent with the court's decision, may permit broadband providers to engage in individualized practices, while prohibiting those broadband provider practices that threaten to harm Internet openness. The Commission's proposed approach contains three essential elements: (1) An enforceable legal standard of conduct barring broadband provider practices that threaten to undermine Internet openness, providing certainty to network providers, end users, and edge providers alike, (2) clearly established factors that give additional guidance on the kind of conduct that is likely to violate the enforceable legal standard, and (3) encouragement of individualized negotiation and, if necessary, a mechanism to allow the Commission to evaluate challenged practices on a case-by-case basis, thereby providing flexibility in assessing whether a particular practice comports with the legal standard. The NPRM proposes that the concept of reasonable network management would be treated separately from the application of the commercially reasonable practices legal standard and seeks comment on this approach. The NPRM asks how harm can best be identified and prohibited and whether certain practices, like paid prioritization, should be barred altogether. The NPRM also seeks comment on whether the Commission should consider current technical characteristics, industry practices, and the impact on consumers, among other factors, when evaluating commercially reasonable practices.

7. Fifth, the NPRM proposes to rely on Section 706 of the Telecommunications Act of 1996 as the source of authority for the proposed rules. It seeks comment, however, on the best source of authority for protecting Internet openness, whether Section 706, Title II of the Communications Act of 1934, as amended, and/or other sources of legal authority such as Title III of the Communications Act for wireless services. With respect to the prospect of proceeding under Title II, the NPRM seeks comment on whether and how the Commission should exercise its authority under Section 10 of the Act—or Section 332(c)(1) for mobile services—to forbear from specific Title II obligations that would flow from the classification of a service as telecommunications service.

8. Sixth, the NPRM proposes a multi-faceted dispute resolution process to provide effective access for end users, edge providers, and broadband network providers alike and the creation of an ombudsperson to act as a watchdog to represent the interests of consumers, start-ups and small businesses. The NPRM seeks comment on the level of flexibility needed for such approaches and, specifically, how the Commission can ensure that the process is accessible by end users and edge providers, including small entities. The NPRM also proposes that should the Commission ultimately adopt one of the proposed dispute mechanisms, then enforcement of the existing transparency rule and any enhancements to that rule would proceed under the same manner as enforcement of the Commission's other proposed open Internet rules if adopted.

B. Legal Basis

9. The legal basis for any action that may be taken pursuant to the NPRM is contained in Sections 1, 2, 4(i)–(j), 303, and 316, of the Communications Act of 1934, as amended, and Section 706 of the Telecommunications Act of 1996, as amended, 47 U.S.C. 151, 152, 154(i)–(j), 303, 316, 1302.

C. Description and Estimate of the Number of Small Entities To Which the Rules Would Apply

10. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

1. Total Small Entities

11. Our proposed action, if implemented, may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards. First, nationwide, there are a total of approximately 28.2 million small businesses, according to the SBA. In addition, a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2007, there were approximately 1,621,315 small organizations. Finally, the term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2007 indicate that there were 89,476 local governmental jurisdictions in the United States. We estimate that, of this total, as many as 88,761 entities may qualify as ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

2. Internet Access Service Providers

12. The actions proposed in the NPRM would apply to broadband Internet access service providers. The 2011 Economic Census places these firms, whose services might include Voice over Internet Protocol (VoIP), in either of two categories, depending on whether the service is provided over the provider's own telecommunications facilities (e.g., cable and DSL ISPs), or over client-supplied telecommunications connections (e.g., dial-up ISPs). The former are within the category of Wired Telecommunications Carriers, which has an SBA small business size standard of 1,500 or fewer employees. These are also labeled ''broadband.'' The latter are within the category of All Other Telecommunications, which has a size standard of annual receipts of $25 million or less. These are labeled non-broadband. The most current Economic Census data for Wired Telecommunications Carriers are 2011 data, and the most current Economic Census data for All Other Telecommunications are 2007 data, which are detailed specifically for ISPs within the categories above. For the first category, the data show that 3,372 firms operated for the entire year, of which 2,037 had nine or fewer employees. For the second category, the data show that 1,274 firms operated for the entire year. Of those, 1,252 had annual receipts below $25 million per year. Consequently, we estimate that the majority of ISP firms are small entities.

13. The ISP industry has changed since these definitions were introduced in 2007. The data cited above may therefore include entities that no longer provide Internet access service and may exclude entities that now provide such service. To ensure that this IRFA describes the universe of small entities that our action might affect, we discuss in turn several different types of entities that might be providing Internet access service. We note that, although we have no specific information on the number of small entities that provide broadband Internet access service over unlicensed spectrum, we include these entities in our Initial Regulatory Flexibility Analysis.

3. Wireline Providers

14. *Incumbent Local Exchange Carriers* (*Incumbent LECs*). Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,307 carriers reported that they were incumbent local exchange service providers. Of these 1,307 carriers, an estimated 1,006 have 1,500 or fewer employees and 301 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our proposed action.

15. *Competitive Local Exchange Carriers (Competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees and 186 have more than 1,500 employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. In addition, 72 carriers have reported that they are Other Local Service Providers. Of the 72, seventy have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and other local service providers are small entities that may be affected by our proposed action.

16. We have included small incumbent LECs in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

17. *Interexchange Carriers.* Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 359 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by our proposed action.

18. *Operator Service Providers* (*OSPs*). Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 33 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 31 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by our proposed action.

4. Wireless Providers—Fixed and Mobile

19. The broadband Internet access service provider category covered by this NPRM may cover multiple wireless firms and categories of regulated wireless services. Thus, to the extent the wireless services listed below are used by wireless firms for broadband Internet access services, the proposed actions may have an impact on those small businesses as set forth above and further below. In addition, for those services subject to auctions, we note that, as a general matter, the number of winning bidders that claim to qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments and transfers or reportable eligibility events, unjust enrichment issues are implicated.

20. *Wireless Telecommunications Carriers (except Satellite*). Since 2007, the Census Bureau has placed wireless firms within this new, broad, economic census category. Prior to 2007, such firms were within the now-superseded categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For the category of Wireless Telecommunications Carriers (except Satellite), data for 2011 show that there were 784 firms operating that year. Of these 784 firms, an estimated 749 have 500 or fewer employees and 35 have more than 500 employees. Since all firms with fewer than 1,500 employees are considered small, given the total employment in the sector, we estimate that the vast majority of wireless firms are small.

21. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions. The Commission auctioned geographic area licenses in the WCS service in 1997. In the auction, seven bidders won 31 licenses that qualified as very small business entities, and one bidder won one license that qualified as a small business entity.

22. *1670–1675 MHz Services.* This service can be used for fixed and mobile uses, except aeronautical mobile. An auction for one license in the 1670–1675 MHz band was conducted in 2003. One license was awarded. The winning bidder was not a small entity.

23. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted, the SBA has developed a small business size standard for Wireless Telecommunications Carriers (except Satellite). Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Commission data, 413 carriers reported that they were engaged in wireless telephony. Of these, an estimated 261 have 1,500 or fewer employees and 152 have more than 1,500 employees. Therefore, a little less than one third of these entities can be considered small.

24. *Broadband Personal Communications Service.* The broadband personal communications services (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission initially defined a ''small business'' for C- and F-Block licenses as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For F-Block licenses, an additional small business size standard for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that claimed small business status in the first two C-Block auctions. A total of 93 bidders that claimed small business status won approximately 40 percent of the 1,479 licenses in the first auction for the D, E, and F Blocks. On April 15, 1999, the Commission completed the reauction of 347 C-, D-, E-, and F-Block licenses in Auction No. 22. Of the 57 winning bidders in that auction, 48 claimed small business status and won 277 licenses.

25. On January 26, 2001, the Commission completed the auction of 422 C and F Block Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in that auction, 29 claimed small business status. Subsequent events concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant. On February 15, 2005, the Commission completed an auction of 242 C-, D-, E-, and F-Block licenses in Auction No. 58. Of the 24 winning bidders in that auction, 16 claimed small business status and won 156

licenses. On May 21, 2007, the Commission completed an auction of 33 licenses in the A, C, and F Blocks in Auction No. 71. Of the 12 winning bidders in that auction, five claimed small business status and won 18 licenses. On August 20, 2008, the Commission completed the auction of 20 C-, D-, E-, and F-Block Broadband PCS licenses in Auction No. 78. Of the eight winning bidders for Broadband PCS licenses in that auction, six claimed small business status and won 14 licenses.

26. *Specialized Mobile Radio Licenses.* The Commission awards ''small entity'' bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands to firms that had revenues of no more than $15 million in each of the three previous calendar years. The Commission awards ''very small entity'' bidding credits to firms that had revenues of no more than $3 million in each of the three previous calendar years. The SBA has approved these small business size standards for the 900 MHz Service. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz bands. The 900 MHz SMR auction began on December 5, 1995, and closed on April 15, 1996. Sixty bidders claiming that they qualified as small businesses under the $15 million size standard won 263 geographic area licenses in the 900 MHz SMR band. The 800 MHz SMR auction for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten bidders claiming that they qualified as small businesses under the $15 million size standard won 38 geographic area licenses for the upper 200 channels in the 800 MHz SMR band. A second auction for the 800 MHz band was held on January 10, 2002 and closed on January 17, 2002 and included 23 BEA licenses. One bidder claiming small business status won five licenses.

27. The auction of the 1,053 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000, and was completed on September 1, 2000. Eleven bidders won 108 geographic area licenses for the General Category channels in the 800 MHz SMR band and qualified as small businesses under the $15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were awarded. Of the 22 winning bidders, 19 claimed small business status and won 129 licenses. Thus, combining all four auctions, 41 winning bidders for geographic licenses in the 800 MHz SMR band claimed status as small businesses.

28. In addition, there are numerous incumbent site-by-site SMR licenses and licensees with extended implementation authorizations in the 800 and 900 MHz bands. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. In addition, we do not know how many of these firms have 1,500 or fewer employees, which is the SBA-determined size standard. We assume, for purposes of this analysis, that all of the remaining extended implementation authorizations are held by small entities, as defined by the SBA.

29. *Lower 700 MHz Band Licenses.* The Commission previously adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits. The Commission defined a ''small business'' as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. A ''very small business'' is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. Additionally, the lower 700 MHz Service had a third category of small business status for Metropolitan/Rural Service Area (MSA/RSA) licenses—''entrepreneur''—which is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA approved these small size standards. An auction of 740 licenses (one license in each of the 734 MSAs/RSAs and one license in each of the six Economic Area Groupings (EAGs)) commenced on August 27, 2002, and closed on September 18, 2002. Of the 740 licenses available for auction, 484 licenses were won by 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business or entrepreneur status and won a total of 329 licenses. A second auction commenced on May 28, 2003, closed on June 13, 2003, and included 256 licenses: 5 EAG licenses and 476 Cellular Market Area licenses. Seventeen winning bidders claimed small or very small business status and won 60 licenses, and nine winning bidders claimed entrepreneur status and won 154 licenses. On July 26, 2005, the Commission completed an auction of 5 licenses in the Lower 700 MHz band (Auction No. 60). There were three winning bidders for five licenses. All three winning bidders claimed small business status.

30. In 2007, the Commission reexamined its rules governing the 700 MHz band in the *700 MHz Second Report and Order,* 72 FR 48814 (Aug. 24, 2007). An auction of 700 MHz licenses commenced January 24, 2008 and closed on March 18, 2008, which included, 176 Economic Area licenses in the A Block, 734 Cellular Market Area licenses in the B Block, and 176 EA licenses in the E Block. Twenty winning bidders, claiming small business status (those with attributable average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years) won 49 licenses. Thirty three winning bidders claiming very small business status (those with attributable average annual gross revenues that do not exceed $15 million for the preceding three years) won 325 licenses.

31. *Upper 700 MHz Band Licenses.* In the *700 MHz Second Report and Order,* the Commission revised its rules regarding Upper 700 MHz licenses. On January 24, 2008, the Commission commenced Auction 73 in which several licenses in the Upper 700 MHz band were available for licensing: 12 Regional Economic Area Grouping licenses in the C Block, and one nationwide license in the D Block. The auction concluded on March 18, 2008, with 3 winning bidders claiming very small business status (those with attributable average annual gross revenues that do not exceed $15 million for the preceding three years) and winning five licenses.

32. *700 MHz Guard Band Licensees.* In 2000, in the *700 MHz Guard Band Order,* 65 FR 17594 (Mar. 4, 2000), the Commission adopted size standards for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business in this service is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. Additionally, a very small business is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. SBA approval of these definitions is not required. An auction of 52 Major Economic Area licenses commenced on September 6, 2000, and

closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001, and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

33. *Air-Ground Radiotelephone Service.* The Commission has previously used the SBA's small business size standard applicable to Wireless Telecommunications Carriers (except Satellite), i.e., an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and under that definition, we estimate that almost all of them qualify as small entities under the SBA definition. For purposes of assigning Air-Ground Radiotelephone Service licenses through competitive bidding, the Commission has defined ''small business'' as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the preceding three years not exceeding $40 million. A ''very small business'' is defined as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the preceding three years not exceeding $15 million. These definitions were approved by the SBA. In May 2006, the Commission completed an auction of nationwide commercial Air-Ground Radiotelephone Service licenses in the 800 MHz band (Auction No. 65). On June 2, 2006, the auction closed with two winning bidders winning two Air-Ground Radiotelephone Services licenses. Neither of the winning bidders claimed small business status.

34. *AWS Services (1710–1755 MHz and 2110–2155 MHz bands (AWS–1); 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz bands (AWS–2); 2155–2175 MHz band (AWS–3)).* For the AWS–1 bands, the Commission has defined a ''small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $40 million, and a ''very small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $15 million. For AWS–2 and AWS–3, although we do not know for certain which entities are likely to apply for these frequencies, we note that the AWS–1 bands are comparable to those used for cellular service and personal communications service. The Commission has not yet adopted size standards for the AWS–2 or AWS–3 bands but proposes to treat both AWS–2 and AWS–3 similarly to broadband PCS service and AWS–1 service due to the comparable capital requirements and other factors, such as issues involved in relocating incumbents and developing markets, technologies, and services.

35. *3650–3700 MHz band.* In March 2005, the Commission released a *Report and Order and Memorandum Opinion and Order* that provides for nationwide, non-exclusive licensing of terrestrial operations, utilizing contention-based technologies, in the 3650 MHz band (i.e., 3650–3700 MHz). As of April 2010, more than 1270 licenses have been granted and more than 7433 sites have been registered. The Commission has not developed a definition of small entities applicable to 3650–3700 MHz band nationwide, non-exclusive licensees. However, we estimate that the majority of these licensees are Internet Access Service Providers (ISPs) and that most of those licensees are small businesses.

36. *Fixed Microwave Services.* Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. They also include the Local Multipoint Distribution Service (LMDS), the Digital Electronic Message Service (DEMS), and the 24 GHz Service, where licensees can choose between common carrier and non-common carrier status. At present, there are approximately 36,708 common carrier fixed licensees and 59,291 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. There are approximately 135 LMDS licensees, three DEMS licensees, and three 24 GHz licensees. The Commission has not yet defined a small business with respect to microwave services. For purposes of the IRFA, we will use the SBA's definition applicable to Wireless Telecommunications Carriers (except satellite)—i.e., an entity with no more than 1,500 persons. Under the present and prior categories, the SBA has deemed a wireless business to be small if it has 1,500 or fewer employees. For the category of Wireless Telecommunications Carriers (except Satellite), data for 2011 show that there were 784 firms operating that year. While the Census Bureau has not released data on the establishments broken down by number of employees, we note that the Census Bureau lists total employment for all firms in that sector at 245,875. Since all firms with fewer than 1,500 employees are considered small, given the total employment in the sector, we estimate that the vast majority of firms using microwave services are small. We note that the number of firms does not necessarily track the number of licensees. We estimate that virtually all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition.

37. *Broadband Radio Service and Educational Broadband Service.* Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and ''wireless cable,'' transmit video programming to subscribers and provide two-way high speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)). In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than $40 million in the previous three calendar years. The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, we estimate that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent BRS licensees that are considered small entities. After adding the number of small business auction licensees to the number of incumbent licensees not already counted, we find that there are currently approximately 440 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules.

38. In 2009, the Commission conducted Auction 86, the sale of 78 licenses in the BRS areas. The Commission offered three levels of bidding credits: (i) A bidder with attributed average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years (small business) received a 15 percent discount on its winning bid; (ii) a bidder with attributed average annual gross revenues that exceed $3 million and do not exceed $15 million for the preceding three years (very small business) received a 25 percent discount on its winning bid; and (iii) a bidder with attributed average annual gross

revenues that do not exceed $3 million for the preceding three years (entrepreneur) received a 35 percent discount on its winning bid. Auction 86 concluded in 2009 with the sale of 61 licenses. Of the ten winning bidders, two bidders that claimed small business status won 4 licenses; one bidder that claimed very small business status won three licenses; and two bidders that claimed entrepreneur status won six licenses.

39. In addition, the SBA's Cable Television Distribution Services small business size standard is applicable to EBS. There are presently 2,436 EBS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in this analysis as small entities. Thus, we estimate that at least 2,336 licensees are small businesses. Since 2007, Cable Television Distribution Services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. To gauge small business prevalence for these cable services we must, however, use the most current census data that are based on the previous category of Cable and Other Program Distribution and its associated size standard; that size standard was: all such firms having $13.5 million or less in annual receipts. According to Census Bureau data for 2007, there were a total of 996 firms in this category that operated for the entire year. Of this total, 948 firms had annual receipts of under $10 million, and 48 firms had receipts of $10 million or more but less than $25 million. Thus, the majority of these firms can be considered small.

5. Satellite Service Providers

40. *Satellite Telecommunications Providers.* Two economic census categories address the satellite industry. The first category has a small business size standard of $30 million or less in average annual receipts, under SBA rules. The second has a size standard of $30 million or less in annual receipts.

41. The category of Satellite Telecommunications ''comprises establishments primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' For this category, Census Bureau data for 2007 show that there were a total of 570 firms that operated for the entire year. Of this total, 530 firms had annual receipts of under $30 million, and 40 firms had receipts of over $30 million. Consequently, we estimate that the majority of Satellite Telecommunications firms are small entities that might be affected by our action.

42. The second category of Other Telecommunications comprises, *inter alia,* ''establishments primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems.'' For this category, Census Bureau data for 2007 show that there were a total of 1,274 firms that operated for the entire year. Of this total, 1,252 had annual receipts below $25 million per year. Consequently, we estimate that the majority of All Other Telecommunications firms are small entities that might be affected by our action.

6. Cable Service Providers

43. Because Section 706 requires us to monitor the deployment of broadband using any technology, we anticipate that some broadband service providers may not provide telephone service. Accordingly, we describe below other types of firms that may provide broadband services, including cable companies, MDS providers, and utilities, among others.

44. *Cable and Other Program Distributors.* Since 2007, these services have been defined within the broad economic census category of Wired Telecommunications Carriers; that category is defined as follows: ''This industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' The SBA has developed a small business size standard for this category, which is: all such firms having 1,500 or fewer employees. To gauge small business prevalence for these cable services we must, however, use current census data that are based on the previous category of Cable and Other Program Distribution and its associated size standard; that size standard was: all such firms having $13.5 million or less in annual receipts. According to Census Bureau data for 2007, there were a total of 2,048 firms in this category that operated for the entire year. Of this total, 1,393 firms had annual receipts of under $10 million, and 655 firms had receipts of $10 million or more. Thus, the majority of these firms can be considered small.

45. *Cable Companies and Systems.* The Commission has also developed its own small business size standards, for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers, nationwide. Industry data shows that there were 1,141 cable companies at the end of June 2012. Of this total, all but ten cable operators nationwide are small under this size standard. In addition, under the Commission's rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,945 cable systems nationwide. Of this total, 4,380 cable systems have less than 20,000 subscribers, and 565 systems have 20,000 or more subscribers, based on the same records. Thus, under this standard, we estimate that most cable systems are small entities.

46. *Cable System Operators.* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all but ten incumbent cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross

annual revenues exceed $250 million, and therefore we are unable to estimate more accurately the number of cable system operators that would qualify as small under this size standard.

7. Electric Power Generators, Transmitters, and Distributors

47. *Electric Power Generators, Transmitters, and Distributors.* The Census Bureau defines an industry group comprised of ''establishments, primarily engaged in generating, transmitting, and/or distributing electric power. Establishments in this industry group may perform one or more of the following activities: (1) Operate generation facilities that produce electric energy; (2) operate transmission systems that convey the electricity from the generation facility to the distribution system; and (3) operate distribution systems that convey electric power received from the generation facility or the transmission system to the final consumer.'' The SBA has developed a small business size standard for firms in this category: ''A firm is small if, including its affiliates, it is primarily engaged in the generation, transmission, and/or distribution of electric energy for sale and its total electric output for the preceding fiscal year did not exceed 4 million megawatt hours.'' According to Census Bureau data for 2011, there were 2,419 firms in this category that operated for the entire year. Census data do not track electric output and we have not determined how many of these firms fit the SBA size standard for small, with no more than 4 million megawatt hours of electric output. Consequently, we estimate that 2,419 or fewer firms may be considered small under the SBA small business size standard.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

48. As indicated above, the NPRM seeks comment on possible enhancements to the Commission's existing transparency rule that may impose additional reporting, recordkeeping, or other compliance requirements on some small entities. While the NPRM tentatively concludes that the Commission should enhance the transparency rule to improve its effectiveness for end users, edge providers, the Internet community, and the Commission, the NPRM does not propose specific revisions to the existing transparency rule. As described above, the NPRM also seeks comment on a dispute resolution process that would, if adopted, potentially require small entities to respond to complaints or otherwise participate in dispute resolution procedures. One feature of the enforcement mechanism as discussed in the NPRM, includes a proposal to establish the role of an ombudsperson who would act as a watchdog to represent the interests of start-ups and other small entities in addition to consumers.

E. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

49. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include (among others) the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. We expect to consider all of these factors when we have received substantive comment from the public and potentially affected entities.

50. The Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the NPRM and this IRFA, in reaching its final conclusions and taking action in this proceeding.

51. We note, though, that the potential enhancements to the transparency rule, the proposed mechanism for individualized decision-making under the proposed enforceable legal standard of commercially reasonable practices, and various aspects of the proposed dispute resolution process all contemplate a certain amount of flexibility that may be helpful to small entities. For example, the Commission seeks comment on whether there are ways the Commission or industry associations could reduce burdens on broadband providers in complying with the proposed enhanced transparency rule through the use of a voluntary industry standardized glossary, or through the creation of a dashboard that permits easy comparison of the policies, procedures, and prices of various broadband providers throughout the country. We seek comment here on the effect the various proposals described in the NPRM, and summarized above, will have on small entities, and on what effect alternative rules would have on those entities. How can the Commission achieve its goal of protecting and promoting an open Internet while also imposing minimal burdens on small entities? What specific steps could the Commission take in this regard?

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

52. None

List of Subjects in 47 CFR Part 8

Cable television, Communications, Common carriers, Communications common carriers, Radio, Telecommunications, Telephone.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to revise part 8 of Title 47 of the Code of Federal Regulations as follows:

PART 8—PROTECTING AND PROMOTING THE OPEN INTERNET

Sec.
8.1 Purpose.
8.3 Transparency.
8.5 No blocking.
8.7 No commercially unreasonable practices.
8.9 Other laws and considerations.
8.11 Definitions.
8.12 Formal complaints.
8.13 General pleading requirements.
8.14 General formal complaint procedures.
8.15 Status conference.
8.16 Confidentiality of proprietary information.
8.17 Review.

Authority: 47 U.S.C. 151, 152, 154(i)–(j), 303, 316, 1302.

§ 8.1 Purpose.

The purpose of this part is to protect and promote the Internet as an open platform enabling consumer choice, freedom of expression, end-user control, competition, and the freedom to innovate without permission, and thereby to encourage the deployment of advanced telecommunications capability and remove barriers to infrastructure investment.

§ 8.3 Transparency.

(a) A person engaged in the provision of broadband Internet access service shall publicly disclose accurate information regarding the network management practices, performance, and commercial terms of its broadband Internet access services, in a manner tailored

(1) For end users to make informed choices regarding use of such services,

(2) For edge providers to develop, market, and maintain Internet offerings, and

(3) For the Commission and members of the public to understand how such person complies with the requirements described in §§ 8.5 and 8.7.

(b) In making the disclosures required by this section, a person engaged in the provision of broadband Internet access service shall include meaningful information regarding the source, timing, speed, packet loss, and duration of congestion.

(c) In making the disclosures required by this section, a person engaged in the provision of broadband Internet access service shall publicly disclose in a timely manner to end users, edge providers, and the Commission when they make changes to their network practices as well as any instances of blocking, throttling, and pay-for-priority arrangements, or the parameters of default or ''best effort'' service as distinct from any priority service.

8.5 No blocking.

(a) A person engaged in the provision of fixed broadband Internet access service, insofar as such person is so engaged, shall not block lawful content, applications, services, or non-harmful devices, subject to reasonable network management.

(b) A person engaged in the provision of mobile broadband Internet access service, insofar as such person is so engaged, shall not block consumers from accessing lawful Web sites, subject to reasonable network management; nor shall such person block applications that compete with the provider's voice or video telephony services, subject to reasonable network management.

§ 8.7 No commercially unreasonable practices.

A person engaged in the provision of fixed broadband Internet access service, insofar as such person is so engaged, shall not engage in commercially unreasonable practices. Reasonable network management shall not constitute a commercially unreasonable practice.

§ 8.9 Other laws and considerations.

(a) Nothing in this part supersedes any obligation or authorization a provider of broadband Internet access service may have to address the needs of emergency communications or law enforcement, public safety, or national security authorities, consistent with or as permitted by applicable law, or limits the provider's ability to do so.

(b) Nothing in this part prohibits reasonable efforts by a provider of broadband Internet access service to address copyright infringement or other unlawful activity.

§ 8.11 Definitions.

(a) *Block.* The failure of a broadband Internet access service to provide an edge provider with a minimum level of access that is sufficiently robust, fast, and dynamic for effective use by end users and edge providers.

(b) *Broadband Internet access service.* A mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. This term also encompasses any service that the Commission finds to be providing a functional equivalent of the service described in the previous sentence, or that is used to evade the protections set forth in this part.

(c) *Edge provider.* Any individual or entity that provides any content, application, or service over the Internet, and any individual or entity that provides a device used for accessing any content, application, or service over the Internet.

(d) *End user.* Any individual or entity that uses a broadband Internet access service.

(e) *Fixed broadband Internet access service.* A broadband Internet access service that serves end users primarily at fixed endpoints using stationary equipment. Fixed broadband Internet access service includes fixed wireless services (including fixed unlicensed wireless services), and fixed satellite services.

(f) *Mobile broadband Internet access service.* A broadband Internet access service that serves end users primarily using mobile stations.

(g) *Reasonable network management.* A network management practice is reasonable if it is appropriate and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband Internet access service.

§ 8.12 Formal complaints.

Any person may file a formal complaint alleging a violation of the rules in this part.

§ 8.13 General pleading requirements.

(a) *General pleading requirements.* All written submissions, both substantive and procedural, must conform to the following standards:

(1) A pleading must be clear, concise, and explicit. All matters concerning a claim, defense or requested remedy should be pleaded fully and with specificity.

(2) Pleadings must contain facts that, if true, are sufficient to warrant a grant of the relief requested.

(3) Facts must be supported by relevant documentation or affidavit.

(4) The original of all pleadings and submissions by any party shall be signed by that party, or by the party's attorney. Complaints must be signed by the complainant. The signing party shall state his or her address and telephone number and the date on which the document was signed. Copies should be conformed to the original. Each submission must contain a written verification that the signatory has read the submission and to the best of his or her knowledge, information and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law; and that it is not interposed for any improper purpose. If any pleading or other submission is signed in violation of this provision, the Commission shall upon motion or upon its own initiative impose appropriate sanctions.

(5) Legal arguments must be supported by appropriate judicial, Commission, or statutory authority. Opposing authorities must be distinguished. Copies must be provided of all non-Commission authorities relied upon which are not routinely available in national reporting systems, such as unpublished decisions or slip opinions of courts or administrative agencies.

(6) Parties are responsible for the continuing accuracy and completeness of all information and supporting authority furnished in a pending complaint proceeding. Information submitted, as well as relevant legal authorities, must be current and updated as necessary and in a timely manner at any time before a decision is rendered on the merits of the complaint.

(7) Parties seeking expedited resolution of their complaint may request acceptance on the Enforcement Bureau's Accelerated Docket pursuant to the procedures at § 1.730 of this chapter.

(b) *Copies to be filed.* The complainant shall file an original copy of the complaint, accompanied by the correct fee, in accordance with part 1, subpart G (*see* 1.1106) and, on the same day:

(1) File three copies of the complaint with the Office of the Commission Secretary;

(2) Serve two copies on the Market Disputes Resolution Division, Enforcement Bureau;

(3) Serve the complaint by hand delivery on either the named defendant or one of the named defendant's registered agents for service of process, if available, on the same date that the complaint is filed with the Commission.

(c) *Prefiling notice required.* Any person intending to file a complaint under this section must first notify the potential defendant in writing that it intends to file a complaint with the Commission based on actions alleged to violate one or more of the provisions contained in this part. The notice must be sufficiently detailed so that its recipient(s) can determine the specific nature of the potential complaint. The potential complainant must allow a minimum of ten (10) days for the potential defendant(s) to respond before filing a complaint with the Commission.

(d) *Frivolous pleadings.* It shall be unlawful for any party to file a frivolous pleading with the Commission. Any violation of this paragraph shall constitute an abuse of process subject to appropriate sanctions.

§ 8.14 General formal complaint procedures.

(a) *Complaints.* In addition to the general pleading requirements, complaints must adhere to the following requirements:

(1) *Certificate of service.* Complaints shall be accompanied by a certificate of service on any defendant.

(2) *Statement of relief requested.*

(i) The complaint shall state the relief requested. It shall state fully and precisely all pertinent facts and considerations relied on to demonstrate the need for the relief requested and to support a determination that a grant of such relief would serve the public interest.

(ii) The complaint shall set forth all steps taken by the parties to resolve the problem.

(iii) A complaint may, on request of the filing party, be dismissed without prejudice as a matter of right prior to the adoption date of any final action taken by the Commission with respect to the petition or complaint. A request for the return of an initiating document will be regarded as a request for dismissal.

(3) *Failure to prosecute.* Failure to prosecute a complaint, or failure to respond to official correspondence or request for additional information, will be cause for dismissal. Such dismissal will be without prejudice if it occurs prior to the adoption date of any final action taken by the Commission with respect to the initiating pleading.

(b) *Answers to complaints.* Unless otherwise directed by the Commission, any party who is served with a complaint shall file an answer in accordance with the following requirements:

(1) The answer shall be filed within 20 days of service of the complaint.

(2) The answer shall advise the parties and the Commission fully and completely of the nature of any and all defenses, and shall respond specifically to all material allegations of the complaint. Collateral or immaterial issues shall be avoided in answers and every effort should be made to narrow the issues. Any party against whom a complaint is filed failing to file and serve an answer within the time and in the manner prescribed by these rules may be deemed in default and an order may be entered against defendant in accordance with the allegations contained in the complaint.

(3) Facts must be supported by relevant documentation or affidavit.

(4) The answer shall admit or deny the averments on which the adverse party relies. If the defendant is without knowledge or information sufficient to form a belief as to the truth of an averment, the defendant shall so state and this has the effect of a denial. When a defendant intends in good faith to deny only part of an averment, the answer shall specify so much of it as is true and shall deny only the remainder, and state in detail the basis of that denial.

(5) Averments in a complaint are deemed to be admitted when not denied in the answer.

(c) *Reply.* In addition to the general pleading requirements, replies must adhere to the following requirements:

(1) The complainant may file a reply to a responsive pleading that shall be served on the defendant and shall also contain a detailed full showing, supported by affidavit, of any additional facts or considerations relied on. Unless expressly permitted by the Commission, replies shall not contain new matters.

(2) Failure to reply will not be deemed an admission of any allegations contained in the responsive pleading, except with respect to any affirmative defense set forth therein.

(3) Unless otherwise directed by the Commission, replies must be filed within ten (10) days after submission of the responsive pleading.

(d) *Motions.* Except as provided in this section, or upon a showing of extraordinary circumstances, additional motions or pleadings by any party will not be accepted.

(e) *Additional procedures and written submissions.*

(1) The Commission may specify other procedures, such as oral argument or evidentiary hearing directed to particular aspects, as it deems appropriate. In the event that an evidentiary hearing is required, the Commission will determine, on the basis of the pleadings and such other procedures as it may specify, whether temporary relief should be afforded any party pending the hearing and the nature of any such temporary relief.

(2) The Commission may require the parties to submit any additional information it deems appropriate for a full, fair, and expeditious resolution of the proceeding, including copies of all contracts and documents reflecting arrangements and understandings alleged to violate the requirements set forth in the Communications Act and in this part, as well as affidavits and exhibits.

(3) The Commission may, in its discretion, require the parties to file briefs summarizing the facts and issues presented in the pleadings and other record evidence.

(i) These briefs shall contain the findings of fact and conclusions of law which that party is urging the Commission to adopt, with specific citations to the record, and supported by relevant authority and analysis.

(ii) The schedule for filing any briefs shall be at the discretion of the Commission. Unless ordered otherwise by the Commission, such briefs shall not exceed fifty (50) pages.

(iii) Reply briefs may be submitted at the discretion of the Commission. Unless ordered otherwise by the Commission, reply briefs shall not exceed thirty (30) pages.

(f) *Discovery.*

(1) The Commission may in its discretion order discovery limited to the issues specified by the Commission. Such discovery may include answers to written interrogatories, depositions, document production, or requests for admissions.

(2) The Commission may in its discretion direct the parties to submit discovery proposals, together with a memorandum in support of the discovery requested. Such discovery requests may include answers to written interrogatories, admissions, document production, or depositions. The Commission may hold a status conference with the parties, pursuant to § 8.15 of this part, to determine the scope of discovery, or direct the parties regarding the scope of discovery. If the Commission determines that extensive discovery is required or that depositions are warranted, the Commission may advise the parties that the proceeding

will be referred to an administrative law judge in accordance with paragraph (g) of this section.

(g) *Referral to administrative law judge.*

(1) After reviewing the pleadings, and at any stage of the proceeding thereafter, the Commission may, in its discretion, designate any proceeding or discrete issues arising out of any proceeding for an adjudicatory hearing before an administrative law judge.

(2) Before designation for hearing, the Commission shall notify, either orally or in writing, the parties to the proceeding of its intent to so designate, and the parties shall be given a period of ten (10) days to elect to resolve the dispute through alternative dispute resolution procedures, or to proceed with an adjudicatory hearing. Such election shall be submitted in writing to the Commission.

(3) Unless otherwise directed by the Commission, or upon motion by the Enforcement Bureau Chief, the Enforcement Bureau Chief shall not be deemed to be a party to a proceeding designated for a hearing before an administrative law judge pursuant to this paragraph (g).

(h) *Commission ruling.* The Commission (or the Enforcement Bureau on delegated authority), after consideration of the pleadings, shall issue an order ruling on the complaint.

§ 8.15 Status conference.

(a) In any proceeding subject to the part 8 rules, the Commission may in its discretion direct the attorneys and/or the parties to appear for a conference to consider:

(1) Simplification or narrowing of the issues;

(2) The necessity for or desirability of amendments to the pleadings, additional pleadings, or other evidentiary submissions;

(3) Obtaining admissions of fact or stipulations between the parties as to any or all of the matters in controversy;

(4) Settlement of the matters in controversy by agreement of the parties;

(5) The necessity for and extent of discovery, including objections to interrogatories or requests for written documents;

(6) The need and schedule for filing briefs, and the date for any further conferences; and

(7) Such other matters that may aid in the disposition of the proceeding.

(b) Any party may request that a conference be held at any time after an initiating document has been filed.

(c) Conferences will be scheduled by the Commission at such time and place as it may designate, to be conducted in person or by telephone conference call.

(d) The failure of any attorney or party, following advance notice with an opportunity to be present, to appear at a scheduled conference will be deemed a waiver and will not preclude the Commission from conferring with those parties or counsel present.

(e) During a status conference, the Commission may issue oral rulings pertaining to a variety of matters relevant to the conduct of the proceeding including, inter alia, procedural matters, discovery, and the submission of briefs or other evidentiary materials. These rulings will be promptly memorialized in writing and served on the parties. When such rulings require a party to take affirmative action, such action will be required within ten (10) days from the date of the written memorialization unless otherwise directed by the Commission.

§ 8.16 Confidentiality of proprietary information.

(a) Any materials filed in the course of a proceeding under this part may be designated as proprietary by that party if the party believes in good faith that the materials fall within an exemption to disclosure contained in the Freedom of Information Act (FOIA), 5 U.S.C. 552(b). Any party asserting confidentiality for such materials shall so indicate by clearly marking each page, or portion thereof, for which a proprietary designation is claimed. If a proprietary designation is challenged, the party claiming confidentiality will have the burden of demonstrating, by a preponderance of the evidence, that the material designated as proprietary falls under the standards for nondisclosure enunciated in FOIA.

(b) Submissions containing information claimed to be proprietary under this section shall be submitted to the Commission in confidence pursuant to the requirements of § 0.459 of this chapter and clearly marked ''Not for Public Inspection.'' An edited version removing all proprietary data shall be filed with the Commission for inclusion in the public file within five (5) days from the date the unedited reply is submitted, and shall be served on the opposing parties.

(c) Except as provided in paragraph (d) of this section, materials marked as proprietary may be disclosed solely to the following persons, only for use in the proceeding, and only to the extent necessary to assist in the prosecution or defense of the case:

(1) Counsel of record representing the parties in the proceeding and any support personnel employed by such attorneys;

(2) Officers or employees of the parties in the proceeding who are named by another party as being directly involved in the proceeding;

(3) Consultants or expert witnesses retained by the parties;

(4) The Commission and its staff; and

(5) Court reporters and stenographers in accordance with the terms and conditions of this section.

(d) The Commission will entertain, subject to a proper showing, a party's request to further restrict access to proprietary information as specified by the party. The other parties will have an opportunity to respond to such requests.

(e) The persons designated in paragraphs (c) and (d) of this section shall not disclose information designated as proprietary to any person who is not authorized under this section to receive such information, and shall not use the information in any activity or function other than the prosecution or defense of the case before the Commission. Each individual who is provided access to the information by the opposing party shall sign a notarized statement affirmatively stating, or shall certify under penalty of perjury, that the individual has personally reviewed the Commission's rules and understands the limitations they impose on the signing party.

(f) No copies of materials marked proprietary may be made except copies to be used by persons designated in paragraphs (c) and (d) of this section. Each party shall maintain a log recording the number of copies made of all proprietary material and the persons to whom the copies have been provided.

(g) Upon termination of the complaint proceeding, including all appeals and petitions, all originals and reproductions of any proprietary materials, along with the log recording persons who received copies of such materials, shall be provided to the producing party. In addition, upon final termination of the proceeding, any notes or other work product derived in whole or in part from the proprietary materials of an opposing or third party shall be destroyed.

§ 8.17 Review.

(a) *Interlocutory review.*

(1) Except as provided below, no party may seek review of interlocutory rulings until a decision on the merits has been issued by the Commission's staff, including an administrative law judge.

(2) Rulings listed in this paragraph are reviewable as a matter of right. An application for review of such ruling may not be deferred and raised as an exception to a decision on the merits.

(i) If the staff's ruling denies or terminates the right of any person to participate as a party to the proceeding, such person, as a matter of right, may file an application for review of that ruling.

(ii) If the staff's ruling requires production of documents or other written evidence, over objection based on a claim of privilege, the ruling on the claim of privilege is reviewable as a matter of right.

(iii) If the staff's ruling denies a motion to disqualify a staff person from participating in the proceeding, the ruling is reviewable as a matter of right.

(b) *Petitions for reconsideration.* Petitions for reconsideration of interlocutory actions by the Commission's staff or by an administrative law judge will not be entertained. Petitions for reconsideration of a decision on the merits made by the Commission's staff should be filed in accordance with §§ 1.104 through 1.106 of this chapter.

(c) *Application for review.*

(1) Any party to a part 8 proceeding aggrieved by any decision on the merits issued by the staff pursuant to delegated authority may file an application for review by the Commission in accordance with § 1.115 of this chapter.

(2) Any party to a part 8 proceeding aggrieved by any decision on the merits by an administrative law judge may file an appeal of the decision directly with the Commission, in accordance with §§ 1.276(a) and 1.277(a) through (c) of this chapter.

[FR Doc. 2014–14859 Filed 6–30–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL REGISTER

Vol. 79 Tuesday,

No. 126 July 1, 2014

Part V

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 679

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Bering Sea and Aleutian Islands Groundfish Fisheries Off Alaska; Proposed Rules

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 140304195–4195–01]

RIN 0648–BE06

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Bering Sea and Aleutian Islands Groundfish Fisheries Off Alaska

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement Steller sea lion protection measures to insure that groundfish fisheries in the Bering Sea and Aleutian Islands Management Area (BSAI) off Alaska are not likely to jeopardize the continued existence of the western distinct population segment (WDPS) of Steller sea lions or destroy or adversely modify its designated critical habitat. These management measures would disperse fishing effort temporally and spatially to provide protection from potential competition for important Steller sea lion prey species in the BSAI. The intent of this proposed action is to protect the endangered WDPS of Steller sea lions, as required by the Endangered Species Act, and to minimize, to the extent practicable, the economic impact of fishery management measures, as required by the Magnuson-Stevens Fishery Conservation and Management Act.

DATES: Submit comments on or before August 15, 2014.

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA-NMFS-2012-0013, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2012-0013*, 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.

Electronic copies of:

- The Steller Sea Lion Protection Measures for Groundfish Fisheries in the Bering Sea and Aleutian Islands Management Area Environmental Impact Statement (EIS) and the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this action are available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov/sustainablefisheries/sslpm/eis/default.htm.*
- The 2001 Biological Opinion for the Authorization of the Bering Sea and Aleutian Islands and Gulf of Alaska groundfish fisheries (2001 BiOp), the 2010 Biological Opinion on the Authorization of Groundfish Fisheries under the Fishery Management Plans (FMP BiOp), and the 2014 Biological Opinion for the Authorization of Alaska groundfish fisheries under the Proposed Revised Steller Sea Lion Protection Measures (2014 BiOp) are available at *http://alaskafisheries.noaa.gov/protectedresources/stellers/section7.htm.*
- The 2008 Revised Steller Sea Lion Recovery Plan is available from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov/protectedresources/stellers/recovery.htm.*
- The Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area is available from the North Pacific Fishery Management Council Web site at *http://www.npfmc.org/wp-content/PDF documents/fmp/BSAI/BSAIfmp.pdf.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed action may be submitted to NMFS at the above address and by email to *OIRA_Submission@omb.eop.gov* or fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages groundfish fisheries in the exclusive economic zone (EEZ) off Alaska under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801, *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

NMFS has management responsibility for certain threatened and endangered species, including Steller sea lions, under the Endangered Species Act (ESA) of 1973, 16 U.S.C. 1531, *et seq.* NMFS has the authority to promulgate regulations to enforce provisions of the ESA to protect such species. As the action agency, NMFS is responsible for conducting a section 7 consultation to insure that the Federal action of authorizing the Alaska groundfish fisheries is not likely to jeopardize the continued existence of an ESA-listed species or result in the destruction or adverse modification of its designated critical habitat. Under the provisions of section 7 of the ESA, NMFS Alaska Region Sustainable Fisheries Division (SFD) is the action agency and consults with the NMFS Alaska Region Protected Resources Division (PRD) on the impacts of groundfish fisheries for most ESA-listed species of marine mammals, including Steller sea lions.

NMFS listed the WDPS of Steller sea lions as endangered under the ESA in 1997 (62 FR 24345, May 5, 1997). Throughout this preamble, the term ''Steller sea lions'' means the WDPS of Steller sea lions unless otherwise specified. NMFS has designated critical habitat for Steller sea lions and identified haulouts, rookeries, and foraging locations throughout Alaska waters ranging throughout the Gulf of Alaska (GOA), the Bering Sea, and the Aleutian Islands (58 FR 45269, August 27, 1993). Since publication of critical habitat definitions in 1993 (see 50 CFR 226.202), NMFS has identified 19 additional haulouts in the BSAI and the GOA as important areas for Steller sea lions needing additional protection from the potential effects of groundfish fishing. More information and justification for including these haulouts are contained in the 2001 BiOp (see **ADDRESSES**).

Since listing Steller sea lions, NMFS has implemented a number of management measures, commonly known as Steller sea lion protection measures, to protect Steller sea lions from the potential effects of groundfish fishing. Steller sea lion protection measures disperse catch of groundfish prey species in time (temporal dispersion) and space (spatial dispersion) through a variety of harvest limitations and closure areas. Many of these Steller sea lion protection measures apply specifically to Atka mackerel, Pacific cod, and pollock, which are particularly important prey species for Steller sea lions (Chapter 5 of EIS).

The most recent Steller sea lion protection measures were implemented in 2011 by the 2010 Interim Final Rule (75 FR 77535, December 13, 2010; corrected 75 FR 81921, December 29, 2010). Steller sea lion protection measures implemented in the 2010 Interim Final Rule limit harvest of Atka mackerel and Pacific cod in the BSAI. This proposed action would revise some of the Steller sea lion protection measures for Atka mackerel, Pacific cod, and pollock in the BSAI, but primarily in the Aleutian Islands.

NMFS conducted a consultation as required under section 7 of the ESA to determine whether this proposed action to revise Steller sea lion protection measures is likely to jeopardize the continued existence of Steller sea lions or destroy or adversely modify their critical habitat. NMFS issued a biological opinion on April 2, 2014, that determined this proposed action is not likely to jeopardize the continued existence of Steller sea lions or destroy or adversely modify their designated critical habitat (2014 BiOp, see **ADDRESSES**). Detailed analysis of the Aleutian Islands environmental baseline, Steller sea lions population trends, foraging behavior, and biology, and effects of the groundfish fisheries on Steller sea lions is presented in the 2014 BiOp and the EIS (see **ADDRESSES**).

Background

The following sections of the preamble describe: (1) General management of groundfish fisheries in the BSAI; (2) the areas and vessels affected by this proposed action; (3) management of the Atka mackerel, Pacific cod and pollock fisheries; (4) Steller sea lion protection measures; (5) the EIS and preferred alternative; (6) the 2014 BiOp; (7) description of the provisions of this proposed action; and (8) specific regulatory amendments.

General Management of Groundfish Fisheries in the BSAI

The FMP and its implementing regulations at § 679.20(c) require that the Council recommend and NMFS specify an overfishing level (OFL), an acceptable biological catch (ABC), and a total allowable catch (TAC) for each stock or stock complex (i.e., each species or species group) of groundfish on an annual basis. The OFL is the level above which overfishing is occurring for a species or species group. The ABC is the level of a species or species group's annual catch that accounts for the scientific uncertainty in the estimate of OFL and any other scientific uncertainty. The ABC is set below the OFL. The TAC is the annual catch target for a species or species group, derived from the ABC by considering social and economic factors and management uncertainty. The TAC must be set lower than or equal to the ABC.

The OFLs, ABCs, and TACs for BSAI groundfish are specified through the annual harvest specification process. The Council's Scientific and Statistical Committee (SSC) recommends and NMFS establishes the OFL and ABC for each species or species group. The Council recommends and NMFS establishes a TAC for each species or species group after considering public input and other management considerations. The TAC for some species and species groups in the BSAI are subject to further allocation among specific regulatory areas (e.g., separate TACs for the Bering Sea and Aleutian Islands), on a seasonal basis, and among vessels using specific fishing gear (e.g., pot or trawl gear), operation type (i.e., catcher vessels or catcher/processors), or sectors (e.g., pot catcher/processors). A detailed description of the allocation of BSAI groundfish OFLs, ABCs, and TACs by species or species group is provided in the final 2014 and 2015 harvest specifications for the BSAI groundfish fisheries (79 FR 12108, March 4, 2014).

To ensure that OFLs, ABCs, and TACs are not exceeded, NMFS requires that vessel operators participating in groundfish fisheries in the BSAI comply with a range of monitoring requirements and restrictions. NMFS uses area, seasonal, gear, operation type, and sector specific fishery closures to maintain catch within specified OFLs, ABCs, TACs and associated allocations. NMFS prohibits vessels from specifically targeting a species or species group, known as directed fishing, when a TAC is reached. Directed fishing is defined in the regulation at § 679.2. NMFS restricts fishing in other fisheries that may incidentally take a species or species group as its OFL is approached. Regulations at §§ 679.20(d)(1), (d)(2), and (d)(3) describe the range of management measures that NMFS uses to maintain total catch at or below the OFL, ABC, and TAC for a species or species group.

Areas and Vessels Affected by This Proposed Action

This proposed action would apply to the EEZ of the BSAI and the adjacent State of Alaska (State) waters, as shown in Figure 1 to 50 CFR part 679. The EEZ includes Federal waters that generally occur from 3 nautical miles (nm) to 200 nm from shore. State waters generally occur from shore to 3 nm from shore. The specific boundaries between State and Federal waters are provided on the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov/maps/reporting_areas/index.pdf*. This proposed action applies primarily in the Aleutian Islands reporting area, defined at § 679.2 and shown in Figure 1 to 50 CFR part 679. The Aleutian Islands reporting area consists of the Statistical Areas 541, 542, and 543 in the EEZ and adjacent State waters. Area 541 and adjacent State waters correspond to the eastern Aleutian Islands; Area 542 and adjacent State waters correspond to the central Aleutian Islands; and Area 543 and adjacent State waters correspond to the western Aleutian Islands.

This proposed action would apply to vessels that catch groundfish that is required to be deducted from a TAC under § 679.20 and that are required to be named on a Federal Fisheries Permit issued under § 679.4(b) in the BSAI reporting area. This proposed rule would apply to harvests in State waters that are managed under the State's parallel groundfish fisheries. Parallel groundfish fisheries are fisheries that occur in State waters where the catch of groundfish is debited from a TAC. Parallel groundfish fisheries are opened and closed by the State concurrently with adjacent Federal fisheries. Parallel fisheries are managed by the State under regulations similar to those that apply in the Federal fisheries. The parallel fisheries that would be affected by this proposed action include the State parallel fisheries for groundfish species that occur in State waters adjacent to the BSAI. Additional detail on State parallel fisheries is provided in Chapters 3 and 8 of the EIS (see **ADDRESSES**).

This proposed action would not apply to vessels fishing in State-managed guideline harvest level (GHL) groundfish fisheries in the BSAI reporting area. Specifically, Federally

permitted vessels that participate in the Aleutian Islands District Pacific Cod Management Plan (AI State-managed Pacific cod fishery) authorized by § 28.647 of title 5 of the Alaska Administrative Code (AAC) would not be required to comply with the proposed Steller sea lion protection measures while participating in that fishery. The AI State-managed Pacific cod fishery is established by the State for harvest of a Pacific cod GHL exclusively within State waters. Any groundfish catch occurring in the AI State-managed Pacific cod fishery is not deducted from the TAC, and therefore would not be subject to the provisions of this proposed action. Additional detail on State GHL fishery management generally, and the AI State-managed Pacific cod fishery specifically is provided in Chapters 3 and 8 of the EIS (see **ADDRESSES**). NMFS notes that the State has adopted the same Steller sea lion protection measures for the AI State-managed Pacific cod fishery as NMFS implemented for the Federal groundfish fisheries in 2003 (68 FR 204, January 2, 2003).

Management of Atka Mackerel, Pacific Cod, and Pollock Fisheries in the BSAI

The groundfish fisheries in the BSAI target a wide diversity of species. Major fisheries include pollock, Pacific cod, halibut, sablefish, Atka mackerel, and numerous rockfish and flatfish species. In the Aleutian Islands subarea of the BSAI, there are eight major targeted Federally managed fisheries—Atka mackerel, Pacific cod, Pacific ocean perch, Individual Fishing Quota halibut and sablefish, Greenland turbot, and since 2008, arrowtooth flounder and Kamchatka flounder. Additional detail on the species and amounts harvested in the groundfish fisheries in the BSAI are provided in Chapters 3, 4, and 8 of the EIS (see **ADDRESSES**) and in the final 2014 and 2015 harvest specifications for the BSAI groundfish fisheries (79 FR 12108, March 4, 2014).

This proposed action would apply primarily to the Atka mackerel, Pacific cod, and pollock fisheries in the Aleutian Islands. The Atka mackerel, Pacific cod, and pollock fisheries are subject to allocations, seasonal apportionment, and a range of other management measures that affect the harvest of these species in the Aleutian Islands. The net effect of these allocations, seasonal apportionments, and management measures is that currently vessels target, or directed fish, for Atka mackerel and Pacific cod in the Aleutian Islands, but they are not able to target pollock in the Aleutian Islands.

To aid the reader in understanding current management and the effects of this proposed action, the following sections briefly describe relevant management measures for Atka mackerel, Pacific cod, and pollock in the BSAI.

TACs and Seasons

There is a single BSAI OFL for Atka mackerel, but three separate Atka mackerel ABCs and TACs established for Area 541/Bering Sea, Area 542, and Area 543. There are separate Pacific cod OFLs, ABCs, and TACs established for the Bering Sea subarea and Aleutian Islands subarea (Areas 541, 542, and 543 combined). There are separate pollock OFLs, ABCs, and TACs for the Bering Sea subarea and Aleutian Islands subarea (79 FR 12108, March 4, 2014).

NMFS also establishes seasonal allocations of Atka mackerel, Pacific cod, and pollock TACs to temporally disperse catch. The Atka mackerel and pollock fishery TACs are apportioned between two seasonal allocations: an A season from January 1 to June 10, and a B season from June 10 to November 1. Fifty percent of the Atka mackerel TAC is assigned to each season (see § 679.20(a)(8)(ii)(A)). Forty percent of the pollock TAC is assigned to the A season, and 60 percent is assigned to the B season (see §§ 679.20(a)(5)(i)(B) and (a)(5)(iii)(B)(*3*)).

The Pacific cod TACs in the BSAI is allocated among various sectors as described in the ''*BSAI Pacific Cod Management*'' section of the preamble. The TAC allocated to each sector is further apportioned by seasons that vary among the various sectors. There are three seasons—an A, B, and C season—that correspond to the early, middle, and late part of the year. The specific dates established for each season for each sector are defined in regulation (see § 679.23(e)(5)). For the Western Alaska Community Development Quota Program (CDQ Program), Pacific cod TACs are apportioned among seasons that are specific to trawl, hook-and-line, jig, and all other non-trawl gear (e.g., pot gear) (see § 679.20(a)(7)(i)(B)). Different seasonal apportionments apply to the TAC assigned to all other non-CDQ Program participants (see § 679.20(a)(7)(iv)(A)).

NMFS can reallocate a limited portion of unharvested catch of Atka mackerel, Pacific cod, and pollock from one season to the next season within a calendar year (see §§ 679.20(a)(8)(ii)(B), (a)(7)(iv)(B), and (a)(5)(i)(B)(2)). The amount of unharvested catch that can be reallocated from one season to the following season is limited to ensure temporal dispersion of catch. Additional detail on allocations and seasonal apportionments are provided in the final 2014 and 2015 harvest specifications for the BSAI groundfish fisheries (79 FR 12108, March 4, 2014).

CDQ Program

The CDQ Program was implemented by NMFS in 1992 (57 FR 46133, October 7, 1992). The CDQ Program was created to improve conditions in coastal western Alaska communities by making it possible for them to participate in the BSAI fisheries. Regulations implementing the CDQ Program provide a portion of the groundfish, crab, and halibut annual catch limits for use by non-profit entities representing specific eligible western Alaska communities.

The Magnuson-Stevens Act includes provisions applicable to the CDQ Program and authorizes 65 communities to participate in the CDQ Program. These communities participate in the CDQ Program through six nonprofit corporations called CDQ groups. The CDQ groups receive exclusive harvest privileges of groundfish, known as CDQ allocations. These exclusive harvest privileges allow the CDQ groups to tailor their fishing operations to maximize the catch of their CDQ allocations. This allows CDQ groups to avoid an inefficient ''race for fish'' among other fishery participants competing to maximize their catch before the overall TAC is reached. Each CDQ group is prohibited from exceeding its CDQ allocation, and NMFS has established specific monitoring and enforcement provisions to accurately track the harvest of CDQ allocations.

NMFS first allocates the TAC to the CDQ Program, and then apportions the remaining TAC among other fishery participants. The process for allocating the TACs to the CDQ Program generally and to CDQ groups specifically is described in a final rule defining the regulation of the CDQ Program (71 FR 51804, August 31, 2006). The species and species groups currently allocated to the CDQ Program are specified in the final 2014 and 2015 harvest specifications for the BSAI groundfish fisheries (79 FR 12108, March 4, 2014). Relevant to this proposed action, the CDQ Program is allocated 10.7 percent of the Area 541/Bering Sea, Area 542, and Area 543 Atka mackerel TACs; 10.7 of the Bering Sea and Aleutian Islands Pacific cod TACs; and 10 percent of the Bering Sea and Aleutian Islands pollock TACs.

Amendment 80 Program

Amendment 80 to the FMP identified participants using trawl catcher/processors in the BSAI active in

groundfish fisheries other than Bering Sea pollock (i.e., the head-and-gut fleet or Amendment 80 vessels) and established a framework, known as the Amendment 80 Program, to regulate fishing by this fleet (72 FR 52667, September 14, 2007). The Amendment 80 Program allocated the TACs of six species: BSAI Atka mackerel, Pacific cod, flathead sole, rock sole, yellowfin sole, and Aleutian Islands Pacific ocean perch among all trawl fishery participants. The Amendment 80 Program created Amendment 80 quota share based on the historic catch of quota share species by Amendment 80 vessels, facilitated the development of cooperative arrangements (Amendment 80 cooperatives) among quota share holders, and assigned an exclusive harvest privilege for a portion of the TAC of quota share species for participants in Amendment 80 cooperatives. The Amendment 80 Program added sideboard limits to protect other fisheries from the potential adverse effects arising from the exclusive harvest privileges provided under the Amendment 80 Program.

As noted in the previous section on the CDQ Program and in the American Fisheries Act section that follows, by assigning an exclusive harvest privilege to Amendment 80 cooperatives, these cooperatives can avoid a race for fish and maximize catch within the limits of their cooperative allocations. Each Amendment 80 cooperative is prohibited from exceeding its allocation, and NMFS has established specific monitoring and enforcement provisions to accurately track the harvest of these allocations.

Relevant to this proposed action, Amendment 80 cooperatives receive exclusive harvest privileges for a portion of the Area 541/Bering Sea, Area 542, and Area 543 Atka mackerel TACs. Amendment 80 cooperatives also receive exclusive harvest privileges for Pacific cod that may be harvested in the Bering Sea or Aleutian Islands subareas. Amendment 80 vessels also incidentally harvest a small portion of the Aleutian Islands pollock TAC, but do not receive an exclusive harvest allocation. For more information on the Amendment 80 Program, see the final rule implementing the Amendment 80 Program (72 FR 52667, September 14, 2007). Additional detail on the Amendment 80 Program allocations is provided in the final 2014 and 2015 harvest specifications for the BSAI groundfish fisheries (79 FR 12108, March 4, 2014).

BSAI Pacific Cod Management

BSAI Pacific cod is harvested by trawl and non-trawl gears, and by vessels operating as catcher/processors and catcher vessels. The non-trawl gears are jig, pot, and hook-and-line. Regulations allocate a portion of the BSAI TAC first to CDQ groups, and then to specific non-CDQ fishery sectors defined by a combination of gear, operation type (i.e., catcher vessel or catcher/processor), and vessel size categories (§ 679.20(a)(7)). Regulations define nine Pacific cod non-CDQ fishery sectors in the BSAI (§ 679.20(a)(7)(ii)(A)), referred to as sectors in this preamble. Sector allocations are established on a BSAI-level and are not established separately for the Bering Sea or Aleutian Islands subareas. As noted earlier in this preamble, the proportion of the Pacific cod TAC assigned to the CDQ Program and to the sectors is further apportioned by season. NMFS establishes the BSAI Pacific cod TAC allocations and seasonal apportionments in the annual harvest specifications. The current allocations and seasonal apportionments of BSAI Pacific cod are shown in Table 5 of the 2014 and 2015 final harvest specifications for the BSAI groundfish fisheries (79 FR 12108, March 4, 2014).

Prior to 2014, NMFS established a single BSAI Pacific cod OFL, ABC, and TAC for the combined Bering Sea and Aleutian Islands subareas. At the December 2012 Council meeting, the SSC stated that it would recommend separate Pacific cod OFLs and ABCs for the Bering Sea and Aleutian Islands subareas for the 2014 and 2015 harvest specifications based on the best available scientific information. Separate Bering Sea and Aleutian Islands OFLs and ABCs require separate Bering Sea and Aleutian Islands TACs. The Council recommended and NMFS implemented separate Bering Sea and Aleutian Islands OFLs, ABCs, and TACs beginning in 2014 under the 2014 and 2015 final harvest specifications for the BSAI groundfish fisheries (79 FR 12108, March 4, 2014).

Establishing a separate Pacific cod OFL, ABC, and TAC for the Aleutian Islands resulted in a substantial reduction in the amount of Pacific cod available for harvest in the Aleutian Islands subarea compared to previous years when Pacific cod was managed with a combined BSAI Pacific cod OFL, ABC, and TAC. The 2014 Aleutian Islands Pacific cod TAC is 6,997 metric tons (mt) compared to the 2013 BSAI TAC of 260,000 mt—an amount that could have been harvested in its entirety in either the Bering Sea or Aleutian Island subareas (78 FR 13813, March 1, 2013). Separate management of Pacific cod TAC in the Aleutian Islands greatly reduces the potential impacts of the Pacific cod fisheries on Steller sea lion Pacific cod prey resources. Additional detail on the impact of establishing separate management for Pacific cod in the Aleutian Islands and Bering Sea is provided in Chapters 3 and 8 of the EIS (See **ADDRESSES**).

American Fisheries Act—Bering Sea Pollock Management

The American Fisheries Act (AFA) was signed into law in October 1998 (Pub. L. 105–227, Title II of Division C). The purpose of the AFA was to clarify U.S. ownership standards for U.S. fishing vessels and to provide the Bering Sea pollock fleet the opportunity to conduct their fishery in a more rational manner while protecting non-AFA participants in the other fisheries. The AFA eliminated the race for Bering Sea pollock through the establishment of cooperatives that were eligible to receive exclusive harvest allocations. The AFA established: specific allocations of Bering Sea pollock; requirements for participation by catcher/processors, catcher vessels, motherships, and processors; excessive share limits; monitoring and enforcement provisions; and annual reporting requirements.

In response to a directive in the AFA, the Council recommended and NMFS established sideboard limits to protect other fisheries from the potential adverse effects arising from the exclusive allocation of Bering Sea pollock under the AFA. Cooperative fishing began under the AFA program in 1999. The effects of AFA on the Bering Sea pollock industry were tremendous: capacity was reduced, efficiency was increased, regulatory bycatch was reduced, a higher portion of the fish was utilized, and higher valued products were produced. More information regarding the AFA program is available from the final rule implementing the AFA (67 FR 79692, December 30, 2002).

Aleutian Islands Pollock Management

In 1999, NMFS closed the Aleutian Islands subarea to directed pollock fishing due to concerns about the potential impact of the pollock fishery on Steller sea lions (64 FR 3437, January 22, 1999). In 2003, NMFS prohibited directed fishing for pollock inside Steller sea lion critical habitat in the Aleutian Islands subarea as a Steller sea lion protection measure (68 FR 204, January 2, 2003).

NMFS allocates a portion of the Aleutian Islands pollock to the Aleut

Corporation, pursuant to the requirements of the Consolidated Appropriations Act of 2004 (Public Law 108–199). NMFS implemented this allocation with Amendment 82 to the FMP in November 2004 (69 FR 67107, November 16, 2004). Regulations implementing Amendment 82 define the amount of pollock TAC that may be allocated in the Aleutian Islands, and how the Aleut Corporation may harvest its portion of this allocation.

When the Aleutian Islands pollock ABC is less than 19,000 mt, the annual TAC is not greater than the ABC; when the ABC is greater than 19,000 mt, the TAC is equal to 19,000 mt (see § 679.20(a)(5)(iii)). Once the TAC is determined, the Aleutian Islands pollock TAC is allocated to the Aleut Corporation as a directed fishery allowance after subtracting the CDQ Program allocation of 10 percent of the TAC, and after subtracting an incidental catch allowance to accommodate the catch of pollock in non-pollock directed fisheries (e.g., the incidental catch of pollock in the directed fishery for Pacific cod). The directed fishery allowance provided to the Aleut Corporation is subject to seasonal apportionment.

Regulations require that 50 percent of the Aleut Corporation's pollock allocation must be harvested by vessels less than 60 feet in length overall (see § 679.20(a)(5)(iii)(B)(*5*)). The Aleut Corporation may harvest the remaining 50 percent of the pollock allocation with vessels greater than 60 feet length overall. Any vessel greater than 60 feet in length overall that is used to harvest the pollock allocation must be permitted as an AFA vessel (see § 679.4(m)(3)(i)(C)).

Pollock occurs primarily inside Steller sea lion critical habitat in the Aleutian Islands. The existing closure of critical habitat in the Aleutian Islands to directed fishing has effectively precluded directed fishing in the Aleutian Islands. Therefore, the Aleutian Islands pollock allocation has not been fully harvested by the Aleut Corporation and is reallocated each year to the Bering Sea pollock fishery when the Bering Sea pollock TAC is set sufficiently below the ABC. Additional detail on pollock harvests in the Aleutian Islands and the reallocation to the Bering Sea is provided in Chapters 3 and 8 of the EIS.

Amendment 78 Habitat Protection Measures

Amendment 78 to the FMP established Aleutian Islands habitat protection measures and closed a large portion of the Aleutian Islands subarea to nonpelagic trawling. These closures were implemented in 2006 (71 FR 36694, June 28, 2006) and revised in 2008 (73 FR 9035, February 19, 2008). Nonpelagic trawl gear is used for harvesting Atka mackerel and Pacific cod. The Amendment 78 closures to nonpelagic trawling include the Aleutian Islands Habitat Conservation Area (AIHCA), the Aleutian Islands Coral Habitat Protection Areas, and the Bowers Ridge Habitat Conservation Zone. The AIHCA closed most of the Aleutian Islands subarea to nonpelagic trawling (a 279,114 nm^2 closure), but left open some areas where nonpelagic trawling historically occurred. The Aleutian Islands Coral Habitat Protection Areas are relatively small, discrete areas closed to all bottom contact gear, including nonpelagic trawl gear. The Bowers Ridge Habitat Conservation Zone, located in the northern portion of Areas 542 and 543, is closed to mobile bottom contact gear, including nonpelagic trawl gear (two areas totaling a 5,329 nm^2 closure). These closures, in combination with the Steller sea lion protection measures, substantially limit the locations available for nonpelagic trawling in the Aleutian Islands subarea (see Figures 2–27 and 2–28 in the EIS).

Steller Sea Lion Protection Measures

Section 3.5.3 of the FMP, approved by the Secretary of Commerce under the Magnuson-Stevens Act, authorizes regulations for fishery management measures to protect marine mammals, without requiring amendment of the FMP itself (see **ADDRESSES**). Steller sea lion protection measures for the Alaska groundfish fisheries have been implemented under this FMP authority since 1998. Since 1998, Steller sea lion protection measures have been revised several times. NMFS has conducted several ESA consultations to assess the impact of the groundfish fisheries on Steller sea lions. Previous actions to implement Steller sea lion protection measures and their accompanying ESA consultations have been subject to litigation. A detailed history of previous Steller sea lion protection measures, ESA section 7 consultations (i.e., biological opinions), and litigation is provided in Chapter 1 of the EIS (see **ADDRESSES**). The following sections of the preamble summarize recent ESA section 7 consultations, rulemaking, and litigation.

FMP BiOp

In April 2006, NMFS SFD reinitiated ESA section 7 consultation with NMFS PRD on the potential effects of the Alaska groundfish fisheries on ESA-listed species and their designated critical habitat. Consultation was reinitiated in consideration of new scientific information and changes to fisheries management since the 2003 supplement to the 2001 BiOp on the groundfish fisheries (see **ADDRESSES**). After reviewing all ESA-listed species within NMFS' jurisdiction that may be affected by the Alaska groundfish fisheries, NMFS SFD determined that the Alaska groundfish fisheries were likely to adversely affect Steller sea lions and their designated critical habitat; therefore, a formal consultation was required.

In November 2010, NMFS PRD completed the FMP BiOp on the effects of the authorization of the Alaska groundfish fisheries on Steller sea lions. The FMP BiOp determined that NMFS SFD could not insure that the Alaska groundfish fisheries were not likely to jeopardize the continued existence of Steller sea lions or result in the destruction or adverse modification of their designated critical habitat (collectively referred to as ''jeopardy''). The Alaska groundfish fisheries of concern were located in the Central and Western sub-regions of the Aleutian Islands, based on the population trends of the Steller sea lions and the harvest of principal prey species by the groundfish fisheries in these sub-regions. These sub-regions are identified in the 2008 Revised Steller Sea Lion Recovery Plan (see **ADDRESSES**). As described in the Recovery Plan, the Central sub-region comprises Areas 541 and 542 and the Western sub-region is Area 543.

The FMP BiOp determined that Atka mackerel and Pacific cod fisheries in the Western Aleutian Islands sub-region and portions of the Central Aleutian Islands sub-region may reduce the availability of prey to the extent that a Steller sea lion's condition, growth, reproduction, or survival is diminished. This presumed competition between Steller sea lions and the groundfish fisheries led NMFS PRD to determine that NMFS SFD could not insure that its action was not likely to jeopardize Steller sea lions. The FMP BiOp determined that changes to the Pacific cod and Atka mackerel fisheries in the Aleutian Islands were necessary to avoid jeopardy for Steller sea lions. The FMP BiOp included a reasonable and prudent alternative (RPA) to mitigate the effects of the Alaska groundfish fisheries on Steller sea lions and their critical habitat. The RPA focused on the Atka mackerel and Pacific cod fisheries in the BSAI, and included performance standards to provide more restrictive measures on the harvest of Steller sea

lion prey species in areas where declines in Steller sea lion populations were most evident. Those performance standards helped to guide the initial development of the measures that would be implemented by the proposed rule.

The FMP BiOp, the supporting science, and its findings are controversial. This controversy reflects differences in opinion on the interpretation of scientific information and on the application of law in fisheries management. NMFS sponsored a review of the FMP BiOp by the Center for Independent Experts. The States of Alaska and Washington also sponsored an external review of the FMP BiOp. Information on these reviews is available in the 2014 BiOp (see **ADDRESSES**) and from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov/protectedresources/stellers/esa/biop/final/cie/review.htm.*

2010 Interim Final Rule

In December 2010, NMFS published an interim final rule that implemented the RPA in the FMP BiOp (75 FR 77535, December 13, 2010, corrected 75 FR 81921, December 29, 2010). The 2010 Interim Final Rule became effective January 1, 2011. Fishery restrictions were focused primarily on the Atka mackerel and Pacific cod fisheries in the Aleutian Islands subarea, with only a minor change made to the Atka mackerel fishery in the Bering Sea subarea to provide for management of the combined Area 541/Bering Sea TAC.

Litigation

The State of Alaska, the Alaska Seafood Cooperative, and the Freezer Longline Coalition filed suit against NMFS in the U.S. District Court for the District of Alaska in December 2010 on the FMP BiOp and the 2010 Interim Final Rule implemented by NMFS. The Court found that NMFS properly applied the ESA, the Magnuson-Stevens Act, and the Administrative Procedure Act in the development of the FMP BiOp and in the implementation of the 2010 Interim Final Rule. The Court found that the agency's NEPA process for preparing the environmental assessment (EA) for the 2010 Interim Final Rule did not provide the public with sufficient opportunity for review and comment and that the conclusions of the EA were highly controversial and uncertain. Based on these findings, the court ordered NMFS to prepare an environmental impact statement (EIS). The court ordered the EIS to be completed by August 15, 2014 (Case 3:10-cv-00271–TMB Document 193, filed February 20, 2014).

EIS and Preferred Alternative

NMFS published a notice of intent to prepare the EIS in the **Federal Register** on April 17, 2012 (77 FR 22750). The scoping period for the EIS was approximately 6 months with the period ending October 15, 2012. NMFS also held a public scoping meeting in coordination with a Council meeting on October 2, 2012 (77 FR 52674, August 30, 2012).

The Council and NMFS developed the purpose and need for the proposed action in the EIS (see Section 1.3 of the EIS). The proposed action is needed to comply with the ESA requirement that a Federal agency insure that the agency's actions are not likely to jeopardize the continued existence of endangered species or destroy or adversely modify its critical habitat. The purpose of this action is to implement Steller sea lion protection measures for the Aleutian Islands groundfish fisheries, and supporting research, in a manner that mitigates the Aleutian Islands groundfish fisheries' potential impacts on Steller sea lions and minimizes, to the extent practicable, economic impacts to the groundfish fisheries.

The action area considered in the EIS is the Aleutian Islands reporting areas, with an adjustment to the Atka mackerel fishery management in the Bering Sea. The EIS focused on the fisheries that may affect Steller sea lions or their critical habitat in the Aleutian Islands because that is where Steller sea lions are experiencing the greatest population declines.

In April 2013, the Council recommended a preliminary preferred alternative (PPA, Alternative 5) for the public's consideration during the review and comment period on the draft EIS. The Council considered recommendations from its Steller Sea Lion Mitigation Committee, SSC, Advisory Panel, and public testimony in developing their recommended PPA for the draft EIS. NMFS identified the PPA in the draft EIS and released the draft EIS for public review on May 17, 2013 (78 FR 29131). The comment period for the draft EIS ended July 16, 2013. NMFS summarized and responded to all relevant public comments received during the comment period in the Comment Analysis Report, Chapter 13 of the final EIS. NMFS published the final EIS on May 23, 2014 (see **ADDRESSES**).

The final EIS describes in detail the six alternatives for the proposed action. These alternatives were developed through a collaborative process with the Council and its Steller Sea Lion Mitigation Committee, and in consideration of public comments received during the scoping process for the EIS and during the public review of the draft EIS. All of the alternatives were developed with the understanding that a preferred alternative could only be selected as the proposed action, and implemented through rule making, if NMFS could insure that the action was not likely to jeopardize the continued existence of the Steller sea lions or result in destruction or adverse modification of their designated critical habitat. The Council and NMFS understood that a preferred alternative and any resulting rule must meet the requirements of the ESA before factors that minimize, to the extent practicable, the economic impacts on fishery participants could be considered.

NMFS analyzed two broad categories of potential measures under all of the alternatives. First, under each alternative NMFS analyzed a range of Steller sea lion protection measures in the BSAI that varied among the alternatives. Second, under each alternative, NMFS analyzed the effects of potential fishery research that could be conducted in the BSAI that may affect Steller sea lions. The same potential fishery research provisions were considered under each of the alternatives.

The decision analyzed in the EIS was whether to maintain the existing suite of Steller sea lion protection measures (Alternative 1, the 2010 Interim Final Rule) or to implement a new suite of Steller sea lion protection measures (Alternatives 2, 3, 4, 5, or 6). To provide a comprehensive analysis of the effects of the alternatives, the EIS compares the six alternatives relative to each other and relative to a baseline period used to assess the environmental conditions affecting Steller sea lions (generally from 2004 through 2010).

The alternatives ranged from Alternative 6, an alternative that would restrict fishing more than the status quo alternative (Alternative 1), to Alternative 4, the alternative that would allow the most fishing opportunities. Alternative 4 would reinstate the Steller sea lion protection measures that were in place prior to the 2010 Interim Final Rule, with a few exceptions. Alternatives 2, 3, and 5 provided more fishing opportunities and fewer protection measures than Alternative 6, but included more protection measures than Alternative 4. NMFS added Alternative 6 to the final EIS in response to public comments that requested an alternative that restricted fishing more

than Alternative 1. Additional description of the alternatives is available in the EIS and not addressed further here (see **ADDRESSES**).

In October 2013, after consideration of public comments received on the draft EIS, advice from its Steller Sea Lion Mitigation Committee, input from the Council's Advisory Panel and SSC, and public comment, the Council recommended Alternative 5 as the preferred alternative for the final EIS. Alternative 5 is a suite of management measures for the Atka mackerel, Pacific cod, and pollock fisheries that include fishery closures and limitations on catch in specific areas to mitigate the potential adverse effects of fishing on Steller sea lion prey resources. Alternative 5 would allow more fishing than under Alternative 1, but retains and modifies important Steller sea lion protection measures already in place. Alternative 5 would include authorization for specific fishery research in the BSAI.

The Council recommended Alternative 5 as the preferred alternative based on the analysis in the draft EIS, public comments, and the best available scientific information including the findings of the external scientific reviews conducted by the Center for Independent Experts on behalf of NMFS and the panel convened by the States of Alaska and Washington. In recommending Alternative 5 as its preferred alternative, the Council determined that Alternative 5 would implement management measures that protect Steller sea lions as required by the ESA. The Council determined that Alternative 5 would protect specific areas that are important to Steller sea lions, and include specific harvest limits on the amount of fishing within Steller sea lion critical habitat in order to protect Steller sea lion prey availability. Alternative 5 maintains a careful approach to fishing for Steller sea lion prey species in critical habitat by spatially and temporally dispersing catch to prevent localized depletion of these important prey resources.

The Council determined that Alternative 5 is necessary to minimize economic impacts on fishery participants. The EIS found that direct, indirect, and cumulative effects of Alternative 5 on the human environment, including Steller sea lions, were similar to those effects under status quo with the exception that Alternative 5 would enhance fishing opportunities and minimize potential economic impacts. The EIS indicates that additional restrictions on fisheries beyond those considered under Alternative 5 (e.g., Alternatives 1 and 6) may result in additional economic harm to participants in the regulated fisheries, and would not meet the secondary objective of the proposed action.

2014 BiOp

On May 10, 2013, NMFS reinitiated ESA section 7 consultation on the effect of the proposed action (Alternative 5) to revise Steller sea lion protection measures. NMFS reinitiated consultation because the proposed action would change the current management of fisheries in the BSAI. Therefore, the proposed action may result in effects not previously analyzed in the FMP BiOp. Additionally, the research provisions of the proposed action were not considered in the FMP BiOp.

Because the proposed action would modify Steller sea lion protection measures primarily in the Aleutian Islands Atka mackerel, Pacific cod, and pollock fisheries, NMFS did a project-level, focused consultation. The 2014 BiOp is the result of that consultation. The 2014 BiOp did not entirely replace the previous FMP BiOp. The analysis contained in the FMP BiOp remains valid and meets NMFS' requirement to consult at the FMP level.

New information in the external reviews of the FMP BiOp and the new analyses that NMFS conducted in response to those external reviews were incorporated into the 2014 BiOp to further understand the effects of the groundfish fisheries on Steller sea lions. The 2014 BiOp considered whether NMFS has insured that the proposed Aleutian Islands Atka mackerel, Pacific cod, and pollock fisheries and their supporting research are not likely to cause jeopardy for Steller sea lions. On April 2, 2014, NMFS issued the 2014 BiOp.

The 2014 BiOp found that the implementation of the proposed action described in the EIS (i.e., Alternative 5) was not likely to jeopardize the continued existence of Steller sea lions and was not likely to destroy or adversely modify designated Steller sea lion critical habitat. The conclusions in the 2014 BiOp were reached after considering the best scientific and commercial information available, including Steller sea lion behavior and fisheries data. The 2014 BiOp concludes that the proposed action would establish Steller sea lion protection measures for the Atka mackerel, Pacific cod, and pollock fisheries in the Aleutian Islands subarea that spatially, temporally, and globally disperse fishing to mitigate potential competition for prey resources between Steller sea lions and these fisheries. Spatial and temporal fishery dispersion is accomplished through closure areas, harvest limits, seasonal apportionment of harvest limits, and limits on participation in a fishery. The proposed action would retain or modify existing closure areas, harvest limits, seasonal apportionment of harvest limits, and limits on participation in ways that are designed to limit competition for prey with Steller sea lions.

The best available scientific information suggests that the effects of the groundfish fisheries on Steller sea lions may be greatest around rookeries and haulouts due to the overlap of foraging Steller sea lions and harvest of their prey species in the fisheries (see Chapter 5 of the EIS and Section 5.4 of the 2014 BiOp). This proposed action limits fishing to the greatest extent from 0 nm to 3 nm from rookeries and haulouts, which corresponds with the highest observed at-sea use by as adult female, young-of-the-year, and juvenile Steller sea lions as shown in the Steller sea lion telemetry data described in the 2014 BiOp.

The 2014 BiOP identified the importance of maintaining global, or broad scale, limits on the harvest of Atka mackerel, Pacific cod, and pollock. Global limits are currently in place for these three species. Regulations prohibit directed fishing in the BSAI or GOA if the projected spawning biomass of the fish stock falls below 20 percent of the unfished spawning biomass (see regulations at § 679.20(d)(4)). Atka mackerel, Pacific cod, and pollock fisheries have not experienced this type of directed fishing closure since global limits became effective in 2003 (68 FR 204, January 2, 2003).

Proposed Regulatory Provisions

This proposed action would implement Alternative 5, the Council's preferred alternative for Steller sea lion protection measures. Many of the provisions in this proposed action are the same as provisions implemented in the 2010 Interim Final Rule (75 FR 77535, December 13, 2010; corrected 75 FR 81921, December 29, 2010). This section of the preamble explains each provision and notes when the provision is the same as the 2010 Interim Final Rule, a modification of the 2010 Interim Final Rule, or a new provision. All these provisions should be considered together as the proposed action, and NMFS has determined that the public should be provided another opportunity to comment on the 2010 Interim Final Rule regulatory amendments based on the new information.

The following sections describe the general provisions of this proposed action: (1) Removal of the retention

prohibition for Atka mackerel and Pacific cod fisheries in Area 543; (2) harvest limits and closures for the Atka mackerel, Pacific cod, and pollock fisheries in Areas 543, 542, and 541; and (3) general management measures for groundfish fisheries in the BSAI.

Removal of Atka Mackerel and Pacific Cod Retention Prohibitions in Area 543

This proposed action would allow the retention of Pacific cod and Atka mackerel in Area 543 subject to harvest limits addressed in the next section of the preamble. This proposed action would remove the prohibition on the retention of Pacific cod and Atka mackerel in Area 543 at § 679.7(a)(19). This prohibition was implemented under the 2010 Interim Final Rule. Currently, Atka mackerel and Pacific cod cannot be retained in a directed fishery or when incidentally caught in other groundfish fisheries in Area 543. The Council recommended and NMFS proposes to remove the retention prohibition throughout all of Area 543 (i.e., inside and outside of critical habitat) and instead limit Atka mackerel and Pacific cod harvest in Area 543.

By removing the retention prohibition, directed fisheries for Atka mackerel and Pacific cod could occur in Area 543. In addition, Atka mackerel and Pacific cod could be retained if they are incidentally harvested in other non-directed fisheries throughout all of Area 543 (e.g., incidental harvest of Atka mackerel could be retained in a Pacific ocean perch fishery). Incidental harvest of Atka mackerel and Pacific cod would still be limited by Maximum Retainable Amounts (MRAs). MRAs limit the amount of species that a vessel operator can retain if a species is not open for directed fishing. Regulations at § 679.20(e) and (f), and Tables 10 and 11 to 50 CFR part 679, establish MRA percentages for groundfish species and species groups. Chapter 8 of the EIS provides additional detail on the management of MRA limits.

The 2014 BiOp considered a range of information to assess the potential effects of allowing retention of Atka mackerel and Pacific cod in Area 543. Satellite telemetry tags have been deployed on adult female and juvenile Steller sea lions in Areas 541, 542, and 543 to understand sea lion movements and at-sea distribution. The at-sea location data collected from these telemetry tags have been grouped into summer (April through September) and winter (October through March) time periods. Based on telemetry analyses completed for the 2014 BiOp, over 90 percent of the winter and summer juvenile locations and the summer adult female locations were within 20 nm from listed rookeries or haulouts, and 80.6 percent of the winter adult female locations were within 20 nm from listed rookeries or haulouts. Based on these data, the 2014 BiOp concluded that there is less concern about potential interactions between fisheries and Steller sea lions farther than 20 nm from listed rookeries or haulouts. This conclusion is consistent with BiOp NMFS conducted in 2001 (see **ADDRESSES**).

Allowing retention for Pacific cod and Atka mackerel outside of critical habitat (i.e., further than 20 nm from listed rookeries or haulouts) in Area 543 is consistent with the need to protect Steller sea lion prey resources in areas most important to foraging Steller sea lions while providing the opportunity for fishery harvests in areas where there is less potential for competition between fisheries and foraging Steller sea lions. Allowing retention within critical habitat in Area 543 would be consistent with the need to protect Steller sea lions, provided that the total amount of TAC taken in Area 543 is limited and directed fishing, the source of greatest retention, is further limited near Steller sea lion rookeries and haulouts. These harvest limitations are described in greater detail in the following section of the preamble.

Atka Mackerel Harvest Limits in Areas 543 and 542

This proposed action would establish two harvest limits for Atka mackerel in Area 543. The first limit would set the annual TAC at an amount no greater than 65 percent of the ABC in Area 543. Prior to the implementation of the 2010 Interim Final Rule in 2011, Atka mackerel harvest in Area 543 inside critical habitat was limited to 60 percent of the TAC, but the full amount of the TAC could be taken in Area 543 as a whole during a year. The proposed area-wide TAC limit of 65 percent of the ABC in Area 543 would provide limited fishing opportunity inside and outside critical habitat at a level similar to the previous limit that applied only inside critical habitat. The Council and NMFS recommended this measure to ensure the overall harvest in Area 543 would not be likely to impact the area-wide availability of Atka mackerel prey resources for Steller sea lions while allowing some harvesting of Atka mackerel in Area 543.

This second limit would allow no more than 60 percent of the annual TAC, evenly apportioned between the A and B seasons, to be harvested in critical habitat west of 178° W longitude. This area includes all of Area 543 and the western portion of Area 542. The 2010 Interim Final Rule implemented equally apportioned Atka mackerel harvest in critical habitat between two seasons. The Council and NMFS recommend retaining this measure, but modifying it to apply to Area 543 and the western portion of 542 to spatially and temporally disperse catch in Steller sea lion critical habitat to protect potential prey resources. This limit would apply to waters near Steller sea lion rookery or haulout sites where pup and nonpup counts have been declining. It would provide additional potential protection to prey resources inside critical habitat where the Steller sea lion population has been observed to be declining. This limit in critical habitat harvest would balance the need to protect Steller sea lion prey resources, consistent with the FMP BiOp performance standards (see Section 8.2.2 of the FMP BiOP), with the opportunity to harvest Atka mackerel in a few locations available to fishing within critical habitat. Atka mackerel fishing is effectively prohibited in most critical habitat in the Aleutian Islands due to the nonpelagic trawl closures in the AIHCA (see Figure 2–27 in EIS and Section 5.3.4 in 2014 BiOp for additional detail).

Atka Mackerel Fisheries Closures in Area 543

This proposed action would prohibit directed fishing with trawl gear for Atka mackerel in waters from 0 nm to 3 nm from haulouts and from 0 nm to 10 nm from rookeries in Area 543. The Council recommended and NMFS proposes this prohibition to protect Steller sea lion critical habitat, providing more protection to areas around rookeries where adult females and juveniles are more dependent on nearshore prey resources. The existing AIHCA closures in Area 543 in addition to the proposed closures under this action would result in a spatial closure of 76 percent of critical habitat in Area 543 to Atka mackerel directed fishing (see Figure 2–27 in EIS and Section 5.2 in 2014 BiOp).

Pacific Cod Harvest Limit in Area 543

This proposed action would establish a harvest limit for Pacific cod based on abundance in Area 543 as determined by the annual stock assessment process. The Council recommends and NMFS proposes this measure to limit catch in the portion of the Aleutian Islands where Steller sea lions have experienced the greatest decline. This limit would vary from year-to-year depending on stock abundance but would ensure that limits are retained on total harvest. For example, under this proposed limit the Pacific cod catch

limit would have been 3,359 mt for trawl vessels and 1,082 mt for non-trawl vessels in 2014. This limit would balance protection of area-wide Pacific cod prey resources for Steller sea lions using the best available scientific information on biomass distribution while providing some opportunity for Pacific cod harvests.

Pacific Cod Hook-and-Line and Pot Gear Fisheries Closures in Area 543

The proposed action would prohibit directed fishing for Pacific cod in waters from 0 nm to 3 nm from rookeries and from 0 nm to 10 nm from Buldir Island for hook-and-line and pot gear vessels. Hook-and-line and pot gear is typically deployed in locations closer to shore in the Aleutian Islands compared to trawl gear. This is due to the steep bathymetry in the Aleutian Islands and the limited benthic surface available to hook-and-line and pot gear farther from shore. The Council recommended and NMFS proposes these limited closures in Area 543 to Pacific cod hook-and-line and pot gear because harvests occur in much smaller quantities and at slower rates for these gears than trawl gear. This makes it less likely that hook-and-line and pot gear harvests would result in localized depletion of Steller sea lion prey resources (Section 3.3 in EIS). Allowing harvests of Pacific cod by hook-and-line and pot gear in Steller sea lion critical habitat is less likely to cause localized depletion of Steller sea lion prey resources compared to trawl gear fishing.

Pacific Cod Trawl Fisheries Closures in Area 543

This proposed action would prohibit directed fishing with trawl gear for Pacific cod in waters from 0 nm to 3 nm from haulouts and from 0 nm to 10 nm from rookeries in Area 543. The Council and NMFS recommended this action to protect Steller sea lion prey resources in areas important to adult females, young of the year, and juveniles from the potential effects of trawl fisheries. These closures balance the protection of prey resources within critical habitat with the opportunity to harvest Pacific cod by trawl gear in the limited locations available to trawl gear. Establishing this proposed area closure would result in a spatial closure of 76 percent of critical habitat in Area 543 for Pacific cod trawl gear when considered in the context of the existing AIHCA closures (Figure 2–28 in EIS and Section 5.3.4 in 2014 BiOp). However, NMFS expects that Area 543 Pacific cod harvest amounts under these proposed closures to be not much more than harvest amounts in Area 543 under current regulations established by the 2010 Interim Final Rule because of the change to the Pacific cod TAC explained above under the ''*BSAI Pacific Cod Management*'' and anticipated participation in the fishery in that area. Therefore, based on that expectation, the Area 543 Pacific cod fishery is not likely to result in localized depletion of Steller sea lion Pacific cod prey resources (Section 5.4.7 in 2014 BiOp).

Pollock Harvest Limit in Area 543

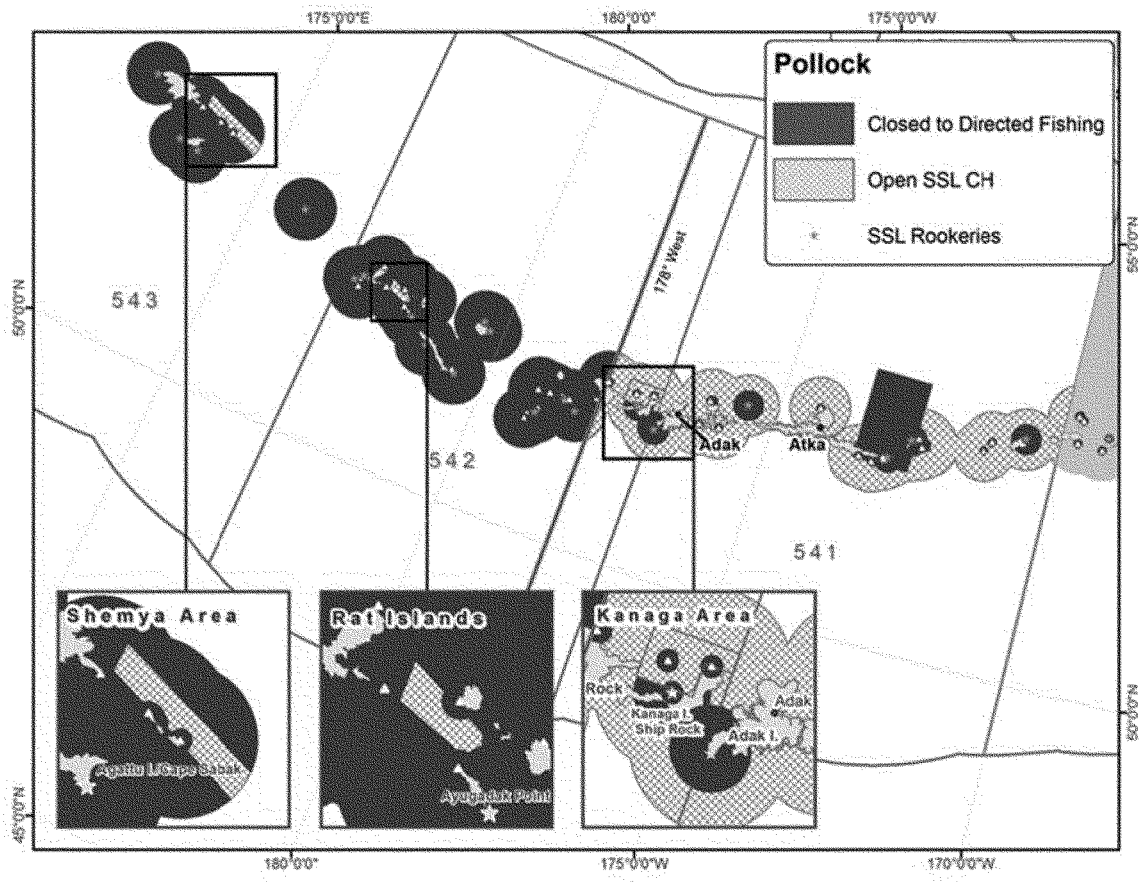
This proposed action would limit the harvest of pollock to no more than 5 percent of the Aleutian Islands pollock ABC during the A season in Area 543. This limit would apply to all harvests; this includes harvests by the Aleut Corporation, CDQ groups, and the incidental catch of pollock in all other groundfish fisheries. The Council recommended and NMFS proposes setting this pollock harvest limit in Area 543, consistent with the goal of providing more protection to Steller sea lions where more decline in their population is evident (see performance standards described in Section 8.2.2 in FMP BiOp). Area 543 is the location with the apparent greatest decline in Steller sea lion abundance compared to Areas 542 and 541. Therefore, this proposed action would establish more restrictive harvest limits in Area 543 than Areas 542 and 541. The 5-percent harvest limit balances the need for additional protection to prey resources during a time of the year when Steller sea lions are more dependent on pollock while providing opportunity for the development of a limited pollock fishery (Section 5.3.3 in 2014 BiOp).

Pollock Fisheries Closures in Area 543

This proposed action would prohibit directed fishing for pollock in most critical habitat in Area 543. This proposed action would prohibit directed fishing for pollock from 0 nm to 3 nm from Shemya, Alaid, and Chirikof haulouts and from 0 nm to 20 nm at the Agattu rookeries in Area 543, as described in Table 4 to 50 CFR part 679 and shown in Figure 1. This proposed action would prohibit directed fishing for pollock from 0 nm to 20 nm in the two remaining rookeries in Area 543. The Council recommended and NMFS proposes these prohibitions to protect important Steller sea lion prey while providing the opportunity for limited pollock fishing in an area where pollock fishing had historically occurred in Area 543 (Figure 3–18 in EIS). The 2014 BiOp found that very little spatial overlap between Steller sea lions and the pollock fishery would be likely because under this proposed management measure, 95 percent of critical habitat in Area 543 would be closed to pollock fishing (Section 5.3.3 in 2014 BiOp). The 2014 BiOp found that there would be a limited degree of overlap between the depth at which the pollock fishery occurs and Steller sea lion dive patterns in Area 543. Therefore, this proposed action would provide a very limited opportunity for pollock harvests to occur in critical habitat within Area 543 while providing protections to Steller sea lion prey resources. To provide the reader with a better understanding of the specific areas open and closed under this proposed provision, see Figure 1 below.

BILLING CODE 3510–22–P

Figure 1. Proposed Aleutian Islands Pollock Fishery Closures



BILLING CODE 3510–22–C

Atka Mackerel Critical Habitat Harvest Restrictions in Area 542

This proposed action would make several modifications to Atka mackerel harvest restrictions in Area 542. First, this proposed action would remove the prohibition on fishing inside of critical habitat around Gramp Rock and Tag Island unless the vessel was assigned to an Amendment 80 cooperative or the CDQ Program, as implemented by the 2010 Interim Final Rule under § 679.7(a)(25). This proposed action would remove this prohibition because limiting vessels in this area would not be necessary to control the rate of fishing within this portion of critical habitat in Area 542. This proposed action would provide additional locations in Steller sea lion critical habitat for Atka mackerel fishing. NMFS expects greater spatial dispersion of Atka mackerel harvests inside critical habitat by providing this additional fishing area.

Second, as noted earlier, this proposed action would limit the amount and seasonal apportionment of the Atka mackerel TAC in critical habitat in the western portion of Area 542. No more than 60 percent of the annual TAC, evenly apportioned between the A and B seasons, could be harvested in critical habitat west of 178° W longitude. The Council recommended and NMFS proposes this limit to ensure that the amount of Atka mackerel harvest is constrained within critical habitat in Area 542 west of 178° W longitude similar to historical harvests levels (see Chapter 3 and 11 in EIS, and Section 5.3.4 in the 2014 BiOp).

Third, this proposed action would remove the Amendment 80 and CDQ harvest restrictions and Area 542 TAC limit for Atka mackerel implemented by the 2010 Interim Final Rule at § 679.20(a)(8)(ii)(C) because these harvest restrictions and TAC limit are not necessary under the proposed Steller sea lion protection measures. As determined by the 2014 BiOp, the Area 542 Atka mackerel harvest anticipated under this proposed action is not likely to cause jeopardy to Steller sea lions, and therefore maintaining these additional restrictions would result in potential economic burden on the fishing industry that is not needed to protect Steller sea lion prey species.

Atka Mackerel Fisheries Closures in Area 542

This proposed action would prohibit directed fishing for Atka mackerel in waters from 0 nm to 3 nm of Steller sea lion haulouts and from 0 nm to 10 nm of Steller sea lion rookeries in Area 542. This proposed action also would prohibit directed fishing for Atka mackerel in waters from 0 nm to 20 nm from Steller sea lion rookeries and haulouts in Area 542 located between 178° E longitude and 180° longitude and east of 178° W longitude. This proposed action would revise the 2010 Interim Final Rule prohibition of directed fishing for Atka mackerel in waters from 0 nm to 20 nm from Steller sea lion rookeries and haulouts in Area 542 located between 177° E longitude and

179° W longitude and between 178° W longitude and 177° W longitude. These proposed changes in the Atka mackerel closure areas would be implemented by revisions to Table 6 to 50 CFR part 679.

Establishing this proposed area closure would result in a spatial closure of 93 percent of critical habitat in Area 542 for Atka mackerel fishing when considered in the context of the existing AIHCA closures (see Figure 2–27 in EIS and Section 5.3.1 in 2014 BiOp). Further, telemetry data do not indicate a spatial overlap between Steller sea lions and the Atka mackerel fishery outside of 10 nm from Steller sea lion rookeries or outside of 3 nm from haulouts in Area 542 (Section 5.3 in 2014 BiOp).

The Council and NMFS recommended these prohibitions based on the best available information from the Alaska Fisheries Science Center Fisheries Interaction Team studies (Chapter 11 in EIS). These studies have shown that Atka mackerel move from inside critical habitat to outside critical habitat near Amchitka, and the abundance of Atka mackerel is relatively low in this area compared to other fishing locations in Area 542. This movement and low abundance of Atka mackerel at Amchitka may make Steller sea lion prey resources inside critical habitat in these areas more susceptible to fishing effects. The proposed closures in Area 542 would provide protection to Steller sea lion Atka mackerel prey resources inside critical habitat where Atka mackerel may be more susceptible to localized depletion. This proposed closure would provide a limited opportunity to harvest Atka mackerel in those areas of critical habitat not otherwise precluded due to the existing AIHCA closures (Section 5.3.4 in 2014 BiOp).

Pacific Cod Non-Trawl Fisheries Closures in Area 542

This proposed action would include three revisions to Area 542 protection measures for the Pacific cod non-trawl fisheries. The first revision would change the current 0 nm to 6 nm closures at Steller sea lion haulouts and rookeries to 0 nm to 3 nm from Steller sea lion rookeries in Area 542 to hook-and-line and pot gear vessels directed fishing for Pacific cod year round. The second revision would remove the prohibition on directed fishing for Pacific cod with jig gear from 0 nm to 6 nm of Steller sea lion haulouts and rookeries as implemented under the 2010 Interim Final Rule in § 679.22(a)(8)(iv) and Table 5 to 50 CFR part 679. The Council recommended and NMFS proposes revising the non-trawl gear Pacific cod closures to allow additional fishing opportunity for these gear types in locations that are less likely to affect prey resources for adult females, young of the year, and juvenile Steller sea lions.

Pot and hook-and-line gear must be deployed in relatively shallow water, and those areas are limited in the Aleutian Islands subarea due to the steep bathymetry. Therefore, vessels using pot and hook-and-line gear generally fish for Pacific cod within 10 nm of Steller sea lion haulouts and rookeries in the Aleutian Islands (Section 3.3 in EIS). This proposed rule would close waters from 0 nm to 3 nm from rookeries to directed fishing for Pacific cod by all non-trawl gears to protect prey resources for females that may be limited in their ability to travel longer distances from a nursing pup and for young Steller sea lions with limited foraging capability (Section 5.2 in 2014 BiOp).

Most of the Pacific cod non-trawl fishing in the Aleutian Islands is with pot and hook-and-line gear, which harvest a smaller portion of the TAC and at a slower rate with more temporal dispersion than trawl gear (Section 3.3 in EIS). Very little Pacific cod is harvested with jig gear in the Aleutian Islands and the rate of harvest by this gear type is low compared to all other fishing gear. Based on the low amount of catch and rate of harvest, critical habitat closures for jig gear would not be required to protect Steller sea lion Pacific cod prey (Section 2.1.1.3 in EIS). Therefore, this proposed action would remove most of the existing limitations on the use of jig gear within critical habitat.

The third revision in Area 542 would remove the prohibition on vessels 60 feet (18.3 m) or greater in length overall using non-trawl gear from directed fishing for Pacific cod in waters from 6 nm to 20 nm from Steller sea lion rookeries and haulouts in Area 542 from January 1, 0001 hours, to March 1, 1200 hours, A.l.t. This prohibition was implemented by the 2010 Interim Final Rule as a footnote to Table 5 to 50 CFR part 679. The Council recommended and NMFS proposes to remove this prohibition on Pacific cod non-trawl vessels fishing in the first quarter of the year (from January 1 to March 1) to further temporally disperse the harvest and to align fishing effort by these vessels with the seasons established in regulation at § 679.23. Generally, non-trawl vessels are able to commence fishing January 1.

Pacific Cod Trawl Fisheries Closures in Area 542

This proposed action would revise protection measures for the Pacific cod trawl fisheries in Area 542. This proposed action would close waters from 0 nm to 10 nm from Steller sea lion rookeries and from 0 nm to 3 nm from Steller sea lion haulouts in Area 542. This proposed action would remove seasonal closures from 0 nm to 20 nm from all Steller sea lion haulouts and rookeries to directed fishing for Pacific cod with trawl gear implemented by the 2010 Interim Final Rule at § 679.22(a)(8)(iv) and in Table 5 to 50 CFR part 679. Closing waters from 0 nm to 10 nm from rookeries and from 0 nm to 3 nm from haulouts would ensure the trawl fisheries are not likely to reduce the availability of prey species for juvenile, young of the year, and adult female Steller sea lions in these waters. The Council recommended and NMFS proposes this measure to maintain protections around Steller sea lion rookeries and haulouts in Area 542 and to provide some opportunity for harvesting Pacific cod with trawl gear.

Steller sea lion telemetry, Platform of Opportunity, and fisheries location data, show very little spatial overlap occurs between Steller sea lions and the Pacific cod trawl fisheries in Area 542 inside critical habitat (Section 5.3.4 in 2014 BiOp). Providing additional opportunity for Pacific cod trawl harvests under this proposed action would not be likely to reduce the available Pacific cod prey resources for Steller sea lions inside critical habitat. Given the large reduction in the Aleutian Islands Pacific cod harvest due to the specification of a separate Aleutian Islands TAC and the small amount of Pacific cod taken historically in Area 542, the 2014 BiOp concluded that under the proposed action the Pacific cod trawl fisheries would not be likely to locally deplete Pacific cod stocks in Area 542.

Pollock Harvest Limit in Area 542

This proposed action would limit harvest of pollock to no more than 15 percent of the Aleutian Islands ABC during the A season in Area 542. This limit would apply to all harvest of pollock. The 15 percent pollock harvest limit for Area 542 would be more restrictive than the harvest limit in Area 541, but less restrictive than the harvest limit in Area 543. The Council recommended and NMFS proposes this action to establish limits on pollock harvest consistent with the FMP BiOp performance standards to provide more protection to Steller sea lions where more decline is evident (Section 8.2.2).

The 15 percent pollock harvest limit in Area 542 would balance the protection of Steller sea lion pollock prey resources in the winter when pollock is most important in the Steller sea lion diet (Section 5.3.3. in 2014 BiOp) with an opportunity for limited pollock harvest in Area 542.

Pollock Fisheries Closures in Area 542

This proposed action would prohibit directed fishing for pollock in waters from 0 nm to 20 nm from rookeries and haulouts west of 178° W longitude as described in Table 4 to part 679 with one exception. This proposed rule would create an open area surrounded by closed critical habitat in the Rat Islands Area. The open area would be established by prohibiting directed fishing for pollock in waters from 0 nm to 3 nm from Hawadax Island/Krysi Point, Tanadak, and Segula haulouts, and from 0 nm to 10 nm from Little Sitkin haulout and Ayugudak rookery as described in Table 4 to 50 CFR part 679 and shown in Figure 1. There would be no pollock fishing within critical habitat (from 0 nm to 20 nm) near the remaining Steller sea lion sites in Area 542.

This proposed action would prohibit directed fishing for pollock in waters from 0 nm to 10 nm from rookeries and from 0 nm to 3 nm from haulouts east of 178° W longitude as described in Table 4 to 50 CFR part 679 with an exception at Kanaga Island/Ship Rock. This proposed action would prohibit directed fishing for pollock in waters from 0 nm to 3 nm from rookeries and haulouts in a portion of Kanaga Sound east of 178° W longitude as described in Table 4 to 50 CFR part 679 and shown in Figure 1. Even though Kanaga Island/Ship Rock is a rookery, reducing the closure at this area from 10 nm to 3 nm would not be expected to result in limitations for Steller sea lion prey resources in this portion of critical habitat due to the overall pollock harvest limit applied to Area 542 and the fact that fishing would occur in winter when Steller sea lions are less likely to be using a rookery.

Overall, the critical habitat closures in Area 542 are more restrictive in the western portion of Area 542 where Steller sea lion abundance has experienced more decline, and less restrictive in the eastern portion of Area 542 where Steller sea lion abundance has experienced less decline. These closures are consistent with the performance standards in the FMP BiOp (Section 8.2.2). The Council recommended and NMFS proposes these closures to protect Steller sea lion pollock prey resources while providing a limited area for pollock fishing where pollock harvests have historically occurred in Area 542 (Section 3.4.3 in EIS and Section 5.3.4 in 2014 BiOp).

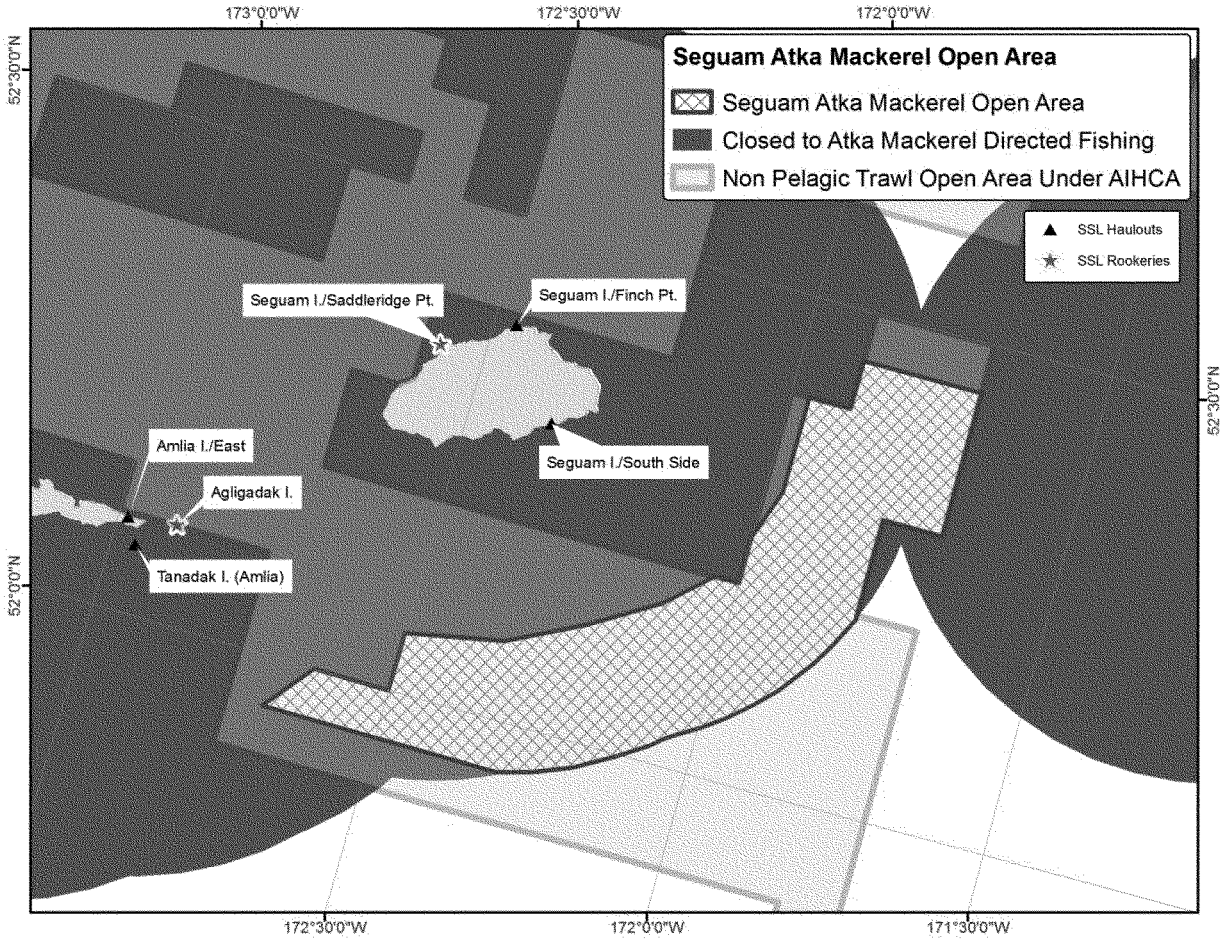
Atka Mackerel Fisheries Closures in Area 541

This proposed action would prohibit directed fishing with trawl gear inside critical habitat in Area 541 as implemented by the 2010 Interim Final Rule in Table 6 to 50 CFR part 679, except for a portion of critical habitat around Seguam Island. Maintaining most of the critical habitat Atka mackerel closures in Area 541 is similar with past closures applied to the Atka mackerel fishery in this area, but would allow continued harvest of Atka mackerel in Area 541 in a manner similar to past harvest patterns (Section 3.2 in EIS).

This proposed action would open a portion of critical habitat from 12 nm to 20 nm from Seguam Island as shown in Figure 2. The Atka mackerel fishery in Area 541 is currently concentrated outside of critical habitat near Seguam Island. The Council recommended and NMFS proposes this opening because research shows that there is very little exchange of Atka mackerel biomass between Atka mackerel inside critical habitat areas proximate to the islands around Seguam Pass (inside 12 nm) and Atka mackerel beyond 12 nm (Chapter 11 in EIS). This new information suggests that Atka mackerel outside of 12 nm in critical habitat follow bathymetric contours extending from outside critical habitat to inside critical habitat approximately 12 nm from the Steller sea lion sites at Agligadak, Amlia, and Seguam Islands. This proposed action would open the area shown in Figure 2 to Atka mackerel fishing to disperse fishing effort, thereby preventing localized depletion where Atka mackerel is currently harvested outside critical habitat (Section 3.2 in EIS).

BILLING CODE 3510–22–P

Figure 2. Proposed Atka Mackerel Critical Habitat Directed Fishery Open Area near Seguam Island



BILLING CODE 3510–22–C

Pacific Cod Non-Trawl Fisheries Closures in Area 541

This proposed action would close portions of critical habitat to hook-and-line and pot gear directed fishing for Pacific cod in Area 541. This proposed action would prohibit directed fishing for Pacific cod with hook-and-line and pot gear in waters from 0 nm to 3 nm around rookeries west of 172.59° W longitude and in critical habitat from 0 nm to 20 nm east of 172.59° W longitude, as described in Table 5 to 50 CFR part 679. Closing all critical habitat east of 172.59° W longitude in Area 541 to directed fishing for Pacific cod with hook-and-line and pot gear would prevent expansion of the use of hook-and-line and pot gear into a portion of Steller sea lion critical habitat that has not been fished historically (Section 3.3 in EIS).

This proposed action would remove all jig gear closures outside of 3 nm from rookeries in Area 541, except the closure of the Seguam Foraging Area, as implemented by the 2010 Interim Final Rule in Table 5 to 50 CFR part 679, footnote 16. Jig vessels harvest a very small portion of the Pacific cod TAC in Area 541 and at a slow rate. Jig vessels are not likely to cause localized depletion of Steller sea lion Pacific cod prey resources in critical habitat (Section 2.1.1.3 in EIS). This proposed action would also remove the January 1 to March 1 closures for non-trawl gear as implemented by the 2010 Interim Final Rule in footnote 16 to Table 5 to 50 CFR part 679. Removing this restriction for fishing in critical habitat in the winter would allow for further temporal dispersion of fishing effort by non-trawl vessels (Section 2.1.2.3 in EIS).

The Council recommended and NMFS proposes these non-trawl gear closures in Area 541 because they would provide vessels using non-trawl gear access to the limited area within Area 541 that can be effectively fished. These closures would prevent fishing in critical habitat that is used more frequently by foraging Steller sea lions, based on telemetry data (Section 5.3.4 in 2014 BiOp). Prohibiting the use of hook-and-line and pot gear in these closed areas allows for consistent management of hook-and-line and pot gear and avoids incentives to use alternative fishing gear to avoid Steller sea lion protection measures (Section 3.3.3 in EIS).

Pacific Cod Trawl Fisheries Closures in Area 541

This proposed action would close portions of critical habitat in Area 541

to directed fishing by Federally permitted vessels for Pacific cod with trawl gear. This proposed action would prohibit directed fishing for Pacific cod with trawl gear in waters from 0 nm to 3 nm from haulouts and from 0 nm to 10 nm from rookeries in Area 541, except this proposed action would prohibit directed fishing for Pacific cod with trawl gear in waters from 0 nm to 20 nm from Agligadak Island, as described in Table 5 to 50 CFR part 679. The additional critical habitat closure at Agligadak Island would prevent expansion of the Pacific cod trawl fishery into critical habitat near this rookery, where little fishing for Pacific cod with trawl gear has occurred historically (Section 3.3 in EIS).

This proposed action would remove the trawl closures as implemented by the 2010 Interim Final Rule in Table 5 to 50 CFR part 679, footnote 14 that prohibited directed fishing for Pacific cod with trawl gear in waters from 0 nm to 10 nm from Steller sea lion sites in Area 541 year round and prohibited directed fishing for Pacific cod with trawl gear within 10 nm to 20 nm from Steller sea lion haulouts and rookeries in Area 541 from June 10 to November 1. The Council recommended and NMFS proposes removing these closures because Steller sea lion population trends are better in Area 541 than in Areas 542 and 543. Imposing fewer fishery restrictions in an area of improving Steller sea lion abundance is consistent with the performance standards of the FMP BiOp (Section 8.2.2). NMFS expects the majority of the Pacific cod TAC to be taken by trawl gear in Area 541 in a similar manner as observed from 2004 through 2010. The Pacific cod harvest in Area 541 is expected to be taken in a spatially and temporally compressed fashion in February and March. Overall Pacific cod harvests in Area 541 are expected to be substantially constrained relative to harvests prior to 2010 due to the limited amount of TAC available with the implementation of the Aleutian Islands Pacific cod TAC beginning in 2014 (Section 5.4.7 in 2014 BiOp). Steller sea lion telemetry and Platform of Opportunity location data also show very little spatial overlap between Steller sea lions and the Pacific cod trawl fishery in Area 541 (Section 5.3.4 in 2014 BiOp).

Pollock Harvest Limit in Area 541

This proposed action would limit harvest of pollock to no more than 30 percent of the Aleutian Islands ABC during the A season in Area 541. This limit would apply to all harvest of pollock. The harvest limit would ensure the harvest of pollock is constrained in the winter when pollock harvests are most likely to occur and when pollock appears to be an important part of the Steller sea lion diet (Section 5.3.3 in 2014 BiOp). The harvest limit in Area 541 is higher than in Area 542. This is consistent with the FMP BiOp standards to provide more protection to Steller sea lions where more decline is evident (Section 8.2.2). The Council recommended and NMFS proposes this pollock harvest limit to balance the protection of Steller sea lion prey resources with providing the opportunity for a pollock fishery in Area 541.

Pollock Fisheries Closures in Area 541

This proposed action would prohibit directed fishing for pollock in critical habitat from 0 nm to 10 nm from rookeries and from 0 nm to 3 nm from haulouts in Area 541 as described in Table 4 to 50 CFR part 679. Area 541 pollock closures are the least limiting relative to Areas 542 and 543. This is consistent with the performance standards in the FMP BiOp to provide more protection to Steller sea lion prey where more decline is evident (Section 8.2.2 in FMP BiOp). The Council recommended and NMFS proposes these closures to protect prey availability around important Steller sea lion sites while providing the opportunity to directed fish for pollock in Area 541 in locations where pollock fisheries occurred historically (Section 3.4 in EIS). The impact of the proposed pollock and Pacific cod fisheries combined in Area 541 are expected to be similar to the impact of the Pacific cod fishery alone in Area 541 prior to 2014. Steller sea lion pup and non-pups increased at a non-significant rate from 2004 through 2010 in Area 541 despite temporally compressed Pacific cod and minimal pollock fishing. Thus, NMFS does not expect the proposed Area 541 pollock fishery in combination with the limited harvests in the Pacific cod fishery to reduce the survival or recovery of the central Aleutian Islands sub-population of Steller sea lions (Section 7.3.1 of the 2014 BiOp).

Revisions to the Calculation of Maximum Retainable Amount of Atka Mackerel for Amendment 80 and CDQ Vessels in the Bering Sea Subarea

This proposed action includes a revision to the method for calculating the maximum retainable amount (MRA) of Atka mackerel for Amendment 80 and CDQ Program vessels in the Bering Sea subarea. The Council recommended and NMFS proposes to calculate the MRA based on a proportion of total catch at offload rather than as a calculation based on the proportion of total catch onboard a vessel at a specific time. Modifying MRA regulations in the Bering Sea portion of the combined Area 541/Bering Sea areas for Atka mackerel would be expected to allow greater retention of the incidental harvest of Atka mackerel in the Bering Sea where directed fishing is closed. This would allow more Atka mackerel TAC to be harvested in the Bering Sea subarea rather than the Aleutian Islands. This would further disperse the harvest of Atka mackerel spatially relative to existing management measures. This proposed action is intended to reduce regulatory discards of Atka mackerel harvested in the Bering Sea subarea.

Removal of the Atka Mackerel Harvest Limit Area (HLA) Fishery

As implemented by the 2010 Interim Final Rule, this proposed action would maintain the removal of the Atka mackerel HLA fishery. The 2010 Interim Final Rule eliminated the HLA fishery by removing regulations at §§ 679.2, 679.4(b)(5), 679.20(a)(8)(iii), 679.22(a)(8)(iv)(A), and 679.50(c)(1)(x); and by revising Tables 5 and 6 to 50 CFR part 679, and regulations at §§ 679.7(a)(19), 679.20(a)(8)(ii)(C), and 679.20(c)(6). These removals and revisions would be maintained under this proposed action, except §§ 679.7(a)(19) and 679.20(a)(8)(ii)(C), which would be further revised, as explained in the ''Specific Regulatory Amendments'' section of the preamble. Under the 2003 Steller sea lion protection measures, the harvest of Atka mackerel inside Steller sea lion critical habitat in Area 543 and the western portion of Area 542 was dispersed by controlling the harvest of Atka mackerel inside the HLA. The HLA included designated critical habitat and waters from 0 nm to 20 nm around other locations identified as important to Steller sea lions. A lottery system assigned vessels to platoons that were allowed to fish inside the HLA in specific locations and at specific times. The details of the HLA fishery are described in the 2003 final rule for Steller sea lion protection measures (68 FR 204, January 2, 2003).

The Council and NMFS recommended retaining the elimination of the HLA fishery because it does not disperse fishing temporally and spatially as well as fishing practices observed under the Amendment 80 Program. Since the implementation of the Amendment 80 Program in 2007 (72 FR 52668, September 14, 2007), the Amendment 80 fleet has modified their fishing patterns for Atka mackerel

resulting in a broader distribution of fishing and reduced catch rates relative to the HLA fishery. This change in fishing patterns is due to the fact that Atka mackerel is now harvested by Amendment 80 cooperatives. The cooperative management system under the Amendment 80 Program removes the incentive for a race for fish and provides the Amendment 80 fleet greater opportunity to spread the harvest over time and area than the HLA fishery. Because the Amendment 80 Program is allocated almost all of the available Atka mackerel TACs in the Aleutian Islands, the fishing patterns of Amendment 80 cooperatives are applicable to Atka mackerel fishing generally.

Regulations implementing the HLA fishery required Atka mackerel to be harvested during discrete periods, resulting in a greater concentration of Atka mackerel harvest than has been observed with cooperative management under the Amendment 80 Program. The HLA fishery is not necessary to limit vessel participation as that occurs through the provisions of the Amendment 80 Program cooperative. This proposed action would retain the elimination of the HLA fishery.

Modified Atka Mackerel Trawl Gear Season Dates and CDQ Seasonal Apportions

This proposed action would largely maintain the modified season dates for the Aleutian Islands Atka mackerel trawl fishery and Atka mackerel CDQ seasonal apportions as implemented by the 2010 Interim Final Rule. The 2010 Interim Final Rule revised §§ 679.20(a)(8)(ii)(A), 679.23(e)(3), and (e)(4)(iii) for the Atka mackerel season dates and apportionments. Except for § 679.23(e)(3)(ii), this proposed action would not change the revisions established by the 2010 Interim Final Rule. This proposed action would maintain the protection measures in § 679.20(a)(8)(ii)(A) implemented under the 2010 Interim Final Rule that evenly divide the harvest of TAC between the A and B seasons and applied this seasonal apportionment of Atka mackerel harvests in Area 543, Area 542, and the combined Area 541/Bering Sea. The 2010 Interim Final Rule extended the Atka mackerel seasons by changing the Atka mackerel trawl A season end date and B season start date to June 10 under § 679.23(e)(3)(i); this was recommended by the Council and NMFS to align the Atka mackerel seasons with the Aleutian Islands pollock and Pacific cod trawl fisheries and to temporally disperse catch.

This proposed action would revise § 679.23(e)(3)(ii) to extend the Atka mackerel B season in Areas 543, 542, and Area 541/Bering Sea relative to the 2010 Interim Final Rule. This proposed action would extend the B season until December 31, 1200 hours, A.l.t., relative to the November 1 season end date established by the 2010 Interim Final Rule. This season revision would apply to the Aleutian Islands and Bering Sea subareas. The Council recommended and NMFS proposes these proposed changes to the Area 543, Area 542, and Area 541/Bering Sea Atka mackerel seasons to provide additional temporal dispersion of Atka mackerel harvest by trawl gear. This temporal dispersion would reduce the potential effects on Steller sea lion prey availability and provide additional time for Atka mackerel fishing. This revision is consistent with the performance standard to temporally disperse harvest of Steller sea lion prey species (Section 8.2.2 in FMP BiOp).

The 2010 Interim Final Rule added a provision at § 679.7(d)(10) prohibiting CDQ groups from exceeding the CDQ Atka mackerel seasonal allocations. This paragraph was redesignated as § 679.7(d)(7) by a final rule for the CDQ program on March 2, 2012 (77 FR 6492, February 8, 2012). This proposed action would retain this prohibition, which is consistent with seasonal harvest limitations applied to non-CDQ Atka mackerel fisheries.

Prohibit the Harvest of Atka Mackerel Seasonal Rollover Inside Critical Habitat

This proposed action would prohibit the reallocation, commonly known as a rollover, of Atka mackerel TAC that is unused in one season to the following season during a calendar year if that rollover would allow additional harvests inside Steller sea lion critical habitat in Area 541/Bering Sea, Area 542, and Area 543. The Council recommended and NMFS proposes this provision to limit the amount of harvest that could occur in critical habitat to further protect Atka mackerel prey resources for Steller sea lions inside critical habitat.

Pacific Cod Trawl Seasons

This proposed action would extend the Pacific cod trawl C season to December 31, 1200 hours, A.l.t., for Amendment 80 and CDQ trawl vessels. The Council recommended and NMFS proposes extending the season to December 31 for Amendment 80 and CDQ Program trawl vessels to avoid regulatory discard of Pacific cod harvested by trawl gear in November and December. Amendment 80 cooperative and CDQ Program trawl vessels conduct their fishing under catch share programs that temporally disperse harvest. It is expected that Amendment 80 cooperatives and CDQ Program trawl vessels will continue to operate in a way that temporally disperses harvest; therefore, the season is extended to December 31 to allow additional temporal dispersion of harvests. This proposed change is consistent with performance standards that seek to temporally disperse harvest of Steller sea lion prey species (Section 8.2.2 in FMP BiOp).

Pacific cod harvests by other trawl fishery sectors (i.e., non-Amendment 80 Program and non-CDQ Program participants) are not uniformly managed under a catch share program; therefore, these sectors may not temporally disperse their harvests. Therefore, no additional C season extension is proposed for these other trawl fishery sectors. This proposed season change for Amendment 80 and CDQ Program trawl vessels would balance the recognition that these sectors can spread out their harvests temporally, while considering the importance of providing Pacific cod prey resources to Steller sea lions in winter. This proposed action would provide greater overall temporal dispersion of Pacific cod harvests and would not be expected to impact Steller sea lion prey resource availability.

Pacific Cod Non-Trawl Seasons

This proposed action would remove the prohibition on directed fishing for Pacific cod with non-trawl gear (jig, pot, and hook-and-line) from November 1 to December 31, which was implemented by the 2010 Interim Final Rule under § 679.7(a)(23). Removing this prohibition would provide additional temporal dispersion of Pacific cod fishing by vessels using non-trawl gear. Vessels using non-trawl gear are less likely to harvest amounts of Pacific cod, or harvest at rates in November or December, that could result in localized depletion of Steller sea lion prey resources relative to trawl gear (Section 3.3 in EIS).

Kanaga Island/Ship Rock Groundfish Closure

This proposed action would maintain the protection measures implemented under the 2010 Interim Final Rule that close directed fishing for groundfish by Federally permitted vessels in waters from 0 nm to 3 nm from the Kanaga Island/Ship Rock rookery. This closure was implemented by revising Table 12 to 50 CFR part 679. This site is listed as a haulout under critical habitat

regulations (50 CFR 226.202); however, recent information indicates that it now functions as a rookery. The rookeries listed in Table 12 to 50 CFR part 679 are surrounded by groundfish fishery closures that extend from 0 nm to 3 nm from the site.

The Council recommended and NMFS proposes maintaining this closure to protect animals using this location as a rookery from potential disturbance by fishing vessels and to protect near shore Steller sea lion prey resources. Very little groundfish catch has historically occurred in waters from 0 nm to 3 nm from this site. According to the FMP BiOp, this site is important to Steller sea lions because it is one of the few locations in the Aleutian Islands where Steller sea lion reproduction is occurring. Maintaining the closure at this rookery would ensure it is treated consistently with other Steller sea lion rookery sites listed in Table 12 to 50 CFR part 679.

Bering Sea Subarea Atka Mackerel Directed Fishing Closure

This proposed action would maintain the closure of the Bering Sea subarea and adjacent State waters to directed fishing for Atka mackerel as implemented under the 2010 Interim Final Rule. The 2010 Interim Final Rule added § 679.7(a)(24), revised § 679.22(a)(7)(vi), and removed Atka mackerel site specific closures for the Bering Sea subarea from Table 6 to 50 CFR part 679 to establish the Atka mackerel directed fishery closure in the entire Bering Sea subarea and adjacent State waters. This proposed action would maintain the prohibition under § 679.7(a)(24) but redesignate this prohibition as paragraph (a)(19) to consolidate the regulations. The closure under § 679.22(a)(7)(vi) would be revised to clarify that State waters are included in the Bering Sea Atka mackerel directed fishery closure. This closure would apply to vessels that catch groundfish that is required to be deducted from a TAC under § 679.20 and that are required to be named on a Federal Fisheries Permit issued under § 679.4(b). The revisions to Table 6 to 50 CFR part 679 would be maintained by this proposed action.

This proposed action would maintain the closure to directed fishing for Atka mackerel in the Bering Sea subarea and adjacent State waters. This closure would still allow for limited retention of Atka mackerel consistent with MRAs established for Atka mackerel (Table 11 to 50 CFR part 679). Historically, Atka mackerel has been caught and retained up to the amount permitted under regulations for MRAs (see Table 11 to part 679) in some portions of Steller sea lion critical habitat in the Bering Sea. However, directed fishing for Atka mackerel has not typically occurred historically in the Bering Sea. The Council recommended and NMFS proposes maintaining a directed fishery closure for Atka mackerel in the Bering Sea subarea and adjacent State waters to directed fishing for Atka mackerel to limit the potential for increased harvests in the Bering sea relative to historic harvest patterns. This proposed action would allow some retention of Atka mackerel subject to MRA provisions. Maintaining regulations that continue the current patterns of harvest of Bering Sea Atka mackerel is not likely to result in population level effects on Steller sea lions (Section 5.1.1 in EIS and Section 8.3.2.3 in FMP BiOp).

Including State Waters in Steller Sea Lion Protection Measures Closure Areas

This proposed action would clarify regulations at § 679.22 that Steller sea lion protection measures apply to vessels that catch groundfish that is required to be deducted from a TAC under § 679.20 and are required to be named on a Federal Fisheries Permit issued under § 679.4(b). This would include vessels fishing in adjacent State waters in parallel groundfish fisheries. This revision would ensure closures from the 2003 Final Rule to implement Steller sea lion protection are implemented as intended and would be maintained by this proposed action (68 FR 204, January 2, 2003).

Vessel Monitoring System (VMS) Transmission

This proposed action would require that vessel operators with an FFP using trawl gear that harvest groundfish deducted from the Federal TAC set their VMS to transmit the vessel location at least 10 times per hour. The Council recommended and NMFS proposes this requirement because of the extent and complexity of the proposed trawl closure areas in the Aleutian Islands reporting area. Monitoring is further complicated by the overlap of these proposed trawl closures with the existing AIHCA closures. This requirement would apply to vessels with an FFP that harvest groundfish deducted from the Federal TAC to ensure the VMS requirement applies to trawl vessels participating in Federal and State parallel groundfish fisheries.

The current transmission rate, commonly known as the polling rate, of 2 times per hour could allow vessels to fish in significant portions of these closed areas without detection (Section 8.17.2 in EIS). The increased polling rate would limit the ability of a vessel to operate inside or through a closed area undetected. As described in Section 2.1 of the EIS, vessels using trawl gear have the capability of fishing through a closed area without detection if the polling rate of the transmission is less than 10 times per hour. The proposed increased polling rate would apply only to vessels that harvest groundfish with trawl gear because this proposed action does not establish the same suite of complex closures for non-trawl gear.

Under this proposed action the operator of the vessel would be required to set their VMS unit to transmit at least 10 times per hour. NMFS notes that some existing VMS units may not meet the necessary operating standards to provide reliable transmissions to NMFS at least 10 times per hour. NMFS notes that the vessel operator may need to obtain a VMS unit with the capabilities necessary to ensure compliance with the proposed requirements.

Specific Regulatory Amendments

This proposed action would implement the following specific regulatory amendments. Table 1 lists the regulatory amendments from the 2010 Interim Final Rule that this proposed action would retain and those that would be removed or revised. The public is invited to submit comments on these regulations for NMFS' consideration.

TABLE 1—COMPARISON OF REGULATORY AMENDMENTS FROM THE 2010 INTERIM FINAL RULE AND THE PROPOSED ACTION

Regulatory amendments from the 2010 Interim Final Rule that would be retained in the proposed action	Regulatory amendments from the 2010 Interim Final Rule that would be removed or revised by the proposed action
§ 679.2. Remove two definitions for the Harvest Limit Area (HLA) Atka mackerel fisheries.	§ 679.7. Remove paragraphs (a)(19), (a)(23), and (a)(25). Redesignate paragraph (a)(24) as paragraph (a)(19) and revise to include reporting areas.

TABLE 1—COMPARISON OF REGULATORY AMENDMENTS FROM THE 2010 INTERIM FINAL RULE AND THE PROPOSED ACTION—Continued

Regulatory amendments from the 2010 Interim Final Rule that would be retained in the proposed action	Regulatory amendments from the 2010 Interim Final Rule that would be removed or revised by the proposed action
§ 679.4(b)(5). Revise to remove references to the HLA Atka mackerel fishery.	§ 679.20. Revise paragraph (a)(8)(ii)(C) harvest limits.
§ 679.7. Add paragraph (d)(10) for CDQ seasonal allowance for Atka mackerel.	§ 679.22. Revise paragraphs (a)(7)(vi) and (a)(8)(iv).
§ 679.20 Revise paragraphs (a)(8)(ii)(A) and (c)(6). Remove and reserve (a)(8)(iii).	§ 679.23. Revise paragraph (e)(3)(ii) for Atka mackerel B season.
§ 679.22 Remove paragraph (a)(8)(iv)(A). Remove and reserve paragraph (b)(6) due to expired regulations.	Tables 5 and 6 to 50 CFR part 679. Revise for new closures.
§ 679.23 Revise paragraphs (e)(3)(i) and (e)(4)(iii). Remove paragraphs (e)(4)(iv) and (e)(4)(v) due to expired regulations.	
§ 679.50. Remove paragraph (c)(1)(x) observer coverage for HLA fishery.	
Table 12 to 50 CFR part 679. Revise to add Kanaga Island/Ship Rock.	

Removal of Expired Regulations

The 2010 Interim Final Rule removed §§ 679.22(b)(6), 679.23(e)(4)(iv), and 679.23(e)(4)(v) because these regulations had expired. Section 679.22(b)(6) closed the Chiniak Gully Research Area during research on the effects of the pollock fishery on local pollock prey abundance. This research has ended and the closure is no longer needed to support research (71 FR 31105, June 1, 2006). Section 679.23(e)(4)(iv) and (e)(4)(v) applied to CDQ program season provisions that had expired in December 2002. This proposed action would maintain the removal of these paragraphs implemented under the 2010 Interim Final Rule.

Prohibitions

This proposed action would remove §§ 679.7 (a)(19), (a)(23), and (a)(25) and redesignate § 679.7(a)(24) as paragraph (a)(19).

This proposed action would remove § 679.7(a)(19) to remove the retention prohibition for Atka mackerel and Pacific cod in Area 543 under the 2010 Interim Final Rule.

This proposed action would remove § 679.7(a)(23) because this action removes the prohibition under the 2010 Interim Final Rule for directed fishing for Pacific cod with hook-and-line, pot, and jig gear in Areas 542 and 541 from November 1, 1200 hours, A.l.t., through December 31, 2400 hours, A.l.t.

This proposed action would remove § 679.7(a)(25) because this action removes the prohibition under the 2010 Interim Final Rule for directed fishing for Atka mackerel inside of critical habitat of Gramp Rock and Tag Island unless the participant is fishing under an Amendment 80 cooperative quota permit or under authority of a CDQ allocation.

The prohibition on Atka mackerel directed fishing in the Bering Sea subarea and adjacent State waters under the 2010 Interim Final Rule in § 679.7(a)(24) would be retained by this proposed action and redesignated as paragraph § 679.7(a)(19) to consolidate the regulations. The introductory text to the new § 679.7(a)(19) would be revised to include the Bering Sea reporting areas to prevent confusion over the inclusion of State waters.

General Limitations

This proposed action would revise § 679.20 to add harvest limitations for pollock, Pacific cod, and Atka mackerel fisheries in Areas 541, 542, and 543.

This proposed action would add pollock harvest limitations during the A season in Areas 541, 542, and 543. This proposed action would add § 679.20(a)(5)(iii)(B)(*6*) to specify these pollock harvest limitations. Section 679.20(a)(5)(iii)(B)(*6*)(*i*), (*ii*), and (*iii*) would specify limits to pollock harvest during the A season in Areas 543, 542, and 541.

This proposed rule would add subparagraphs (a)(7)(v) and (a)(7)(vi) to correct an error that removed these regulations. Regulations implementing the Amendment 80 Program inserted regulatory text to implement the allocation and seasonal apportionments of Pacific cod to the Amendment 80 sector in § 679.20(a)(7)(v), and inserted regulatory text in § 679.20(a)(7)(vi) addressing the reallocation of unharvested Pacific cod to Amendment 80 cooperatives (see the final rule implementing Amendment 80 for additional detail (72 FR 52668, September 14, 2007)). These provisions were removed in error by incorrect amendatory language in Amendment 85 to the FMP (72 FR 50788, September 4, 2007) that became effective on January 1, 2008. This proposed rule would add these subparagraphs to correct the regulations.

This proposed action would add § 679.20(a)(7)(vii) to specify that the Pacific cod harvest limit in Area 543 would be based on Pacific cod abundance, as determined by the annual stock assessment process.

This proposed action would revise § 679.20(a)(8)(ii)(C) to remove the Area 542 critical habitat and Area 542 Amendment 80 and CDQ harvest limits that were implemented by the 2010 Interim Final Rule. These would be replaced with regulatory text that describes the harvest limitations for Atka mackerel in Areas 543 and 542. This proposed action would revise Atka mackerel harvest limits inside critical habitat to allow no more than 60 percent of the annual TACs to be harvested west of 178° W longitude in Areas 542 and 543. The seasonal apportionment of the critical habitat harvest in Areas 542 and 543 would be equally divided between the seasons. This proposed action also would revise § 679.20(a)(8)(ii)(C) to set the annual TAC in Area 543 at no more than 65 percent of the ABC in Area 543.

This proposed action would add a subparagraph (D) to § 679.20(a)(8)(ii) to prohibit the harvest of Atka mackerel seasonal allowance that was rolled over from the A season to the B season inside critical habitat.

This proposed action would add § 679.20(e)(3)(v) to modify MRA regulations for Amendment 80 vessels and CDQ sectors operating in the Bering Sea subarea to calculate MRAs for Atka mackerel as an incidental species on an offload-to-offload basis.

Closures

This proposed action would revise § 679.22 to implement the Pacific cod, Atka mackerel, and pollock closures in the BSAI reporting areas proposed by this action. Sections 679.22(a)(7) and (a)(8) titles and area references would be revised from ''subarea'' to ''reporting

areas'' to clarify that the closures are applicable to Federally permitted vessels required to deduct their catch from a TAC operating from 0 nm to 3 nm of Steller sea lions sites listed on Table 4, 5, 6, and 12 to 50 CFR part 679 and in the Bering Sea reporting areas for the Atka mackerel directed fishery closure in § 679.22(a)(7)(vi). Section (a)(8)(iv) would be revised to remove the jig gear closures.

Seasons

This proposed action would extend the Atka mackerel B season and the Pacific cod trawl C season for the Amendment 80 and CDQ sectors. Section 679.23(e)(3)(ii) would be revised to extend the Atka mackerel B season end date to December 31. This proposed action would add two subparagraphs to § 679.23(e)(5)(ii)(C) to identify the C season dates for catcher vessels and AFA catcher/processors and for Amendment 80 and CDQ vessels.

Equipment and Operational Requirements

This proposed action would add § 679.28(f)(7) to require 10 VMS transmissions of location per hour by Federally permitted vessels in the Aleutian Islands reporting area using trawl gear to harvest groundfish that is deducted from a Federal TAC.

Tables

This proposed action would revise Tables 4, 5, and 6 to 50 CFR part 679. All references to subareas in these tables would be changed to areas. This change would ensure closures would apply to State and Federal waters as appropriate and would be implemented as stated in the 2003 Final Rule for Steller Sea Lion Protection Measures off Alaska (68 FR 204, January 2, 2003).

The designation of ''Rat Island/Krysi Pt.'' on Tables 4, 5, and 6 would be changed to ''Hawadax Island/Krysi Pt.'' based on the new name given to this island in 2012 after the removal of rats by the Island Conservation, U.S. Fish and Wildlife Service, and The Nature Conservancy.

Because this proposed action would allow retention of Atka mackerel and Pacific cod in Area 543 and would establish critical habitat closures to these fisheries in Area 543, the Steller sea lion sites located in Area 543 would be added to Tables 5 and 6. These sites were removed from Tables 5 and 6 by the 2010 Interim Final Rule because it prohibited retention of Atka mackerel and Pacific cod in Area 543. This revision is needed to identify the closure areas around Steller sea lions haulouts and rookeries in the Area 543 reporting area.

In Table 4 to 50 CFR part 679, column 7 and the footnotes would be revised to reflect the closures for the pollock directed fishery in the Aleutian Islands reporting area. Corrections would be made to Table 4 to ensure that all closures are listed in column 7. Footnotes 3, 4, 5, 7, and 9 to Table 4 would be revised to use language consistent with other footnotes for prohibitions on fishing. A technical edit would be made to footnote 10 to capitalize Federal. A technical edit would be made to footnote 11 to specify ''gear types'' instead of ''gears types.'' Footnotes 13, 14, and 15 to Table 4 would be added to describe the open areas inside critical habitat at Shemya, Rat Islands, and Kanaga where directed fishing for pollock may occur.

In Table 5 to 50 CFR part 679, columns 7, 8, and 9 and the footnotes would be revised to reflect the closures for the directed Pacific cod fishery by gear type in the Aleutian Islands reporting area. A technical edit would be made to footnote 4 to specify ''gear type'' instead of ''gear types.'' A technical edit would be made to footnote 5 to add a comma after ''BA''. A technical edit would be made to footnote 6 to read ''hook-and-line.'' Footnotes 7 and 8 to Table 5 would be revised to use language consistent with other footnotes for prohibitions on fishing. Footnote 13 to Table 5 would be revised to describe the closure that directed fishing for Pacific cod with hook-and-line and pot gear is prohibited in waters from 0 nm to 3 nm from rookeries west of 172.59° W longitude and in waters located between 0 nm and 20 nm east of 172.59° W longitude. Footnote 14 to Table 5 would be revised to specify directed fishing for Pacific cod with hook-and-line and pot gears would be prohibited only in waters located between 0 nm and 20 nm of these sites west of 170° W long. Footnote 15 would be revised to specify directed fishing for Pacific cod with hook-and-line is prohibited in waters located between 0 nm and 10 nm on the east side of 170° W long. and is prohibited in waters located between 0 nm and 20 nm on the west side of 170° W long. Footnote 16 to Table 5 would be deleted to remove the jig gear fishery closures and remove vessel size and seasonal specific hook-and-line and pot critical habitat closures that were implemented under the 2010 Interim Final Rule. Footnote 17 to Table 5 would be removed to eliminate reference to the retention prohibition for Pacific cod in Area 543 implemented under the 2010 Interim Final Rule. The coordinates in columns 3, 4, and 5 for Great Sitkin would be corrected to match the coordinates for this site in Tables 4 and 6, which are the correct coordinates.

In Table 6 to 50 CFR part 679, column 7 and the footnotes would be revised to reflect the closures for the directed Atka mackerel fishery in the Aleutian Islands reporting area. Column 7 of Table 6 would be revised to show the closures in Area 542. Footnotes 4 and 6 to Table 6 would be revised to implement the proposed closures in critical habitat in Areas 543, 542, and 541 for directed fishing for Atka mackerel under this proposed action. A technical edit would be made to footnote 5 to specify ''gear type'' instead of ''gears types.'' Footnote 7 to Table 6 would be revised to describe the open area inside critical habitat to the southeast of Seguam Pass in Area 541 where directed fishing for pollock may occur.

Classification

Pursuant to sections 304(b) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed action is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further considerations received during the public comment period.

This proposed action has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

Formal consultation under section 7 of the ESA was completed for this proposed action. On April 2, 2014, NMFS issued a biological opinion (2014 BiOp) on the preferred alternative in the EIS (Alternative 5, proposed action). The 2014 BiOp found that the implementation of the proposed action and supporting research described in Chapter 11 of the EIS were not likely to jeopardize the continued existence of Steller sea lions or result in the destruction or adverse modification of its critical habitat.

NMFS prepared a final environmental impact statement for this proposed action; a notice of availability was published on May 23, 2014 (79 FR 29759). The EIS is described above under ''EIS and Preferred Alternative.''

Pursuant to Executive Order 13175, NMFS mailed letters to approximately 660 Alaska tribal governments, Alaska Native Claims Settlement Act (ANCSA) corporations, and related organizations providing information about the EIS and soliciting consultation and coordination with interested tribal governments and ANCSA corporations. NMFS received no comments from tribal government

and ANCSA corporation representatives. Section 1.7 of the EIS provides more detail on NMFS' outreach with Alaska tribal governments and ANCSA corporations (see **ADDRESSES**).

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for this action, as required by section 603 of the Regulatory Flexibility Act (RFA). An IRFA is required to include (a) a description of the reasons why action by the agency is being considered; (b) s succinct statement of the objectives of, and legal basis for, the proposed rule; (c) a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; (d) a description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule; (e) an identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule; (f) a description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. A description of the action, why it is being considered and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the remainder of the IRFA follows. A copy of the IRFA is available from NMFS (see **ADDRESSES**).

The entities directly regulated by this action include: (1) Business firms operating trawl catcher/processors and catcher vessels, and non-trawl catcher/processors and catcher vessels, fishing for Atka mackerel and Pacific cod, in the three Aleutian Island management areas (Areas 541, 542, and 543); (2) CDQ groups that receive allocations of Atka mackerel, Pacific cod, and pollock in these three Aleutian Island management areas; (3) the Aleut Corporation, which receives an allocation of pollock in the Aleutian Islands; and (4) vessels taking Atka mackerel or Pacific cod as incidental catches in Area 543. The Aleut Corporation is directly regulated by the pollock measures under this proposed action because it receives the pollock allocation and has discretion over its disposition. The fishing operations contracted to the Aleut Corporation are not considered directly regulated. The Small Business Administration defines a small commercial finfish fishing entity as one that has annual gross sales of less than $19 million; a shellfish fishing small entity is one with less than $5 million annual gross revenue, and other marine fishing operations are small if they have less than $7 million in gross revenue (78 FR 37398, July 22, 2013).

Of the 51 vessels identified as having been active in directed Atka mackerel or Pacific cod fisheries in 2010, 12 were believed to constitute small entities. One of these vessels was a pot catcher/processor, and the remaining operations were trawl catcher vessels. The estimated average gross revenue for these firms, in 2012, was about $1.4 million. Note that firm revenues may have been larger, if these firms had revenues from sources other than the identified vessels.

Through the CDQ Program, NMFS allocates a portion of the BSAI groundfish TACs, and apportions prohibited species catch limits for Pacific halibut, Pacific salmon, and several crab species, to 65 eligible Western Alaska communities. These communities work through six non-profit CDQ groups, and are required to use the net proceeds from the CDQ allocations to start or support activities that will result in ongoing, regionally-based, commercial fishery or related businesses. The CDQ groups receive allocations through the specifications process and are directly regulated by this action, but the 65 communities are not directly regulated. Because the six CDQ groups are explicitly defined as small nonprofit entities within the RFA, they are small entities for purposes of this analysis.

As previously noted, the Aleut Corporation receives all of the pollock directed fishing allocation in Areas 541, 542, and 543. The Aleut Corporation is an Alaska Native Corporation, and is a holding company evaluated according to the Small Business Administration criteria at 13 CFR 121.201, using a $7 million gross annual receipts threshold for ''Offices of Other Holding Companies'' (NAICS code 551112). Aleut Corporation revenues exceed this threshold (gross revenues were approximately $159 million in 2010), and the Aleut Corporation is considered to be a large entity for purposes of this analysis (Table 8–39 in EIS).

Some vessels with incidental catch of Atka mackerel and Pacific cod may be directly regulated by this action in Area 543. Alternative 1, the status quo alternative, prohibits retention of Atka mackerel or Pacific cod in Aleutian Islands management area 543. The preferred alternative (i.e., proposed action) does not prohibit retention. A prohibition on retention directly regulates vessels that would have otherwise retained these species in this management area. Six separate fixed gear catcher/processors or trawl catcher vessels were identified with incidental catches of Atka mackerel or Pacific cod during this period. None of these is believed to be a small entity. Fourteen fixed gear catcher vessels had incidental catches during the period. All of these are considered to be small entities. Average revenues from directly regulated incidental catches per vessel-year, during the seven baseline years (2004 to 2010), are estimated to be about $2,200.

An IRFA requires a description of any significant alternatives to the proposed action(s) that accomplish the stated objectives, are consistent with applicable statutes, and that would minimize any significant economic impact of the proposed action on small entities. Chapter 9 of the EIS compares the proposed action (Alternative 5) to the other alternatives. A main difference among Alternatives 1 and 6 and Alternatives 2, 3, 4, and 5 is that the retention prohibitions under Alternatives 1 and 6 are not included in Alternatives 2, 3, 4, and 5. In contrast to Alternatives 1 and 6, where no retention is allowed in portions or all of the Aleutian Islands for some or all of the important Steller sea lion prey species, under Alternatives 2 through 5, fishermen would be able to retain Steller sea lion prey species up to the maximum retainable amounts (MRAs) specified in Table 11 to 50 CFR part 679.

The alternatives for pollock ranged from Alternative 6, an alternative that would restrict fishing more than the status quo alternative (Alternative 1), to Alternatives 2, 3, 4, and 5 that allow for more pollock fishing outside and inside critical habitat than the other alternatives. Additional description of the alternatives is available in the EIS and not addressed further here (see **ADDRESSES**). For pollock, Alternatives 1, 2, and 6 would have greater adverse economic impacts on directly regulated small entities relative to Alternative 5. The protection measures under Alternative 5 are similar to those under Alternatives 3 and 4, which are identical, and would be less restrictive on small entities than other alternatives (Section 8.7 in RIR). Alternative 5 only differs from Alternatives 3 and 4 in that it includes management area specific A-season harvest limits, and increases critical habitat closures in Area 542. The A-season harvest limits are 5 percent of the ABC in Area 543, 15 percent of the ABC in Area 542, and 30 percent of the ABC in Area 543.

As discussed in Section 7 of the RIR (see **ADDRESSES**), NMFS is unable to estimate the potential production, or the location of production, under the

different alternatives, and so is unable to determine whether or not the area constraints for pollock fishing would be binding. However, these area constraints are not present in Alternatives 3 and 4. Those alternatives may be somewhat less burdensome for small entities than Alternative 5. Management area limits were introduced to provide control over potential harvests in a new pollock fishery of unknown potential, providing more protection for Steller sea lion prey. The restrictions are more stringent in the western areas, where Steller sea lion abundance is declining (consistent with the FMP BiOp performance standards in Section 8.2.2). The extension of the 542 closure areas for Steller sea lion haulouts and rookeries located west of 178°W longitude to 20 nm (Table 2–22 in EIS) under Alternative 5, may also contribute to making this alternative more restrictive than Alternatives 3 and 4. The extension also was included in Alternative 5 to provide more protection to the Steller sea lion rookeries and haulouts that have experienced relatively greater declines in Steller sea lion abundance compared to sites located farther east.

The alternatives for Atka mackerel ranged from Alternative 6, an alternative that would restrict fishing more than the status quo alternative (Alternative 1), to Alternative 4, the alternative that would allow the most fishing opportunities. Alternatives 2, 3, and 5 provided more fishing opportunities and fewer protection measures than Alternative 6, but included more protection measures than Alternative 4. Additional description of the alternatives is available in the EIS and not addressed further here (see **ADDRESSES**). For Atka mackerel, Alternatives 1, 2, and 6 would have greater adverse economic impact on directly regulated small entities relative to Alternative 5. Alternative 5 is most comparable to Alternative 3 and the effects on small entities in the limited access trawl fishery, and CDQ groups receiving Atka mackerel allocations may be similar to those under Alternative 3. Alternatives 3 and 5 are the same in Areas 541 and 542. They differ in Area 543 in that Alternative 3 closes additional waters around Buldir Island compared to Alternative 5. However, Alternative 5 sets a TAC limit in Area 543 equal to 65 percent of ABC that is not included in Alternative 3. Alternative 5 may be somewhat more restrictive in Area 543 than Alternative 3. However, the Alternative 5 TAC limit is included to prevent excessive harvest of Atka mackerel and potential adverse impacts on Steller sea lion prey resources.

As discussed in Section 8 of the RIR, Alternative 4 is a less restrictive alternative to directly regulated small entities participating in Aleutian Islands Atka mackerel fisheries than Alternative 5. However, the Steller Sea Lion Mitigation Committee and the Council did not recommend Alternative 4 as its preferred alternative. Alternative 4 is nearly identical to the proposed action that was found to result in jeopardy for Steller sea lions in the FMP BiOp. Alternative 5 may provide somewhat more protection for Steller sea lion prey in Area 543, where Steller sea lion population declines have been larger than elsewhere.

The alternatives for Pacific cod ranged from Alternative 6, an alternative that would restrict fishing more than the status quo alternative (Alternative 1), to Alternative 4, the alternative that would allow the most fishing opportunities. Alternatives 2, 3, and 5 provided more fishing opportunities and fewer protection measures than Alternative 6, but included more protection measures than Alternative 4. Additional description of the alternatives is available in the EIS and not addressed further here (see **ADDRESSES**). For Pacific cod, Alternatives 1, 2, 3, and 6 would have greater adverse economic impact on directly regulated small entities relative to Alternative 5. Alternative 5 is most closely comparable with Alternative 4. However, Alternative 4 may be less restrictive to small entities because Alternative 5 (Table 2–18 in EIS) adds a harvest limit for Pacific cod in Area 543 in proportion to the annual stock assessment. Alternative 4 was not selected as the preferred alternative because it may provide less protection for Steller sea lion prey than Alternative 5, increasing the potential of adverse effects on Steller sea lion prey resources in Area 543.

An IRFA should include ''a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed action, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record.''

NMFS proposes a regulatory amendment requiring an increase in VMS polling rates. Polling rates would be increased from 2 per hour to 10 per hour for all trawl vessels holding a Federal Fisheries Permit and fishing for groundfish that is required to be deducted from a Federal groundfish TAC in the Aleutian Islands. A detailed discussion of the need for this increased VMS requirement, and its implications, is included in Section 8.18.2 (''Enforcement'') of the RIR (see **ADDRESSES**). NMFS estimates that the increase in the polling rate will increase VMS costs by about $400 per year for trawl catcher vessels and catcher/processors operating in the Aleutian Islands, except for trawl catcher/processors targeting Atka mackerel. Trawl catcher/processors targeting Atka mackerel are expected to incur costs of about $1,200 per year; however, these are all large entities. Although all vessels are required to have a Federal fisheries permit (FFP), and all vessels fishing in the Aleutian Islands are required to have and operate VMS, some of the impacted vessels may have to replace existing VMS units to meet the polling rate and reliability requirements. While NMFS is unable to estimate the number of entities which may be required to replace VMS units to provide the required unit reliability, the estimated cost for an additional unit is about $3,500 (including installation).

No duplication, overlap, or conflict between this proposed action and existing Federal rules has been identified.

Collection-of-Information Requirements

This rule contains a collection-of-information requirement for the Alaska Vessel Monitoring System (VMS) Program which is subject to the Paperwork Reduction Act (PRA) and which has been submitted to the Office of Management and Budget (OMB) under control number 0648–0445. This rule would increase the number of transmissions or VMS polling rate, from 2 per hour to 10 per hour when a vessel is trawl fishing in the Aleutian Islands; however, VMS transmissions are not counted as burden, because they are automatic. Some vessels may incur additional operating costs due to the increase in the VMS polling rate, or they may have to replace existing VMS units to meet the polling rate and reliability requirements. As discussed above, NMFS estimates that the increase in the polling rate will increase VMS costs by about $400 per year for trawl catcher vessels and catcher/processors operating in the Aleutian Islands, except for trawl catcher/processors targeting Atka mackerel. Trawl catcher/processors targeting Atka mackerel are expected to incur costs of about $1,200 per year; however, these are all large entities. Although all vessels are required to have a Federal fisheries permit (FFP), and all vessels fishing in the Aleutian Islands are required to have and operate VMS, some of the impacted vessels may have to replace existing VMS units to meet the polling rate and reliability requirements. While NMFS is unable to

estimate the number of entities which may be required to replace VMS units to provide the required unit reliability, the estimated cost for an additional unit is about $3,500 (including installation).

Estimates of burden include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments on these or any other aspects of the collection of information to NMFS at the **ADDRESSES** above, and email to *OIRA Submission@omb.eop.gov,* or fax to 202–395–5806.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS at the **ADDRESSES** above, and email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at: *http://www.cio.noaa.gov/services_programs/prasubs.html.*

Comment Period for the Proposed Action

NMFS normally provides 30 days for public review and comments on proposed actions. Due to the scope and controversy of this proposed action, NMFS is providing a 45-day comment period. NMFS anticipates that a 45-day comment period should provide adequate opportunity for public review and comment while providing NMFS sufficient time to complete rulemaking for the revised Steller sea lion protection measures to meet the court-ordered deadline of January 1, 2015.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 19, 2014.

Samuel D. Rauch III,

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

For reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447.

■ 2. In § 679.7,

■ a. Remove paragraphs (a)(19), (a)(23), and (a)(25);

■ b. Redesignate paragraph (a)(24) as paragraph (a)(19); and

■ c. Revise the newly redesignated paragraph (a)(19).

The revisions read as follows:

§ 679.7 Prohibitions.

(a) * * *

(19) *Atka mackerel directed fishing in the Bering Sea reporting areas.* Conduct directed fishing for Atka mackerel in the Bering Sea subarea and adjacent State waters with a vessel required to be Federally permitted.

* * * * *

■ 3. In § 679.20,

■ a. Add paragraphs (a)(5)(iii)(B)(*6*), (a)(7)(v), (a)(7)(vi), (a)(7)(vii);

■ b. Revise paragraph (a)(8)(ii)(C); and

■ c. Add paragraphs (a)(8)(ii)(D), and (e)(3)(v).

The additions and revisions read as follows:

§ 679.20 General limitations.

(a) * * *

(5) * * *

(iii) * * *

(B) * * *

(*6*) *Pollock harvest limitations.* Pollock harvests during the A season as defined at § 679.23(e)(2) are limited to:

(*i*) No more than 5 percent of the Aleutian Islands pollock ABC in Area 543.

(*ii*) No more than 15 percent of the Aleutian Islands pollock ABC in Area 542.

(*iii*) No more than 30 percent of the Aleutian Islands pollock ABC in Area 541.

* * * * *

(7) * * *

(v) *ITAC allocation to the Amendment 80 sector.* A percentage of the Pacific cod TAC, after subtraction of the CDQ reserve, will be allocated as ITAC to the Amendment 80 sector as described in Table 33 to this part. Separate allocations for each Amendment 80 cooperative and the Amendment 80 limited access fishery are described under § 679.91. The allocation of Pacific cod to the Amendment 80 sector will be further divided into seasonal apportionments as described under paragraph (a)(7)(iv)(A)(*1*)(*ii*) of this section.

(A) *Use of seasonal apportionments by Amendment 80 cooperatives.* (*1*) The amount of Pacific cod listed on a CQ permit that is assigned for use in the A season may be used in the B or C season.

(*2*) The amount of Pacific cod that is listed on a CQ permit that is assigned for use in the B season may not be used in the A season.

(*3*) The amount of Pacific cod listed on a CQ permit that is assigned for use in the C season may not be used in the A or B seasons.

(B) *Harvest of seasonal apportionments in the Amendment 80 limited access fishery.* (*1*) Pacific cod ITAC assigned for harvest by the Amendment 80 limited access fishery in the A season may be harvested in the B seasons.

(*2*) Pacific cod ITAC assigned for harvest by the Amendment 80 limited access fishery in the B season may not be harvested in the A season.

(*3*) Pacific cod ITAC assigned for harvest by the Amendment 80 limited access fishery in the C season may not be harvested in the A or B seasons.

(vi) *ITAC rollover to Amendment 80 cooperatives.* If during a fishing year, the Regional Administrator determines that a portion of the Pacific cod TAC is unlikely to be harvested and is made available for reallocation to the Amendment 80 sector according to the provisions under paragraph (a)(7)(iii) of this section, the Regional Administrator may issue inseason notification in the **Federal Register** that reallocates that remaining amount of Pacific cod to Amendment 80 cooperatives, according to the procedures established under § 679.91(f).

(vii) *Pacific cod harvest limitations.* During the annual harvest specifications process, the Regional Administrator will establish an Area 543 Pacific cod harvest limit based on Pacific cod abundance in Area 543 as determined by the annual stock assessment process. After subtraction of the State GHL Pacific cod amount from the AI Pacific cod ABC, the harvest limit in Area 543 will be determined by multiplying the percentage of Pacific cod estimated in Area 543 by the adjusted ABC for AI Pacific cod.

(8) * * *

(ii) * * *

(C) *Atka mackerel harvest limitations.* (*1*) Atka mackerel catch within waters 0 nm to 20 nm of Steller sea lion sites listed in Table 6 to this part and located west of 178° W longitude is:

(*i*) Limited to no more than 60 percent of the annual TACs in Areas 542 and 543; and

(*ii*) Equally divided between the A and B seasons as defined at § 679.23(e)(3).

(*2*) The annual TAC in Area 543 will be no more than 65 percent of the ABC in Area 543.

(D) Any unharvested Atka mackerel A season allowance that is added to the B season is prohibited from being harvested within waters 0 nm to 20 nm of Steller sea lion sites listed in Table 6 to this part and located in Areas 541, 542, and 543.

* * * * *

(e) * * *

(3) * * *

(v) For all vessels not listed in subpart F of this section, the maximum retainable amount for Atka mackerel harvested in the Bering Sea subarea is calculated at the end of each offload and is based on the basis species harvested since the previous offload. For purposes of this paragraph, offload means the removal of any fish or fish product from the vessel that harvested the fish or fish product to any other vessel or to shore.

* * * * *

■ 4. In § 679.22, revise paragraphs (a)(7) heading, (a)(7)(vi), (a)(8) heading, and (a)(8)(iv) to read as follows:

§ 679.22 Closures.

(a) * * *

(7) *Steller sea lion protection areas, Bering Sea reporting areas.*

* * * * *

(vi) *Atka mackerel closures.* Directed fishing for Atka mackerel by vessels named on a Federal Fisheries Permit under § 679.4(b) and using trawl gear is prohibited within the Bering Sea reporting areas.

* * * * *

(8) *Steller sea lion protection areas, Aleutian Islands reporting areas.*

* * * * *

(iv) *Pacific cod closures.* Directed fishing for Pacific cod required to be deducted from the Federal TAC specified at § 679.20 by vessels named on a Federal Fisheries Permit under § 679.4(b) using trawl, hook-and-line, or pot gear is prohibited within Pacific cod no-fishing zones around selected sites. These sites and gear types are described in Table 5 of this part and its footnotes and are identified by ''AI'' in column 2.

* * * * *

■ 5. In § 679.23, revise paragraphs (e)(3)(ii) and (e)(5)(ii)(C) to read as follows:

§ 679.23 Seasons.

* * * * *

(e) * * *

(3) * * *

(ii) *B season.* From 1200 hours, A.l.t., June 10 through 1200 hours, A.l.t., December 31.

* * * * *

(5) * * *

(ii) * * *

(C) *C season*— (*1*) *Catcher vessels and AFA catcher/processors.* From 1200 hours, A.l.t., June 10 through 1200 hours, A.l.t., November 1.

(*2*) *Amendment 80 and CDQ.* From 1200 hours, A.l.t., June 10 through 1200 hours, A.l.t., December 31.

* * * * *

■ 6. In § 679.28, revise paragraph (f)(3)(i) and add paragraph (f)(7) to read as follows:

§ 679.28 Equipment and operational requirements.

* * * * *

(f) * * *

(3) * * *

(i) Obtain a NMFS-approved VMS transmitter with transmission capabilities required for the areas of vessel operation and have it installed onboard your vessel in accordance with the instructions provided by NMFS. You may get a copy of the VMS installation and operation instructions from the Regional Administrator upon request.

* * * * *

(7) *What additional requirements does an operator have if trawling in the Aleutian Islands reporting areas*? Operators of vessels named on a Federal Fisheries Permit under § 679.4(b), and that are using trawl gear in the Aleutian Islands reporting areas to harvest groundfish that is required to be deducted from a Federal TAC specified at § 679.20, must set their VMS to transmit the vessel location at least 10 times per hour.

* * * * *

■ 7. Revise Table 4 to Part 679 to read as follows:

BILLING CODE 3510–22–P

Table 4 to 50 CFR Part 679—Steller Sea Lion Protection Areas Pollock Fisheries Restrictions

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
St. Lawrence I./S Punuk I.	Bering Sea	63° 04.00 N	168° 51.00 W			20
St. Lawrence I./SW Cape	Bering Sea	63° 18.00 N	171° 26.00 W			20
Hall I.	Bering Sea	60° 37.00 N	173° 00.00 W			20
St. Paul I./Sea Lion Rock	Bering Sea	57° 06.00 N	170° 17.50 W			3
St. Paul I./NE Pt.	Bering Sea	57° 15.00 N	170° 06.50 W			3
Walrus I. (Pribilofs)	Bering Sea	57° 11.00 N	169° 56.00 W			10
St. George I./Dalnoi Pt.	Bering Sea	56° 36.00 N	169° 46.00 W			3
St. George I./S Rookery	Bering Sea	56° 33.50 N	169° 40.00 W			3
Cape Newenham	Bering Sea	58° 39.00 N	162° 10.50 W			20
Round (Walrus Islands)	Bering Sea	58° 36.00 N	159° 58.00 W			20
Attu I./Cape Wrangell	Aleutian I.	52° 54.60 N	172° 27.90 E	52° 55.40 N	172° 27.20 E	20
Agattu I./Gillon Pt.	Aleutian I.	52° 24.13 N	173° 21.31 E			20
Attu I./Chirikof Pt.[13]	Aleutian I.	52° 49.75 N	173° 26.00 E			20
Agattu I./Cape Sabak	Aleutian I.	52° 22.50 N	173° 43.30 E	52° 21.80 N	173° 41.40 E	20
Alaid I.[13]	Aleutian I.	52° 46.50 N	173° 51.50 E	52° 45.00 N	173° 56.50 E	20
Shemya I.[13]	Aleutian I.	52° 44.00 N	174° 08.70 E			20

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
Buldir I.	Aleutian I.	52° 20.25 N	175° 54.03 E	52° 20.38 N	175° 53.85 E	20
Kiska I./Cape St. Stephen	Aleutian I.	51° 52.50 N	177° 12.70 E	51° 53.50 N	177° 12.00 E	20
Kiska I./Sobaka & Vega	Aleutian I.	51° 49.50 N	177° 19.00 E	51° 48.50 N	177° 20.50 E	20
Kiska I./Lief Cove	Aleutian I.	51° 57.16 N	177° 20.41 E	51° 57.24 N	177° 20.53 E	20
Kiska I./Sirius Pt.	Aleutian I.	52° 08.50 N	177° 36.50 E			20
Tanadak I. (Kiska)[14]	Aleutian I.	51° 56.80 N	177° 46.80 E			20
Segula I.[14]	Aleutian I.	51° 59.90 N	178° 05.80 E	52° 03.06 N	178° 08.80 E	20
Ayugadak Point[14]	Aleutian I.	51° 45.36 N	178° 24.30 E			20
Hawadax I./Krysi Pt.[14]	Aleutian I.	51° 49.98 N	178° 12.35 E			20
Little Sitkin I.[14]	Aleutian I.	51° 59.30 N	178° 29.80 E			20
Amchitka I./Column Rocks	Aleutian I.	51° 32.32 N	178° 49.28 E			20
Amchitka I./East Cape	Aleutian I.	51° 22.26 N	179° 27.93 E	51° 22.00 N	179° 27.00 E	20
Amchitka I./Cape Ivakin	Aleutian I.	51° 24.46 N	179° 24.21 E			20
Semisopochnoi/Petrel Pt.	Aleutian I.	52° 01.40 N	179° 36.90 E	52° 01.50 N	179° 39.00 E	20
Semisopochnoi I./Pochnoi Pt.	Aleutian I.	51° 57.30 N	179° 46.00 E			20
Amatignak I. Nitrof Pt.	Aleutian I.	51° 13.00 N	179° 07.80 W			20
Unalga & Dinkum Rocks	Aleutian I.	51° 33.67 N	179° 04.25 W	51° 35.09 N	179° 03.66 W	20
Ulak I./Hasgox Pt.	Aleutian I.	51° 18.90 N	178° 58.90 W	51° 18.70 N	178° 59.60 W	20

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
Kavalga I.	Aleutian I.	51° 34.50 N	178° 51.73 W	51° 34.50 N	178° 49.50 W	20
Tag I.	Aleutian I.	51° 33.50 N	178° 34.50 W			20
Ugidak I.	Aleutian I.	51° 34.95 N	178° 30.45 W			20
Gramp Rock	Aleutian I.	51° 28.87 N	178° 20.58 W			20
Tanaga I./Bumpy Pt.	Aleutian I.	51° 55.00 N	177° 58.50 W	51° 55.00 N	177° 57.10 W	3
Bobrof I.	Aleutian I.	51° 54.00 N	177° 27.00 W			3
Kanaga I./Ship Rock[15]	Aleutian I.	51° 46.70 N	177° 20.72 W			10, 3
Kanaga I./North Cape	Aleutian I.	51° 56.50 N	177° 09.00 W			3
Adak I.	Aleutian I.	51° 35.50 N	176° 57.10 W	51° 37.40 N	176° 59.60 W	10
Little Tanaga Strait	Aleutian I.	51° 49.09 N	176° 13.90 W			3
Great Sitkin I.	Aleutian I.	52° 06.00 N	176° 10.50 W	52° 06.60 N	176° 07.00 W	3
Anagaksik I.	Aleutian I.	51° 50.86 N	175° 53.00 W			3
Kasatochi I.	Aleutian I.	52° 11.11 N	175° 31.00 W			10
Atka I./North Cape	Aleutian I.	52° 24.20 N	174° 17.80 W			3
Amlia I./Sviech. Harbor[11]	Aleutian I.	52° 01.80 N	173° 23.90 W			3
Sagigik I.[11]	Aleutian I.	52° 00.50 N	173° 09.30 W			3
Amlia I./East[11]	Aleutian I.	52° 05.70 N	172° 59.00 W	52° 05.75 N	172° 57.50 W	3
Tanadak I. (Amlia[11])	Aleutian I.	52° 04.20 N	172° 57.60 W			3

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
Agligadak I.[11]	Aleutian I.	52° 06.09 N	172° 54.23 W			10
Seguam I./Saddleridge Pt.[11]	Aleutian I.	52° 21.05 N	172° 34.40 W	52° 21.02 N	172° 33.60 W	10
Seguam I./Finch Pt.	Aleutian I.	52° 23.40 N	172° 27.70 W	52° 23.25 N	172° 24.30 W	3
Seguam I./South Side	Aleutian I.	52° 21.60 N	172° 19.30 W	52° 15.55 N	172° 31.22 W	3
Amukta I. & Rocks	Aleutian I.	52° 27.25 N	171° 17.90 W			3
Chagulak I.	Aleutian I.	52° 34.00 N	171° 10.50 W			3
Yunaska I.	Aleutian I.	52° 41.40 N	170° 36.35 W			10
Uliaga[3]	Bering Sea	53° 04.00 N	169° 47.00 W	53° 05.00 N	169° 46.00 W	BA
Chuginadak	Gulf of Alaska	52° 46.70 N	169° 41.90 W			20
Kagamil[3]	Bering Sea	53° 02.10 N	169° 41.00 W			BA
Samalga	Gulf of Alaska	52° 46.00 N	169° 15.00 W			20
Adugak I.[3]	Bering Sea	52° 54.70 N	169° 10.50 W			10
Umnak I./Cape Aslik[3]	Bering Sea	53° 25.00 N	168° 24.50 W			BA
Ogchul I.	Gulf of Alaska	52° 59.71 N	168° 24.24 W			20
Bogoslof I./Fire I.[3]	Bering Sea	53° 55.69 N	168° 02.05 W			BA
Polivnoi Rock	Gulf of Alaska	53° 15.96 N	167° 57.99 W			20
Emerald I.	Gulf of Alaska	53° 17.50 N	167° 51.50 W			20
Unalaska/Cape Izigan	Gulf of Alaska	53° 13.64 N	167° 39.37 W			20

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
Unalaska/Bishop Pt.[9]	Bering Sea	53° 58.40 N	166° 57.50 W			10
Akutan I./Reef-lava[9]	Bering Sea	54° 08.10 N	166° 06.19 W	54° 09.10 N	166° 05.50 W	10
Unalaska I./Cape Sedanka[6]	Gulf of Alaska	53° 50.50 N	166° 05.00 W			20
Old Man Rocks[6]	Gulf of Alaska	53° 52.20 N	166° 04.90 W			20
Akutan I./Cape Morgan[6]	Gulf of Alaska	54° 03.39 N	165° 59.65 W	54° 03.70 N	166° 03.68 W	20
Akun I./Billings Head[9]	Bering Sea	54° 17.62 N	165° 32.06 W	54° 17.57 N	165° 31.71 W	10
Rootok[6]	Gulf of Alaska	54° 03.90 N	165° 31.90 W	54° 02.90 N	165° 29.50 W	20
Tanginak I.[6]	Gulf of Alaska	54° 12.00 N	165° 19.40 W			20
Tigalda/Rocks NE[6]	Gulf of Alaska	54° 09.60 N	164° 59.00 W	54° 09.12 N	164° 57.18 W	20
Unimak/Cape Sarichef[9]	Bering Sea	54° 34.30 N	164° 56.80 W			10
Aiktak[6]	Gulf of Alaska	54° 10.99 N	164° 51.15 W			20
Ugamak I.[6]	Gulf of Alaska	54° 13.50 N	164° 47.50 W	54° 12.80 N	164° 47.50 W	20
Round (GOA)[6]	Gulf of Alaska	54° 12.05 N	164° 46.60 W			20
Sea Lion Rock (Amak)[9]	Bering Sea	55° 27.82 N	163° 12.10 W			10
Amak I. And rocks[9]	Bering Sea	55° 24.20 N	163° 09.60 W	55° 26.15 N	163° 08.50 W	10
Bird I.	Gulf of Alaska	54° 40.00 N	163° 17.2 W			10
Caton I.	Gulf of Alaska	54° 22.70 N	162° 21.30 W			3
South Rocks	Gulf of Alaska	54° 18.14 N	162° 41.3 W			10

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
Clubbing Rocks (S)	Gulf of Alaska	54° 41.98 N	162° 26.7 W			10
Clubbing Rocks (N)	Gulf of Alaska	54° 42.75 N	162° 26.7 W			10
Pinnacle Rock	Gulf of Alaska	54° 46.06 N	161° 45.85 W			3
Sushilnoi Rocks	Gulf of Alaska	54° 49.30 N	161° 42.73 W			10
Olga Rocks	Gulf of Alaska	55° 00.45 N	161° 29.81 W	54° 59.09 N	161° 30.89 W	10
Jude I.	Gulf of Alaska	55° 15.75 N	161° 06.27 W			20
Sea Lion Rocks (Shumagins)	Gulf of Alaska	55° 04.70 N	160° 31.04 W			3
Nagai I./Mountain Pt.	Gulf of Alaska	54° 54.20 N	160° 15.40 W	54° 56.00 N	160° 15.00 W	3
The Whaleback	Gulf of Alaska	55° 16.82 N	160° 05.04 W			3
Chernabura I.	Gulf of Alaska	54° 45.18 N	159° 32.99 W	54° 45.87 N	159° 35.74 W	20
Castle Rock	Gulf of Alaska	55° 16.47 N	159° 29.77 W			3
Atkins I.	Gulf of Alaska	55° 03.20 N	159° 17.40 W			20
Spitz I.	Gulf of Alaska	55° 46.60 N	158° 53.90 W			3
Mitrofania	Gulf of Alaska	55° 50.20 N	158° 41.90 W			3
Kak	Gulf of Alaska	56° 17.30 N	157° 50.10 W			20
Lighthouse Rocks	Gulf of Alaska	55° 46.79 N	157° 24.89 W			20
Sutwik I.	Gulf of Alaska	56° 31.05 N	157° 20.47 W	56° 32.00 N	157° 21.00 W	20
Chowiet I.	Gulf of Alaska	56° 00.54 N	156° 41.42 W	55° 00.30 N	156° 41.60 W	20

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
Nagai Rocks	Gulf of Alaska	55° 49.80 N	155° 47.50 W			20
Chirikof I.	Gulf of Alaska	55° 46.50 N	155° 39.50 W	55° 46.44 N	155° 43.46 W	20
Puale Bay	Gulf of Alaska	57° 40.60 N	155° 23.10 W			10
Kodiak/Cape Ikolik	Gulf of Alaska	57° 17.20 N	154° 47.50 W			3
Takli I.	Gulf of Alaska	58° 01.75 N	154° 31.25 W			10
Cape Kuliak	Gulf of Alaska	58° 08.00 N	154° 12.50 W			10
Cape Gull	Gulf of Alaska	58° 11.50 N	154° 09.60 W	58° 12.50 N	154° 10.50 W	10
Kodiak/Cape Ugat	Gulf of Alaska	57° 52.41 N	153° 50.97 W			10
Sitkinak/Cape Sitkinak	Gulf of Alaska	56° 34.30 N	153° 50.96 W			10
Shakun Rock	Gulf of Alaska	58° 32.80 N	153° 41.50 W			10
Twoheaded I.	Gulf of Alaska	56° 54.50 N	153° 32.75 W	56° 53.90 N	153° 33.74 W	10
Cape Douglas (Shaw I.) [12]	Gulf of Alaska	59° 00.00 N	153° 22.50 W			10
Kodiak/Cape Barnabas	Gulf of Alaska	57° 10.20 N	152° 53.05 W			3
Kodiak/Gull Point[4]	Gulf of Alaska	57° 21.45 N	152° 36.30 W			10, 3
Latax Rocks	Gulf of Alaska	58° 40.10 N	152° 31.30 W			10
Ushagat I./SW	Gulf of Alaska	58° 54.75 N	152° 22.20 W			10
Ugak I.[4]	Gulf of Alaska	57° 23.60 N	152° 17.50 W	57° 21.90 N	152° 17.40 W	10, 3
Sea Otter I.	Gulf of Alaska	58° 31.15 N	152° 13.30 W			10

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
Long I.	Gulf of Alaska	57° 46.82 N	152° 12.90 W			10
Sud I.	Gulf of Alaska	58° 54.00 N	152° 12.50 W			10
Kodiak/Cape Chiniak	Gulf of Alaska	57° 37.90 N	152° 08.25 W			10
Sugarloaf I.	Gulf of Alaska	58° 53.25 N	152° 02.40 W			20
Sea Lion Rocks (Marmot)	Gulf of Alaska	58° 20.53 N	151° 48.83 W			10
Marmot I.[5]	Gulf of Alaska	58° 13.65 N	151° 47.75 W	58° 09.90 N	151° 52.06 W	15, 20
Nagahut Rocks	Gulf of Alaska	59° 06.00 N	151° 46.30 W			10
Perl	Gulf of Alaska	59° 05.75 N	151° 39.75 W			10
Gore Point	Gulf of Alaska	59° 12.00 N	150° 58.00 W			10
Outer (Pye) I.	Gulf of Alaska	59° 20.50 N	150° 23.00 W	59° 21.00 N	150° 24.50 W	20
Steep Point	Gulf of Alaska	59° 29.05 N	150° 15.40 W			10
Seal Rocks (Kenai)	Gulf of Alaska	59° 31.20 N	149° 37.50 W			10
Chiswell Islands	Gulf of Alaska	59° 36.00 N	149° 34.00 W			10
Rugged Island	Gulf of Alaska	59° 50.00 N	149° 23.10 W	59° 51.00 N	149° 24.70 W	10
Point Elrington[7, 10]	Gulf of Alaska	59° 56.00 N	148° 15.20 W			20
Perry I.[7]	Gulf of Alaska	60° 44.00 N	147° 54.60 W			
The Needle[7]	Gulf of Alaska	60° 06.64 N	147° 36.17 W			
Point Eleanor[7]	Gulf of Alaska	60° 35.00 N	147° 34.00 W			

Column Number 1	2	3	4	5	6	7
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pollock No-fishing Zones for Trawl Gear [2,8](nm)
		Latitude	Longitude	Latitude	Longitude	
Wooded I. (Fish I.)	Gulf of Alaska	59° 52.90 N	147° 20.65 W			20
Glacier Island[7]	Gulf of Alaska	60° 51.30 N	147° 14.50 W			
Seal Rocks (Cordova)[10]	Gulf of Alaska	60° 09.78 N	146° 50.30 W			20
Cape Hinchinbrook[10]	Gulf of Alaska	60° 14.00 N	146° 38.50 W			20
Middleton I.	Gulf of Alaska	59° 28.30 N	146° 18.80 W			10
Hook Point[10]	Gulf of Alaska	60° 20.00 N	146° 15.60 W			20
Cape St. Elias	Gulf of Alaska	59° 47.50 N	144° 36.20 W			20

[1] Where two sets of coordinates are given, the baseline extends in a clockwise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.
[2] Closures as stated in 50 CFR 679.22(a)(7)(iv), (a)(8)(ii) and (b)(2)(ii).
[3] This site lies within the Bogoslof area (BA). The BA consists of all waters of area 518 as described in Figure 1 of this part south of a straight line connecting 55° 00' N/170° 00' W, and 55° 00' N/168° 11'4.75" W.
[4] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for pollock with trawl gear between 0 nm and 10 nm from January 20 through May 31. Vessels with a Federal Fisheries Permit are prohibited from directed fishing for pollock with trawl gear between 0 nm and 3 nm from August 25 through November 1.
[5] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for pollock with trawl gear between 0 nm and 15 nm from January 20 through May 31. Vessels with a Federal Fisheries Permit are prohibited from directed fishing for pollock with trawl gear between 0 nm and 20 nm from August 25 to November 1.
[6] Restriction area includes only waters of the Gulf of Alaska Area.
[7] Contact the Alaska Department of Fish and Game for fishery restrictions at these sites.
[8] No-fishing zones for vessels with a Federal Fisheries Permit are the waters between 0 nm and the nm specified in column 7of this table around each site and within the BA.
[9] This site is located in the Bering Sea Pollock Restriction Area, where directed fishing for pollock is prohibited during the A season. This area consists of all waters of the Bering Sea south of a line connecting the points

55° 46'30" N lat. /163° 00'00" W long.,
54° 42'9" N lat./165° 08'00" W long.,
54° 26'30" N lat./165° 40'00" long.,
54° 18'40" N lat./166° 12'00" W long., and
54° 8'50" N lat./167° 0'00" W long.

[10] The 20 nm closure around this site is effective in Federal waters outside of State of Alaska waters of Prince William Sound.

[11] Some or all of the restricted area is located in the Seguam Foraging area (SFA) which is closed to all gears types. The SFA is established as all waters within the area between 52° N lat. and 53° N lat. and between 173° 30' W long. and 172° 30' W long.

[12] The 3 nm trawl closure around Puale Bay and the 20 nm trawl closure around Cape Douglas/Shaw I. are effective January 20 through May 31. The 10 nm trawl closure around Puale Bay and the 10 nm trawl closure around Cape Douglas/Shaw I. are effective August 25 through November 1.

[13] Critical habitat at this site contains the Shemya Open Area, which is open to directed fishing for pollock outside of 3 nm from haulouts. This open area consists of all waters located within an area bounded by straight lines drawn by connecting the following points:
52° 45.0' N lat. /174° 42.0' E long.
52° 36.0' N lat. /174° 42.0' E long.
52° 52.0' N lat. /173° 30.0' E long.
53° 0.0' N lat. /173° 30.0' E long.
52° 45.0' N lat. /174° 42.0' E long.

[14] Critical habitat at this site contains the Rat Islands Open Area, which is open to directed fishing for pollock outside of 3nm from Tanadak I., Segula I., and Hawadax I./Krysi Pt. and outside of 10 nm from Little Sitkin I. and Ayugadak Pt. This open area consists of all waters located within an area bounded by straight lines drawn by connecting the following points:
51° 56.0' N lat. / 178° 17.0' E long.
51° 52.0' N lat. / 178° 12.0' E long.
51° 56.0' N lat. / 177° 51.5' E long.
52° 3.0' N lat. / 177° 51.0' E long.
51° 56.0' N lat. / 178° 17.0' E long.

[15] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for pollock within 10 nm of Kanaga I./Ship Rock, except waters north of 51° 47.5' N, 177° 37.0' W to 51° 47.5' N, 177° 12.0' W where those vessels are prohibited from directed fishing for pollock in waters 0 nm to 3nm from this site.

[16] Unless otherwise noted, closures apply to reporting areas of the Bering Sea, Aleutian Islands and Gulf of Alaska, including adjacent state waters.

■ 8. Revise Table 5 to Part 679 to read as follows:

Table 5 to 50 CFR Part 679—Steller Sea Lion Protection Areas Pacific Cod Fisheries Restrictions

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
St. Lawrence I./S Punuk I.	BS	63° 04.00 N	168° 51.00 W			20	20	20
St. Lawrence I./SW Cape	BS	63° 18.00 N	171° 26.00 W			20	20	20
Hall I.	BS	60° 37.00 N	173° 00.00 W			20	20	20
St. Paul I./Sea Lion Rock	BS	57° 06.00 N	170° 17.50 W			3	3	3
St. Paul I./NE Pt.	BS	57° 15.00 N	170° 06.50 W			3	3	3
Walrus I. (Pribilofs)	BS	57° 11.00 N	169° 56.00 W			10	3	3
St. George I./Dalnoi Pt.	BS	56° 36.00 N	169° 46.00 W			3	3	3
St. George I./S. Rookery	BS	56° 33.50 N	169° 40.00 W			3	3	3
Cape Newenham	BS	58° 39.00 N	162° 10.50 W			20	20	20
Round (Walrus Islands)	BS	58° 36.00 N	159° 58.00 W			20	20	20

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Attu I./Cape Wrangell[11]	AI	52° 54.60 N	172° 27.90 E	52° 55.40 N	172° 27.20 E	10	3	3
Agattu I./Gillon Pt.[11]	AI	52° 24.13 N	173° 21.31 E			10	3	3
Attu I./Chirikof Pt.[11]	AI	52° 49.75 N	173° 26.00 E			3		
Agattu I./Cape Sabak[11]	AI	52° 22.50 N	173° 43.30 E	52° 21.80 N	173° 41.40 E	10	3	3
Alaid I.[11]	AI	52° 46.50 N	173° 51.50 E	52° 45.00 N	173° 56.50 E	3		
Shemya I.[11]	AI	52° 44.00 N	174° 08.70 E			3		
Buldir I.[11]	AI	52° 20.25 N	175° 54.03 E	52 20.38 N	175° 53.85 E	10	10	10
Kiska I./Cape St. Stephen	AI	51° 52.50 N	177° 12.70 E	51° 53.50 N	177° 12.00 E	10	3	3
Kiska I. Sobaka & Vega	AI	51° 49.50 N	177° 19.00 E	51° 48.50 N	177° 20.50 E	3		
Kiska I./Lief Cove	AI	51° 57.16 N	177° 20.41 E	51° 57.24 N	177° 20.53 E	10	3	3
Kiska I./Sirius Pt.	AI	52° 08.50 N	177° 36.50 E			3		
Tanadak I. (Kiska)	AI	51° 56.80 N	177° 46.80 E			3		
Segula I.	AI	51° 59.90 N	178° 05.80 E	52° 03.06 N	178° 08.80 E	3		
Ayugadak Point	AI	51° 45.36 N	178° 24.30 E			10	3	3
Hawadax I./Krysi Pt.	AI	51° 49.98 N	178° 12.35 E			3		

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Little Sitkin I.	AI	51° 59.30 N	178° 29.80 E			3		
Amchitka I./Column	AI	51° 32.32 N	178° 49.28 E			10	3	3
Amchitka I./East Cape	AI	51° 22.26 N	179° 27.93 E	51° 22.00 N	179° 27.00 E	10	3	3
Amchitka I./Cape Ivakin	AI	51° 24.46 N	179° 24.21 E			3		
Semisopochnoi/Petrel Pt.	AI	52° 01.40 N	179° 36.90 E	52° 01.50 N	179° 39.00 E	10	3	3
Semisopochnoi I./Pochnoi Pt.	AI	51° 57.30 N	179° 46.00 E			10	3	3
Amatignak I./Nitrof Pt.	AI	51° 13.00 N	179° 07.80 W			3		
Unalga & Dinkum Rocks	AI	51° 33.67 N	179° 04.25 W	51° 35.09 N	179° 03.66 W	3		
Ulak I./Hasgox Pt.	AI	51° 18.90 N	178° 58.90 W	51° 18.70 N	178° 59.60 W	10	3	3
Kavalga I.	AI	51° 34.50 N	178° 51.73 W	51° 34.50 N	178° 49.50 W	3		
Tag I.	AI	51° 33.50 N	178° 34.50 W			10	3	3
Ugidak I.	AI	51° 34.95 N	178° 30.45 W			3		
Gramp Rock	AI	51° 28.87 N	178° 20.58 W			10	3	3
Tanaga I./Bumpy Pt.	AI	51° 55.00 N	177° 58.50 W	51° 55.00 N	177° 57.10 W	3		
Bobrof I.	AI	51° 54.00 N	177° 27.00 W			3		

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Kanaga I./Ship Rock	AI	51° 46.70 N	177° 20.72 W			10	3	3
Kanaga I./North Cape	AI	51° 56.50 N	177° 09.00 W			3		
Adak I.	AI	51° 35.50 N	176° 57.10 W	51° 37.40 N	176° 59.60 W	10	3	3
Little Tanaga Strait	AI	51° 49.09 N	176° 13.90 W			3		
Great Sitkin I.	AI	52° 06.00 N	176° 10.50 W	52° 06.60 N	176° 07.00 W	3		
Anagaksik I.	AI	51° 50.86 N	175° 53.00 W			3		
Kasatochi I.	AI	52° 11.11 N	175° 31.00 W			10	3	3
Atka I./N. Cape	AI	52° 24.20 N	174° 17.80 W			3		
Amlia I./Sviech. Harbor[4,]	AI	52° 01.80 N	173° 23.90 W			3		
Sagigik I.[4,]	AI	52° 00.50 N	173° 09.30 W			3		
Amlia I./East[4, 13]	AI	52° 05.70 N	172° 59.00 W	52° 05.75 N	172° 57.50 W	3	20	20
Tanadak I. (Amlia)[4, 13]	AI	52° 04.20 N	172° 57.60 W			3	20	20
Agligadak I.[4, 13]	AI	52° 06.09 N	172° 54.23 W			20	20	20
Seguam I./Saddleridge Pt.[4, 13]	AI	52° 21.05 N	172° 34.40 W	52° 21.02 N	172° 33.60 W	10	20	20
Seguam I./Finch Pt.[13]	AI	52° 23.40 N	172° 27.70 W	52° 23.25 N	172° 24.30 W	3	20	20

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Seguam I./South Side[13]	AI	52° 21.60 N	172° 19.30 W	52° 15.55 N	172° 31.22 W	3	20	20
Amukta I. & Rocks[13]	AI	52° 27.25 N	171° 17.90 W			3	20	20
Chagulak I.[13]	AI	52° 34.00 N	171° 10.50 W			3	20	20
Yunaska I.[13]	AI	52° 41.40 N	170° 36.35 W			10	20	20
Uliaga[5, 14]	BS	53° 04.00 N	169° 47.00 W	53° 05.00 N	169° 46.00 W	10	20	20
Chuginadak[14, 15]	GOA	52° 46.70 N	169° 41.90 W			20	20, 10	20
Kagamil[5, 14]	BS	53° 02.10 N	169° 41.00 W			10	20	20
Samalga	GOA	52° 46.00 N	169° 15.00 W			20	10	20
Adugak I.[5]	BS	52° 54.70 N	169° 10.50 W			10	BA	BA
Umnak I./Cape Aslik[5]	BS	53° 25.00 N	168° 24.50 W			BA	BA	BA
Ogchul I.	GOA	52° 59.71 N	168° 24.24 W			20	10	20
Bogoslof I./Fire I.[5]	BS	53° 55.69 N	168° 02.05 W			BA	BA	BA
Polivnoi Rock[9]	GOA	53° 15.96 N	167° 57.99 W			20	10	20
Emerald I.[12, 9]	GOA	53° 17.50 N	167° 51.50 W			20	10	20
Unalaska/Cape Izigan[9]	GOA	53° 13.64 N	167° 39.37 W			20	10	20

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Unalaska/Bishop Pt.[6, 12]	BS	53° 58.40 N	166° 57.50 W			10	10	3
Akutan I./Reef-lava[6]	BS	54° 08.10 N	166° 06.19 W	54° 09.10 N	166° 05.50 W	10	10	3
Unalaska I./Cape Sedanka[9]	GOA	53° 50.50 N	166° 05.00 W			20	10	20
Old Man Rocks[9]	GOA	53° 52.20 N	166° 04.90 W			20	10	20
Akutan I./Cape Morgan[9]	GOA	54° 03.39 N	165° 59.65 W	54° 03.70 N	166° 03.68 W	20	10	20
Akun I./Billings Head	BS	54° 17.62 N	165° 32.06 W	54° 17.57 N	165° 31.71 W	10	3	3
Rootok[9]	GOA	54° 03.90 N	165° 31.90 W	54° 02.90 N	165° 29.50 W	20	10	20
Tanginak I.[9]	GOA	54° 12.00 N	165° 19.40 W			20	10	20
Tigalda/Rocks NE[9]	GOA	54° 09.60 N	164° 59.00 W	54° 09.12 N	164° 57.18 W	20	10	20
Unimak/Cape Sarichef	BS	54° 34.30 N	164° 56.80 W			10	3	3
Aiktak[9]	GOA	54° 10.99 N	164° 51.15 W			20	10	20
Ugamak I.[9]	GOA	54° 13.50 N	164° 47.50 W	54° 12.80 N	164° 47.50 W	20	10	20
Round (GOA)[9]	GOA	54° 12.05 N	164° 46.60 W			20	10	20
Sea Lion Rock (Amak)	BS	55° 27.82 N	163° 12.10 W			10	7	7
Amak I. And rocks	BS	55° 24.20 N	163° 09.60 W	55° 26.15 N	163° 08.50 W	10	3	3

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Bird I.	GOA	54° 40.00 N	163° 17.15 W			10		
Caton I.	GOA	54° 22.70 N	162° 21.30 W			3	3	
South Rocks	GOA	54° 18.14 N	162° 41.25 W			10		
Clubbing Rocks (S)	GOA	54° 41.98 N	162° 26.74 W			10	3	3
Clubbing Rocks (N)	GOA	54° 42.75 N	162° 26.72 W			10	3	3
Pinnacle Rock	GOA	54° 46.06 N	161° 45.85 W			3	3	3
Sushilnoi Rocks	GOA	54° 49.30 N	161° 42.73 W			10		
Olga Rocks	GOA	55° 00.45 N	161° 29.81 W	54° 59.09 N	161°30.89 W	10		
Jude I.	GOA	55° 15.75 N	161° 06.27 W			20		
Sea Lion Rocks (Shumagins)	GOA	55° 04.70 N	160° 31.04 W			3	3	3
Nagai I./Mountain Pt.	GOA	54° 54.20 N	160° 15.40 W	54° 56.00 N	160° 15.00 W	3	3	3
The Whaleback	GOA	55° 16.82 N	160° 05.04 W			3	3	3
Chernabura I.	GOA	54° 45.18 N	159° 32.99 W	54° 45.87 N	159° 35.74 W	20	3	3
Castle Rock	GOA	55° 16.47 N	159° 29.77 W			3	3	
Atkins I.	GOA	55° 03.20 N	159° 17.40 W			20	3	3

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Spitz I.	GOA	55° 46.60 N	158° 53.90 W			3	3	3
Mitrofania	GOA	55° 50.20 N	158° 41.90 W			3	3	3
Kak	GOA	56° 17.30 N	157° 50.10 W			20	20	3
Lighthouse Rocks	GOA	55° 46.79 N	157° 24.89 W			20	20	20
Sutwik I.	GOA	56° 31.05 N	157° 20.47 W	56° 32.00 N	157° 21.00 W	20	20	20
Chowiet I.	GOA	56° 00.54 N	156° 41.42 W	56° 00.30 N	156° 41.60 W	20	20	20
Nagai Rocks	GOA	55° 49.80 N	155° 47.50 W			20	20	20
Chirikof I.	GOA	55° 46.50 N	155° 39.50 W	55° 46.44 N	155° 43.46 W	20	20	20
Puale Bay	GOA	57° 40.60 N	155° 23.10 W			10		
Kodiak/Cape Ikolik	GOA	57° 17.20 N	154° 47.50 W			3	3	3
Takli I.	GOA	58° 01.75 N	154° 31.25 W			10		
Cape Kuliak	GOA	58° 08.00 N	154° 12.50 W			10		
Cape Gull	GOA	58° 11.50 N	154° 09.60 W	58° 12.50 N	154° 10.50 W	10		
Kodiak/Cape Ugat	GOA	57° 52.41 N	153° 50.97 W			10		
Sitkinak/Cape Sitkinak	GOA	56° 34.30 N	153° 50.96 W			10		

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Shakun Rock	GOA	58° 32.80 N	153° 41.50 W			10		
Twoheaded I.	GOA	56° 54.50 N	153° 32.75 W	56° 53.90 N	153° 33.74 W	10		
Cape Douglas (Shaw I.)	GOA	59° 00.00 N	153° 22.50 W			10		
Kodiak/Cape Barnabas	GOA	57° 10.20 N	152° 53.05 W			3	3	
Kodiak/Gull Point[7]	GOA	57° 21.45 N	152° 36.30 W			10, 3		
Latax Rocks	GOA	58° 40.10 N	152° 31.30 W			10		
Ushagat I./SW	GOA	58° 54.75 N	152° 22.20 W			10		
Ugak I.[7]	GOA	57° 23.60 N	152° 17.50 W	57° 21.90 N	152° 17.40 W	10, 3		
Sea Otter I.	GOA	58° 31.15 N	152° 13.30 W			10		
Long I.	GOA	57° 46.82 N	152° 12.90 W			10		
Sud I.	GOA	58° 54.00 N	152° 12.50 W			10		
Kodiak/Cape Chiniak	GOA	57° 37.90 N	152° 08.25 W			10		
Sugarloaf I.	GOA	58° 53.25 N	152° 02.40 W			20	10	10
Sea Lion Rocks (Marmot)	GOA	58° 20.53 N	151° 48.83 W			10		
Marmot I.[8]	GOA	58° 13.65 N	151° 47.75 W	58° 09.90 N	151° 52.06 W	15, 20	10	10

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Nagahut Rocks	GOA	59° 06.00 N	151° 46.30 W			10		
Perl	GOA	59° 05.75 N	151° 39.75 W			10		
Gore Point	GOA	59° 12.00 N	150° 58.00 W			10		
Outer (Pye) I.	GOA	59° 20.50 N	150° 23.00 W	59° 21.00 N	150° 24.50 W	20	10	10
Steep Point	GOA	59° 29.05 N	150° 15.40 W			10		
Seal Rocks (Kenai)	GOA	59° 31.20 N	149° 37.50 W			10		
Chiswell Islands	GOA	59° 36.00 N	149° 34.00 W			10		
Rugged Island	GOA	59° 50.00 N	149° 23.10 W	59° 51.00 N	149° 24.70 W	10		
Point Elrington[10, 11]	GOA	59° 56.00 N	148° 15.20 W			20		
Perry I.[10]	GOA	60° 44.00 N	147° 54.60 W					
The Needle[10]	GOA	60° 06.64 N	147° 36.17 W					
Point Eleanor[10]	GOA	60° 35.00 N	147° 34.00 W					
Wooded I. (Fish I.)	GOA	59° 52.90 N	147° 20.65 W			20	3	3
Glacier Island[10]	GOA	60° 51.30 N	147° 14.50 W					
Seal Rocks (Cordova)[11]	GOA	60° 09.78 N	146° 50.30 W			20	3	3

Column Number 1	2	3	4	5	6	7	8	9
Site Name	Area[16]	Boundaries from		Boundaries to[1]		Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm)	Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm)
		Latitude	Longitude	Latitude	Longitude			
Cape Hinchinbrook[11]	GOA	60° 14.00 N	146° 38.50 W			20		
Middleton I.	GOA	59° 28.30 N	146° 18.80 W			10		
Hook Point[11]	GOA	60° 20.00 N	146° 15.60 W			20		
Cape St. Elias	GOA	59° 47.50 N	144° 36.20 W			20		

BS = Bering Sea, AI = Aleutian Islands, GOA = Gulf of Alaska

[1] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] Closures as stated in 50 CFR 679.22(a)(7)(v), (a)(8)(iv) and (b)(2)(iii).

[3] No-fishing zones for vessels with a Federal Fisheries Permit are the waters between 0 nm and the nm specified in columns 7, 8, and 9 around each site and within the Bogoslof area (BA) and the Seguam Foraging Area (SFA).

[4] Some or all of the restricted area is located in the SFA, which is closed to all gear types. The SFA is established as all waters within the area between 52°N lat. and 53°N lat. and between 173°30' W long. and 172°30' W long.

[5] This site lies within the BA, which is closed to all gear types. The BA consists of all waters of area 518 as described in Figure 1 of this part south of a straight line connecting 55°00'N/170°00'W, and 55°00' N/168°11'4.75" W.

[6] Hook-and-line no-fishing zones apply only to vessels greater than or equal to 60 feet LOA in waters east of 167° W long. For Bishop Point the 10 nm closure west of 167° W. long. applies to all hook-and-line and jig vessels.

[7] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for Pacific cod with trawl gear in waters between 0 nm and 10 nm, effective from January 20, 1200 hours, A.l.t., through June 10, 1200 hours, A.l.t. Vessels with a Federal Fisheries Permit are prohibited from

directed fishing for Pacific cod with trawl gear in waters between 0 nm and 3 nm, effective from September 1, 1200 hours, A.l.t., through November 1, 1200 hours, A.l.t.

[8] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for Pacific cod with trawl gear in waters between 0 nm and 15 nm, effective from January 20, 1200 hours, A.l.t., to June 10, 1200 hours, A.l.t. Vessels with a Federal Fisheries Permit are prohibited from directed fishing for Pacific cod with trawl gear in waters between 0 nm and 20 nm, effective from September 1, 1200 hours, A.l.t., through November 1, 1200 hours, A.l.t.

[9] Restriction area includes only waters of the Gulf of Alaska Area.

[10] Contact the Alaska Department of Fish and Game for fishery restrictions at these sites.

[11] The 20 nm closure around this site is effective only in waters outside of the State of Alaska waters of Prince William Sound.

[12] See 50 CFR 679.22(a)(7)(i)(C) for exemptions for catcher vessels less than 60 feet (18.3 m) LOA using jig or hook-and-line gear between Bishop Point and Emerald Island closure areas.

[13] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for Pacific cod with hook-and-line and pot gear in waters between 0 nm and 3 nm from rookeries west of 172°59' W long. and in waters located between 0 nm and 20 nm east of 172°59' W long.

[14] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for Pacific cod with hook-and-line and pot gears only in waters located between 0 nm and 20 nm of these sites west of 170° W long.

[15] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for Pacific cod with hook-and-line in waters located between 0 nm and 10 nm on the east side of 170° W long. and is prohibited in waters located between 0 nm and 20 nm on the west side of 170° W long.

[16] Unless otherwise noted, closures apply to reporting areas of the Bering Sea, Aleutian Islands and Gulf of Alaska, including adjacent state waters.

■ 9. Revise Table 6 to Part 679 to read as follows:

Table 6 to 50 CFR Part 679—Steller Sea Lion Protection Areas Atka Mackerel Fisheries Restrictions

Column Number 1	2	3	4	5	6	7
Site Name	Area[8]	Boundaries from		Boundaries to[1]		Atka mackerel No-fishing Zones for Trawl Gear [2,3](nm)
		Latitude	Longitude	Latitude	Longitude	
Attu I./Cape Wrangell	Aleutian Islands	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E	10
Agattu I./Gillon Pt.	Aleutian Islands	52 24.13 N	173 21.31 E			10
Attu I./Chirikof Pt.	Aleutian Islands	52 49.75 N	173 26.00 E			3
Agattu I./Cape Sabak	Aleutian Islands	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E	10
Alaid I.	Aleutian Islands	52 46.50 N	173 51.50 E	52 45.00 N	173 56.50 E	3
Shemya I.	Aleutian Islands	52 44.00 N	174 08.70 E			3
Buldir I.	Aleutian Islands	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	10
Kiska I./Cape St. Stephen	Aleutian Islands	51° 52.50 N	177° 12.70 E	51° 53.50 N	177° 12.00 E	10
Kiska I./Sobaka & Vega	Aleutian Islands	51° 49.50 N	177° 19.00 E	51° 48.50 N	177° 20.50 E	3
Kiska I./Lief Cove	Aleutian Islands	51° 57.16 N	177° 20.41 E	51° 57.24 N	177° 20.53 E	10
Kiska I./Sirius Pt.	Aleutian Islands	52° 08.50 N	177° 36.50 E			3
Tanadak I. (Kiska)	Aleutian Islands	51° 56.80 N	177° 46.80 E			3
Segula I.[6]	Aleutian Islands	51° 59.90 N	178° 05.80 E	52° 03.06 N	178° 08.80 E	3, 20
Ayugadak Point[6]	Aleutian Islands	51° 45.36 N	178° 24.30 E			20
Hawadax I./Krysi Pt.[6]	Aleutian Islands	51° 49.98 N	178° 12.35 E			20

Column Number 1	2	3	4	5	6	7
Site Name	Area[8]	Boundaries from		Boundaries to[1]		Atka mackerel No-fishing Zones for Trawl Gear [2,3](nm)
		Latitude	Longitude	Latitude	Longitude	
Little Sitkin I.[6]	Aleutian Islands	51° 59.30 N	178° 29.80 E			20
Amchitka I./Column Rocks	Aleutian Islands	51° 32.32 N	178° 49.28 E			20
Amchitka I./East Cape	Aleutian Islands	51° 22.26 N	179° 27.93 E	51° 22.00 N	179° 27.00 E	20
Amchitka I./Cape Ivakin	Aleutian Islands	51° 24.46 N	179° 24.21 E			20
Semisopochnoi/Petrel Pt.[6]	Aleutian Islands	52° 01.40 N	179° 36.90 E	52° 01.50 N	179° 39.00 E	20
Semisopochnoi I./Pochnoi Pt. [6]	Aleutian Islands	51° 57.30 N	179° 46.00 E			20
Amatignak I. Nitrof Pt.	Aleutian Islands	51° 13.00 N	179° 07.80 W			3
Unalga & Dinkum Rocks	Aleutian Islands	51° 33.67 N	179° 04.25 W	51° 35.09 N	179° 03.66 W	3
Ulak I./Hasgox Pt.	Aleutian Islands	51° 18.90 N	178° 58.90 W	51° 18.70 N	178° 59.60 W	10
Kavalga I.	Aleutian Islands	51° 34.50 N	178° 51.73 W	51° 34.50 N	178° 49.50 W	3
Tag I.[4]	Aleutian Islands	51° 33.50 N	178° 34.50 W			10, 20
Ugidak I.[4]	Aleutian Islands	51° 34.95 N	178°30.45 W			3, 20
Gramp Rock[4]	Aleutian Islands	51° 28.87 N	178° 20.58 W			10, 20
Tanaga I./Bumpy Pt.[4]	Aleutian Islands	51° 55.00 N	177° 58.50 W	51° 55.00 N	177° 57.10 W	3, 20
Bobrof I.	Aleutian Islands	51° 54.00 N	177° 27.00 W			20
Kanaga I./Ship Rock	Aleutian Islands	51° 46.70 N	177° 20.72 W			20
Kanaga I./North Cape	Aleutian Islands	51° 56.50 N	177° 09.00 W			20
Adak I.	Aleutian Islands	51° 35.50 N	176° 57.10 W	51° 37.40 N	176° 59.60 W	20
Little Tanaga Strait	Aleutian Islands	51° 49.09 N	176° 13.90 W			20
Great Sitkin I.	Aleutian Islands	52° 06.00 N	176° 10.50 W	52° 06.60 N	176° 07.00 W	20
Anagaksik I.	Aleutian Islands	51° 50.86 N	175° 53.00 W			20

Column Number 1	2	3	4	5	6	7
Site Name	Area[8]	Boundaries from		Boundaries to[1]		Atka mackerel No-fishing Zones for Trawl Gear [2,3](nm)
		Latitude	Longitude	Latitude	Longitude	
Kasatochi I.	Aleutian Islands	52° 11.11 N	175° 31.00 W			20
Atka I./North Cape	Aleutian Islands	52°24.20 N	174° 17.80 W			20
Amlia I./Sviech. Harbor[5]	Aleutian Islands	52° 01.80 N	173° 23.90 W			20
Sagigik I.[5, 7]	Aleutian Islands	52° 00.50 N	173° 09.30 W			20
Amlia I./East[5, 7]	Aleutian Islands	52° 05.70 N	172° 59.00 W	52° 05.75 N	172° 57.50 W	20
Tanadak I. (Amlia)[5, 7]	Aleutian Islands	52° 04.20 N	172° 57.60 W			20
Agligadak I.[5, 7]	Aleutian Islands	52° 06.09 N	172° 54.23 W			20
Seguam I./Saddleridge Pt.[5, 7]	Aleutian Islands	52° 21.05 N	172° 34.40 W	52° 21.02 N	172° 33.60 W	20
Seguam I./Finch Pt.[5, 7]	Aleutian Islands	52° 23.40 N	172° 27.70 W	52° 23.25 N	172° 24.30 W	20
Seguam I./South Side[5, 7]	Aleutian Islands	52° 21.60 N	172° 19.30 W	52° 15.55 N	172° 31.22 W	12
Amukta I. & Rocks[7]	Aleutian Islands	52° 27.25 N	171° 17.90 W			20
Chagulak I.	Aleutian Islands	52° 34.00 N	171° 10.50 W			20
Yunaska I.	Aleutian Islands	52° 41.40 N	170° 36.35 W			20

[1] Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[2] Closures as stated in 50 CFR 679.22(a)(7)(vi).

[3] No-fishing zones for vessels with a Federal Fisheries Permit are the waters between 0 nm and the nm specified in column 7 around each site.

[4] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for Atka mackerel using trawl gear in waters located:

a) 0 nm to 20 nm seaward of these sites and east of 178° W long., and

b) 0 nm to 3 nm seaward of Ugidak and Tanaga I./Bumpy Pt and west of 178° W long.

c) 0 nm to 10 nm seaward of Tag I. and Gramp Rock and west of 178° W long.

[5] Some or all of the restricted area is located in the Seguam Foraging Area (SFA), which is closed to all gear types. The SFA is established as all

waters within the area between 52° N lat. and 53° N lat. and between 173° 30' W long. and 172° 30' W long.

[6] Vessels with a Federal Fisheries Permit are prohibited from directed fishing for Atka mackerel using trawl gear in waters located 0 nm to 20 nm from this site between 178°E long. to 180° long. and in waters located 0 nm and 3 nm from Segula Island west of 178°E long.

[7] The Seguam Atka Mackerel Open Area (SAMOA) to the southeast of Seguam Pass in Area 541 is formed by the following coordinates in the order specified in a clock-wise direction. The SAMOA is open when directed fishing for Atka mackerel in Area 541 is open.

From
172° 17.760' W/51° 57.000' N
172° 41.400' W/51° 57.000' N
172° 37.500' W/52° 0.000' N
172° 30.000' W/52° 0.000' N
172° 30.000' W/52° 3.600' N
172° 20.400' W/52° 4.800' N
172° 13.200' W/52° 7.080' N
172° 6.600' W/52° 9.600' N
172° 2.400' W/52° 12.000' N
172° 0.000' W/52° 12.000' N
172° 0.000' W/52° 14.820' N
171° 58.200' W/52° 18.000' N
171° 58.200' W/52° 24.000' N
171° 54.000' W/52° 24.000' N
171° 54.000' W/52° 27.000' N
171° 42.000' W/52° 27.000' N
171° 42.000' W/52° 18.000' N
171° 48.000' W 52° 18.000' N
171° 48.000' W 52° 11.760' N

[8] Unless otherwise noted, closures apply to reporting areas of the Aleutian Islands, including adjacent state waters.

[FR Doc. 2014–14972 Filed 6–30–14; 8:45 am]
BILLING CODE 3510–22–C

FEDERAL REGISTER

Vol. 79 Tuesday,

No. 126 July 1, 2014

Part VI

Department of State

22 CFR Part 121

Amendment to the International Traffic in Arms Regulations: United States Munitions List Category XI (Military Electronics), and Other Changes; Final Rule

DEPARTMENT OF STATE

22 CFR Part 121

[Public Notice 8775]

RIN 1400–AD25

Amendment to the International Traffic in Arms Regulations: United States Munitions List Category XI (Military Electronics), and Other Changes

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: As part of the President's Export Control Reform (ECR) effort, the Department of State is amending the International Traffic in Arms Regulations (ITAR) to revise U.S. Munitions List (USML) Category XI (Military Electronics). The Department is also amending Category VIII (Aircraft and Related Articles) with respect to wing folding systems and both Categories VIII and XIX to remove three paragraphs superseded by the revision of Category XI. The revisions contained in this rule are part of the Department of State's retrospective plan under E.O. 13563.

DATES: This rule is effective on December 30, 2014, except for to the revision to § 121.1, Category VIII(h)(4), which is effective August 15, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. C. Edward Peartree, Director, Office of Defense Trade Controls Policy, Department of State, telephone (202) 663–2792; email *DDTCResponseTeam@state.gov.* ATTN: Regulatory Change, USML Category XI Final Rule. The Department of State's full retrospective plan can be accessed at *http://www.state.gov/documents/organization/181028.pdf.*

SUPPLEMENTARY INFORMATION: The Directorate of Defense Trade Controls (DDTC), U.S. Department of State, administers the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). The items subject to the jurisdiction of the ITAR, (*i.e.,* ''defense articles'' and ''defense services'') are identified on the ITAR's U.S. Munitions List (USML) (22 CFR 121.1). With few exceptions, items not subject to the export control jurisdiction of the ITAR are subject to the jurisdiction of the Export Administration Regulations (''EAR,'' 15 CFR parts 730–774, which includes the Commerce Control List (CCL) in Supplement No. 1 to part 774), administered by the Bureau of Industry and Security (BIS), U.S. Department of Commerce. Both the ITAR and the EAR impose license requirements on the export, reexport, and retransfer of commodities, software, technology, and services to various destinations, end users, and end uses. Items not subject to the ITAR or to the exclusive licensing jurisdiction of any other set of regulations are subject to the EAR.

All references to the USML in this rule are to the list of defense articles controlled for the purpose of export or temporary import pursuant to the ITAR, and not to the defense articles on the USML that are controlled by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for the purpose of permanent import under its regulations. *See* 27 CFR part 447. Pursuant to section 38(a)(1) of the Arms Export Control Act (AECA), all defense articles controlled for export or import are part of the USML under the AECA. For the sake of clarity, the list of defense articles controlled by ATF for the purpose of permanent import is the U.S. Munitions Import List (USMIL). The transfer of defense articles from the ITAR's USML to the EAR's CCL for the purpose of export control does not affect the list of defense articles controlled on the USMIL under the AECA for the purpose of permanent import.

Export Control Reform Update

Pursuant to the President's Export Control Reform (ECR) initiative, the Department has published proposed revisions to thirteen USML categories—and, upon the effective date of this rule, will have revised fifteen USML categories—to create a more positive control list and eliminate, where possible, ''catch all'' controls in the USML. The Department, along with the Departments of Commerce and Defense, reviewed the public comments the Department received on the proposed rules and has, where appropriate, revised the rules. A discussion of the comments relevant to the USML categories that are part of this rule is included later on in this notice.

Discussions of the public comments relevant to the other USML categories that have been published as final rules are in ''Amendment to the International Traffic in Arms Regulations: Initial Implementation of Export Control Reform,'' published April 16, 2013 (78 FR 22740); ''Amendment to the International Traffic in Arms Regulations: Continued Implementation of Export Control Reform,'' published July 8, 2013 (78 FR 40922); ''Amendment to the International Traffic in Arms Regulations: Third Rule Implementing Export Control Reform,'' published January 2, 2014 (79 FR 34); and ''Amendment to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Category XV,'' published May 13, 2014 (79 FR 27180). These notices also contain policies and procedures regarding the licensing of items moving from the export jurisdiction of the Department of State to the Department of Commerce, a definition for specially designed, responses to public comments, and changes to other sections of the ITAR that affect the categories discussed in this rule. The Department continues to review the remaining USML categories and will publish them as proposed rules in the coming months.

Pursuant to ECR, the Department of Commerce has been publishing revisions to the EAR, including various revisions to the CCL. Revision of the USML and CCL are coordinated so there is uninterrupted regulatory coverage for items moving from the jurisdiction of the Department of State to that of the Department of Commerce. The Department of Commerce's companion to this rule is ''Revisions to the Export Administration Regulations (EAR): Control of Military Electronic Equipment and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML).'' It is published elsewhere in this edition of the **Federal Register**.

Changes in This Rule

The following changes are made to the ITAR with this final rule: (i) Revision of U.S. Munitions List (USML) Categories XI (Military Electronics); (ii) revision to USML Category VIII (Aircraft and Related Articles), paragraph (h)(4); (iii) continued implementation of a new licensing procedure for the export of items subject to the EAR that are to be exported with defense articles; and (iv) removal of USML Category VIII, paragraphs (h)(21) and (h)(22) and USML Category XIX (Gas Turbine Engines and Associated Equipment), paragraph (f)(7), as they are superseded by USML Category XI, paragraphs (c)(2), (c)(3), and (c)(11).

Revision of USML Category XI

This final rule revises USML Category XI, covering military electronics, to describe more precisely the articles warranting control on the USML.

Paragraph (a) is revised by adding various subparagraphs to specifically enumerate the articles controlled. Subparagraph (a)(6) is removed and placed in reserve, with the computers intended for control enumerated in new paragraph (c)(16). Paragraphs (a)(9)–(12) are added to cover (i) electronic sensor systems or equipment for non-acoustic antisubmarine warfare (ASW) or mine warfare, (ii) electronic sensor systems or

equipment for detection of concealed weapons, (iii) test sets specially designed for testing defense articles controlled in paragraphs (a)(3), (a)(4), (a)(5), or (b), and (iv) direction finding equipment specially designed for articles in select paragraphs of USML Categories IV and VIII.

Paragraph (c) is amended by adding subparagraphs (1)–(18) to specifically enumerate the parts, components, accessories, attachments, and associated equipment controlled. Additionally, subparagraph (19) is added to enumerate control of classified technology.

Finally, paragraph (x) is added to allow for ITAR licensing of commodities, software, and technology subject to the EAR provided those commodities, software, and technology are to be used in or with defense articles controlled in USML Category XI *and* are described in the purchase documentation submitted with the application. As first described in the Department's April 16, 2013 notice (78 FR 22740), one of the objectives of this provision is to motivate exporters to make complete jurisdictional and classification determinations of the articles they are exporting.

The Department published proposed revisions to USML Category XI on November 28, 2012 (*see* 77 FR 70958, RIN 1400–AD25) and July 25, 2013 (*see* 78 FR 45018, RIN 1400–AD25). Both proposed rules requested public comment on the proposed changes. The public comments were reviewed and considered by the Department and other agencies. The Department's evaluation of the written comments and recommendations for the first proposed rule are in the second proposed rule. The Department's evaluation of the written comments and recommendations for the second proposed rule follows.

The Department received proposals for modifications to the phrasing of regulatory text in USML Category XI. When the recommended changes added to the clarity of the regulation and were consistent with ECR objectives, the Department accepted them.

One commenting party suggested that a separate sub-paragraph should be added for software and software source code for the development, operation, test, and repair of articles enumerated in Category XI. The Department believes that these articles are already captured in paragraph XI(d), and therefore did not accept this recommendation.

One commenting party suggested that phrases such as ''having all of the following'' should be avoided. The Department did not accept this suggestion because the phrase is necessary to create, where possible, positive control lists, which is one of the objectives of Export Control Reform effort.

One commenting party highlighted a circular reference between paragraphs (a)(1) and (c). Paragraph (a)(5)(i) refers to items ''that are specially designed to integrate, incorporate, network, or employ defense articles that are controlled in this subchapter.'' Paragraph (c) lists components that are specially designed for defense articles. The commenter asserts that this dual reference to ''specially designed'' in both places creates a logical paradox. For example, a system could possibly fall under paragraph (a)(5) because it is specially designed to integrate, incorporate, network, or employ defense articles controlled under paragraph (c)(1), (2), and (3). However, for paragraph (c)(1), (2), and (3) parts to be ITAR-controlled, they must be ''designed for defense articles in this subchapter,'' which logically loops back to paragraph (a)(5). The commenter suggests that paragraph (c) be treated independently of other USML Category XI sub-paragraphs in line with the concept of creating a positive list, and that the circular reference to ''specially designed'' in both paragraphs (a)(5) and (c) be resolved. The Department agrees in part and adds the phrase, ''that are controlled in sub-paragraphs that do not use the term specially designed,'' at the end of paragraph (a)(5)(i) to resolve the circular reference issue.

One commenting party suggested that USML Category XI should be reviewed periodically to ensure the most critical articles are controlled and that a committee of industry representatives should be created to provide input. The Department agrees that the USML, including Category XI, should be reviewed periodically to ensure that articles critical to national security and foreign policy are captured and that articles no longer warranting ITAR controls are reevaluated for possible control by the Department of Commerce. The exact details of such a reevaluation process have yet to be articulated. However, the Departments of State, Commerce, and Defense have committed to ensuring such efforts are a priority.

One commenting party suggested that the Department should factor in foreign commercial availability when determining the appropriate level of control for an article. The Department did take foreign availability of like military systems into account when revising this category, but not in a manner that would be inconsistent with U.S. national security or foreign policy considerations. To the extent an item is commercially available and in normal commercial use, either domestically or outside the United States, the Department requested evidence of such applications, because it was not the Department's intention to describe in the revised USML Category XI items that are in normal commercial use unless such items provided to the United States a critical military or intelligence advantage. This final rule responds to all such evidence provided by public commenters.

One commenting party suggested that paragraph (a)(1)(i) be revised to ensure that all multi-element sensing systems, especially Ultra Short Baseline systems, are not inadvertently captured because this would preclude commercial development of collision avoidance for unmanned surface and subsurface vehicles. The party also suggested revising this paragraph to remove the terms ''survey,'' ''detect,'' ''classify,'' and ''identify.'' The Department did not accept these suggestions because the Department's objective is to specifically describe and control such articles on the USML.

Regarding paragraph (a)(1)(i), one commenting party noted that passive towed array systems exist for tracking and classifying marine mammals in real time that operate under 20 kHz with greater than 10 kHz bandwidth. These systems are ''capable'' of tracking vessels (and do). The commenter recommended that the phrase ''capable of real-time'' be replaced by ''intended for real-time.'' The Department acknowledges this assertion as accurate; however, the control capability described in the revised paragraph is critical to U.S. national security and continues to warrant ITAR controls.

One commenting party noted that paragraph (a)(1)(ii) appears to include commodities currently controlled on the CCL, namely 6A001.a.2.a–c (hydrophones, hydrophone arrays, and related processing equipment), related software in 6D003, and the commodities currently described in ECCN 6A991. The Department amended paragraph (a)(1)(ii) by adding the qualifier phrase ''non-biologic'' before ''tonals.''

One commenting party asserts that paragraph (a)(1)(ii) identifies ''underwater single acoustic sensor systems that distinguish tonals and locates the origin of the sound'' without providing technical parameters to establish a reasonable threshold to warrant their inclusion on the USML, and recommends that if there are no clear technical parameters or performance thresholds that

differentiate between systems, perhaps the unique characteristics of military ''tonals'' should be subject to control rather than the sensing technology. The Department acknowledges the potential for confusion in this regard and added Note 1 to paragraph (a)(1)(ii) to read as follows: ''The term tonals implies discrete frequencies in the broadband and narrowband spectra, emanating from man-made objects.''

One commenting party opined that use of the term ''origin'' in (a)(1)(ii) is confusing because it can be interpreted to mean either ''classify'' or ''localize.'' The Department believes that the qualifying term ''locates'' makes clear that ''origin'' refers to a spatial origin rather than the classification status of an item.

One commenting party recommend removing ''adaptive modulation'' from paragraph (a)(1)(iv) since it is a major source of academic research and development for research universities worldwide and the United States is not a leader in the field. The Department did not accept this recommendation because no examples of such commercial uses were provided for evaluation.

One commenting party suggested that the note to paragraph (a)(1)(iii) leaves open the possibility that EAR99 items would become controlled by the ITAR. The Department agrees that the note as written suggested this possibility, and removed the note to paragraph (a)(1)(iii).

With respect to paragraph (a)(1)(vii), one commenting party suggested that the capabilities regarding ''1m^2 +RCS at range and altitude'' already exist in the legacy National Airspace System and recommended that these criteria be removed. The Department did not accept this suggestion because radar with this capability are still highly capable for defense purposes and warrant ITAR control.

One commenting party opined that the articles listed in paragraph (a)(2) fall into a highly competitive foreign market, and should be more appropriately controlled in the 600-series, even though their primary use is military. The Department did not accept this recommendation because underwater acoustic countermeasures and counter-countermeasures systems are a critical U.S. military capability. Moreover, no examples of commercial end-uses for such items were provided.

With respect to paragraph (a)(2), one commenting party noted that the majority of torpedo countermeasure systems are unclassified mechanical and electrical equipment to deploy and retrieve a towed body, are not uniquely military, and that the only classified software and hardware should be controlled. The Department did not accept this suggestion because the text of this paragraph controls underwater acoustic countermeasures or counter-countermeasures systems, not their individual components.

Several commenting parties opined that radar systems that have historically been controlled on the CCL are now being controlled by the USML in paragraph (a)(3) as a result of this final rule. The Department does not agree with this assertion and notes that the very broad text of Category XI is being replaced with a more positive list. While it may appear that various radar technologies are being newly controlled on the USML, they have in fact always been controlled by the ITAR. The Department notes that any previously issued Commodity Jurisdiction determinations that a particular radar system or component is subject to the EAR remain valid.

One commenting party recommended the addition of a note to paragraph (a)(3) indicating that the identified technical parameters are intended to apply only to the designed capability of a system, rather than its potentially increased capability in altered environmental conditions. The Department did not accept this recommendation. The established thresholds in each paragraph are intended to apply to the optimal capability of a system in any given condition, not to that system's intended design capability.

One commenting party noted that there exist radars supporting en-route air traffic control that are capable of detecting a one square meter radar cross-section at ranges exceeding 85 nautical miles and recommended changing the threshold to one-half square meter or to a range of 150 nautical miles. The commenting party based this recommendation on a Commodity Classification Automated Tracking System (CCATS) determination issued by the Department of Commerce. The Department did not accept this recommendation and notes that the CCATS in questions applied to the frequency agility capability of the particular radar in question and not to the radar itself.

Two commenting parties asserted that paragraph (a)(3)(i) could be interpreted to cover weather radar because they too ''maintain the positional state of an object of interest in a received radar signal through time.'' The commenting parties suggested the addition of the phrase ''and which is 'specially designed' to have a range greater than 14 nautical miles for a 0dBsm target.'' The Department did not accept this suggestion because weather radars do not track discrete objects of interest.

One commenting party noted that paragraphs (a)(3)(vi)–(viii) identify specific detection ranges and radar cross section values that are consistent with the capabilities of aircraft tracking radars in use worldwide for commercial aviation. The Department has revised paragraph (a)(3)(vi) to preclude the inadvertent capture of commercial systems and was unable to identify commercial systems that would be captured by paragraph (a)(3)(viii). With respect to paragraph (a)(3)(vii), the Department acknowledges this observation and notes that, due to critical national security concerns, its intent is specifically to controls systems with this capability as defense articles.

Two commenting parties asserted that bi-static radar is being developed for ground-based radar applications and suggest limiting the scope of paragraph (a)(3)(ix) to non-commercial products that have performance beyond the civil air traffic collision avoidance systems. The Department did not accept this suggestion because Note 3 to paragraph (a)(3) already addresses this issue.

With respect to paragraph (a)(3)(ix), one commenting party noted that there exist radar systems that support terminal air traffic control modified to mitigate the effects of wind turbines, and to help support Ground Based Sense and Avoid Unmanned Aerial Systems in National Airspace Operations. The commenting party suggested adding a revisit rate of greater than or equal to 1/3 Hz to address this concern. The Department did not accept this recommendation and notes that the Federal Aviation Administration has not yet defined requirements for UAS sense and avoid capabilities. The commenting party referred to a Commodity Jurisdiction determination that such technology is subject to the EAR. The commenter did not provide a copy of this determination or any other reference to it and has been unable to identify such a determination. The Department notes that Commodity Jurisdiction determinations finding that a particular article is subject to the EAR remain valid.

Two commenting parties asserted that paragraph (a)(3)(xii) over-controls weather radar by including commercial, electronically steerable weather radar that lack military functionality and provided recommended revisions to it. The Department acknowledges the parties' concerns and adds a note to paragraph (a)(3)(xii).

Three commenting parties noted that the criteria listed in paragraph (a)(3)(xii) would capture all multi-phased array

radar regardless of end-use. The Department acknowledges that the intent of this paragraph is to control all such radar because they are critical to U.S. national security. The Department also notes that this paragraph does not capture defense articles and technical data that were not previously controlled by USML Category XI; rather, it merely enumerates such defense articles and technical data as controlled.

Four commenting parties noted that references to clutter filtering in paragraph (a)(3)(xvii) would control commercial weather radars. One of these parties suggested that increasing the control threshold from 50dB to 60dB would alleviate this concern. The Department concurs and accepts the recommended threshold increase.

In response to one commenting party's request for clarification on use of the phrase ''specific platform type'' in paragraph (a)(3)(xxi), the Department notes that the meaning of the word ''type'' in the paragraph controlling radar employing non-cooperative target recognition is that provided in 14 CFR § 1.1, and adds Note 1 to paragraph (a)(3)(xxi) accordingly.

One commenting party suggested that the reference to ''electronic combat equipment'' in paragraph (a)(4) is too broad because it would control items now subject to the EAR. The Department notes that the criteria in the following subparagraph already mitigate this concern.

One commenting party stated that paragraph (a)(4)(i) appears to control detection and interception systems and equipment that have historically been controlled on the CCL. The Department notes that ECCN 5A001.i only pertains to mobile telecommunication monitoring and that the control language in paragraph (a)(4)(i) does not encompass the intercept and processing of air interface of mobile telecommunications.

One commenting party noted that paragraph (a)(4)(iii) appears to include commodities currently controlled on the CCL, specifically ECCN 5A001.f. The Department notes that the use of ''specially designed'' in this entry specifically excludes this possibility.

One commenting party recommended adding the phrase ''or modified'' after specially designed throughout paragraph (a)(5) in order to address cases where capability, not design, is at issue. The Department did not accept this recommendation because capability is already covered in the definition of specially designed.

One commenting party suggested that paragraph (a)(7) appears to contradict one of the key purposes of export control reform, which is to provide a bright line regarding the export control jurisdiction of articles and services. The commenting party further indicated that the proposed revision does not define the criteria that will be used to determine a developmental electronic device or system to be a defense article. Similarly, three commenting parties posited that a system could be incorrectly determined to be ITAR-controlled solely because of its funding source. The Department did not accept these comments; notes 1 through 3 to paragraph (a)(7) clearly indicate the criteria to be applied in this regard, thus obviating concerns of ambiguity. In situations where funding does control a particular article, the Department notes that this was precisely the intent of this entry. The Department notes that paragraph (a)(7) does not apply to electronic systems or equipment where the Department of Defense acts solely as a servicing agency for a contract on behalf of another agency of the U.S. Government, but does not itself contribute funding.

One commenting party opined that paragraph (a)(8) would control unattended ground systems currently controlled on the CCL, or widely-available commercial products that contain the capabilities enumerated, and suggested narrowing the scope of this entry by use of ''specially designed.'' The Department did not accept this suggestion because no examples were provided to substantiate this claim.

One commenting party noted that paragraph (a)(10) identifies electronic sensor systems and equipment for detection of concealed weapons having a standoff detection range of greater than 45m, which conflicts with ECCN 2A984 for concealed object detection equipment which includes a standoff distance of 100m. The Department acknowledges this conflict and provides additional exclusionary criteria for frequency range and spatial resolution to address it.

One commenting party noted that paragraph (a)(11) identifies test sets for counter remote-controlled improvised explosive devices and counter radio electronic warfare systems that are already controlled in paragraph (a)(4)(iii). The Department amended paragraph (a)(11) to remove these references.

One commenting party stated that the note to paragraph (b) lacks clarity regarding what constitutes ''intelligence services.'' Based on the interagency review of the comments to the proposed note to Category XI(b), the Department concluded that the proposed note created more confusion regarding the scope of the Category XI(b) than it resolved. The Department has removed the note and has left the scope of the control the same. To the extent there are questions as to whether an item is within the scope of USML Category XI(b), ITAR § 120.4 allows for the submission of a request for a commodity jurisdiction determination for such items.

Several commenting parties expressed concern with respect to control of spectrum analyzers in paragraph (b), particularly for those that are widely available on the foreign market and used for multiple commercial purposes, including Technical Surveillance Countermeasure (TSCM) services. The Department notes that the proposed revision to Category XI(b) did not propose new controls on spectrum analyzers. If a spectrum analyzer, or any other piece of electronic equipment, is specially designed for intelligence purposes and collects, surveys, monitors, or exploits the electromagnetic spectrum (regardless of transmission medium), or for counteracting such activities, then it is within the scope of USML Category XI(b). To the extent there are questions as to whether a particular item falls within the scope of this description, the exporter may submit a request for a commodity jurisdiction determination under ITAR § 120.4.

One commenting party recommended adding a note to paragraph (b)(1) to indicate that it does not apply to direction finding equipment or systems specially designed for navigation applications. The Department did not accept this recommendation and believes that the parameters define the control for direction finding equipment sufficiently to differentiate from CCL control.

In response to recommendations and concerns of commenting parties, the Department has revised the controls for printed circuit boards and patterned multichip modules, providing each with a separate subparagraph, and notes that jurisdiction of a printed circuit board or patterned multichip module should follow the jurisdiction of the specific item for which it is designed, as opposed to the jurisdiction of the overall system into which the article one layer up from the printed circuit board is ultimately incorporated.

One commenting party recommended adding a new, non-SME entry under paragraph (c) to enumerate control of chaff and flare rounds specially designed for the systems and equipment described in paragraph (a)(4)(iii), and parts and components therefor

containing materials controlled in USML Category V. The Department accepted this recommendation, and added paragraph (c)(17) accordingly.

One commenting party recommended that the Department adopt the definition of ''Application Specific Integrated Circuit'' (ASIC) developed by the Joint Electron Device Engineering Council (JEDEC) Solid State Technology Association: ''*An integrated circuit developed and produced for a specific application or function and for a single customer.''* The Department agreed in part, and added note to paragraph (c)(1) to define an ASIC. The Department does not agree that the term ASIC be limited to items produced for a single customer. Such language could lead to unintended drops in controls based on an order by a second customer. The Commerce Department has adopted the same definition in its rule being published in connection with this rule.

One commenting party noted that the proposed paragraph (c)(4) would inadvertently control transmit/receive modules or transmit modules of a certain size that contain either an electric or a mechanical phase shifter or phaser. The Department agreed with this comment and amended paragraph (c)(4) accordingly.

One commenting party suggested that paragraph (c)(5) controls capacitors in commercial use and recommended that they should be made subject to the EAR. The Department did not accept this recommendation on the basis that the discharge rate and energy life stipulated in the paragraph (c)(5) adequately differentiates those capacitors that warrant ITAR controls from those that are used commercially.

Two commenting parties suggested that paragraph (c)(8) lacks the critical parameter of latency time for digital radio-frequency memory (DRFM) systems. The Department agreed with these comments and amended paragraph (c)(8) to control those systems whose output signal is a translation of the input signal (*e.g.* changes in magnitude, time, frequency).

Three commenting parties indicated that paragraph (c)(10) as written would control items already controlled by ECCN 5A991.f, such as metamaterial surface scattering antennas designed for transmitting or receiving radio communications via a commercial operated fixed or mobile satellite service system. The Department agreed with these comments and revised paragraph (c)(10)(i) to control those antennas that employ four or more elements, electronically steer angular beams, independently steer angular nulls, create angular nulls with a null depth greater than 20 dB, and achieve a beam switching speed faster than 50 milliseconds. The Department notes that a suggestion to amend the beam switching speed to control only those faster than 1 millisecond was not accepted as the modification of the remainder of the entry addresses the expressed concerns.

One commenting party opined that use of the term ''radar bands'' in paragraph (c)(11)(ii) is too generic because any radio frequency can theoretically be used for radar application. The commenter recommended replacing ''radar bands'' with the phrase ''frequency bands for radar applications.'' The Department accepted this recommendation and revised the paragraph accordingly.

One commenting party recommended adding the phrase ''for active sonar systems'' to the end of paragraph (c)(12)(i) to avoid situations where underwater projectors are used to observe responses of marine animals to underwater sound. The Department accepted the addition of this phrase, with the exception of the word ''active,'' because passive systems are also intended for control.

Four commenting parties noted that paragraph (c)(14) is overly broad and would control tuners covered by ECCN 3A002.c.4. One party recommended constraining this paragraph to tuners specially designed for systems and equipment in paragraphs (a)(4) and (b). One party recommended that paragraph (c)(14) be deleted in its entirety. Two commenting parties recommended the addition of parameters for operating frequency range and tuning time based on frequency step size to clarify the type of tuner component intended to be controlled. The Department revised paragraph (c)(14) to control tuners specially designed for systems and equipment in paragraphs (a)(4) and (b).

One commenting party suggested that paragraph (c)(15) conflicts with certain changes made to USML Category VIII, specifically with respect to unmanned aerial vehicles (UAVs), in that it would seem to include all unmanned aerial vehicles, military or civil, if they have a range equal to or greater than 300 km. The Department amended paragraph (c)(15) to indicate that it applies only to UAVs controlled by USML Category VIII.

One commenting party suggested that paragraph (c)(19)(ii) could be interpreted as controlling commercial computers simply because they contain classified information. The Department does not agree, and believes the note to paragraph (c)(19)(ii) makes clear that it controls only those items that ''store, process, or transmit classified software.'' To further clarify this point, the Department amended the note to paragraph (c)(1)(ii) by adding a parenthetical reference to ITAR § 121.8(f).

Change to Control of Wing Folding Systems in USML Category VIII and Other Changes in Category VIII and USML Category XIX

The Department revised paragraph (h)(4) of USML Category VIII to ensure that wing folding systems for commercial aircraft are not controlled as defense articles, while retaining those systems that warrant ITAR controls for foreign policy and national security. This change is made based on a public comment received on the revisions proposed to USML Category VIII (*see,* RINs 1400–AC96 and 1400–AD37).

The Department also removed paragraphs (h)(21) and (h)(22) in USML Category VIII and paragraph (f)(7) in USML Category XIX (Gas Turbine Engines and Associated Equipment), as they are superseded by paragraphs (c)(2), (c)(3), and (c)(11) in USML Category XI.

Adoption of Proposed Rules and Other Changes

Having reviewed and evaluated the comments and recommended changes for the USML Category XI proposed rule, the Department has determined that it will, and hereby does, adopt them, with changes and omission noted and other edits, and promulgates them in final form under this rule.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department of State is of the opinion that controlling the import and export of defense articles and services is a foreign affairs function of the United States Government and that rules implementing this function are exempt from sections 553 (rulemaking) and 554 (adjudications) of the Administrative Procedure Act (APA). Although the Department is of the opinion that this rule is exempt from the rulemaking provisions of the APA, the Department has published parts of this rule in separate rulemaking actions as follows: an NPRM and final rule on Category VIII, 1400–AC96 and 1400–AD37, respectively; an NPRM and final rule on Category XIX, 1400–AC98 and 1400–AD37, respectively; and an NPRM and Supplemental NPRM on Category XI, 1400–AD25. The rulemakings had a 45- or 60-day provision for public comment, without prejudice to the determination that controlling the import and export of

defense services is a foreign affairs function.

Regulatory Flexibility Act

Since the Department is of the opinion that this rule is exempt from the provisions of 5 U.S.C. 553, there is no requirement for an analysis under the Regulatory Flexibility Act.

Unfunded Mandates Reform Act of 1995

This rulemaking does not involve a mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (the ''Act''), a ''major'' rule is a rule that the Administrator of the OMB Office of Information and Regulatory Affairs finds has resulted or is likely to result in (1) an annual effect on the economy of $100,000,000 or more; (2) a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and foreign markets.

The Department does not believe this rulemaking will have an annual effect on the economy of $100,000,000 or more. Articles that are being removed from coverage in the U.S. Munitions List categories contained in this rule will still require licensing for export, but from the Department of Commerce. While the licensing regime of the Department of Commerce is more flexible than that of the Department of State, it is not expected that the change in jurisdiction of these articles will result in an export difference of $100,000,000 or more.

The Department also does not believe that this rulemaking will result in a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions, or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and foreign markets.

Executive Orders 12372 and 13132

This rulemaking will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rulemaking does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess 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, distributed impacts, and equity). These executive orders stress the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rulemaking has been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, this rule has been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

The Department of State has reviewed this rulemaking in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175

The Department of State has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Paperwork Reduction Act

Following is a listing of approved collections that will be affected by revision of the U.S. Munitions List (USML) and the Commerce Control List pursuant to the President's Export Control Reform (ECR) initiative. This final rule continues the implementation of ECR. The list of collections and the description of the manner in which they will be affected pertains to revision of the USML in its entirety, not only to the categories published in this rule. In accordance with the Paperwork Reduction Act, the Department of State will request comment on these collections from all interested persons. In particular, the Department will seek comment on changes to licensing burden based on implementation of regulatory changes pursuant to ECR, and on projected changes based on continued implementation of regulatory changes pursuant to ECR. The affected information collections are as follows:

(1) Statement of Registration, DS–2032, OMB No. 1405–0002. The Department estimates that between 3,000 and 5,000 of currently-registered persons will not need to maintain registration following full revision of the USML. This would result in a burden reduction of between 6,000 and 10,000 hours annually, based on a revised time burden of two hours to complete a Statement of Registration.

(2) Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data, DSP–5, OMB No. 1405–0003. The Department estimates that there will be 35,000 fewer DSP–5 submissions annually following full revision of the USML. This would result in a burden reduction of 35,000 hours annually.

(3) Application/License for Temporary Import of Unclassified Defense Articles, DSP–61, OMB No. 1405–0013. The Department estimates that there will be 200 fewer DSP–61 submissions annually following full revision of the USML. This would result in a burden reduction of 100 hours annually.

(4) Application/License for Temporary Export of Unclassified Defense Articles, DSP–73, OMB No. 1405–0023. The Department estimates that there will be 800 fewer DSP–73 submissions annually following full revision of the USML. This would result in a burden reduction of 800 hours annually.

(5) Application for Amendment to License for Export or Import of Classified or Unclassified Defense Articles and Related Technical Data, DSP–6, –62, –74, –119, OMB No. 1405–0092. The Department estimates that there will be 2,000 fewer amendment submissions annually following full revision of the USML. This would result

in a burden reduction of 1,000 hours annually.

(6) Request for Approval of Manufacturing License Agreements, Technical Assistance Agreements, and Other Agreements, DSP–5, OMB No. 1405–0093. The Department estimates that there will be 1,000 fewer agreement submissions annually following full revision of the USML. This would result in a burden reduction of 2,000 hours annually.

(7) Maintenance of Records by Registrants, OMB No. 1405–0111. The requirement to actively maintain records pursuant to provisions of the International Traffic in Arms Regulations (ITAR) will decline commensurate with the drop in the number of persons who will be required to register with the Department pursuant to the ITAR. As stated above, the Department estimates that up to 5,000 of the currently-registered persons will not need to maintain registration following full revision of the USML. This would result in a burden reduction of 100,000 hours annually. However, the ITAR does provide for the maintenance of records for a period of five years. Therefore, persons newly relieved of the requirement to register with the Department may still be required to maintain records.

(8) Export Declaration of Defense Technical Data or Services, DS–4071, OMB No. 1405–0157. The Department estimates that there will be 2,000 fewer declaration submissions annually following full revision of the USML. This would result in a burden reduction of 1,000 hours annually.

List of Subjects in 22 CFR Part 121

Arms and munitions, Classified, Exports.

PART 121—THE UNITED STATES MUNITIONS LIST

■ 1. The authority citation for part 121 continues to read as follows:

Authority: Secs. 2, 38, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2797); 22 U.S.C. 2651a; Pub. L. 105–261, 112 Stat. 1920; Section 1261, Pub. L. 112–239; E.O. 13637, 78 FR 16129.

■ 2. Section 121 is amended:

■ a. In Category VIII by revising paragraph (h)(4) and removing and reserving paragraphs (h)(21) and (22);

■ b. By revising Category XI ; and

■ c. In Category XIX by removing and reserving paragraph (f)(7).

The revisions read as follows:

§ 121.1 General. The United States Munitions List.

* * * * *

Category VIII—Aircraft and Related Articles

* * * * *

(h) * * *

(4) Wing folding systems, and specially designed parts and components therefor, for:

(i) Aircraft powered by power plants controlled under USML Category IV(d); or,

(ii) Aircraft powered by gas turbine engines with any of the following characteristics:

(A) The portion of the wing outboard of the wing fold is required for sustained flight;

(B) Fuel can be stored outboard of the wing fold;

(C) Control surfaces are outboard of the wing fold;

(D) Hard points are outboard of the wing fold;

(E) Hard points inboard of the wing fold are capable of in-flight ejection; or

(F) The aircraft is designed to withstand maximum vertical maneuvering accelerations greater than +3.5g/ − 1.5g.

* * * * *

(21) [Reserved]

(22) [Reserved]

* * * * *

Category XI—Military Electronics

(a) Electronic equipment and systems not included in Category XII of the U.S. Munitions List, as follows:

*(1) Underwater hardware, equipment, or systems, as follows:

(i) Active or passive acoustic array sensing systems or acoustic array equipment capable of real-time processing that survey or detect, and also track, localize (*i.e.,* determine range and bearing), classify, or identify, surface vessels, submarines, other undersea vehicles, torpedoes, or mines, having any of the following:

(A) Multi-static capability;

(B) Operating frequency less than 20 kHz; or

(C) Operating bandwidth greater than 10 kHz;

(ii) Underwater single acoustic sensor system that distinguishes non-biologic tonals and locates the origin of the sound;

Note to paragraph(a)(1)(ii): The term tonals implies discrete frequencies in the broadband and narrowband spectra, emanating from man-made objects.

(iii) Non-acoustic systems that survey or detect, and also track, localize (*i.e.,* determine range and bearing), classify, or identify, surface vessels, submarines, other undersea vehicles, torpedoes, or mines;

(iv) Acoustic modems, networks, and communications equipment with real-time adaptive compensation or employing Low Probability of Intercept (LPI);

Note to paragraph (a)(1)(iv): Adaptive compensation is the capability of an underwater modem to assess the water conditions to select the best algorithm to receive and transmit data.

(v) Low Frequency/Very Low Frequency (LF/VLF) electronic modems, routers, interfaces, and communications equipment, specially designed for submarine communications; or

(vi) Autonomous systems and equipment that enable cooperative sensing and engagement by fixed (bottom mounted/seabed) or mobile Autonomous Underwater Vehicles (AUVs);

*(2) Underwater acoustic countermeasures or counter-countermeasures systems or equipment;

*(3) Radar systems and equipment, as follows:

(i) Airborne radar that maintains positional state of an object or objects of interest, other than weather phenomena, in a received radar signal through time;

(ii) Synthetic Aperture Radar (SAR) incorporating image resolution less than (better than) 0.3 m, or incorporating Coherent Change Detection (CCD) with geo-registration accuracy less than (better than) 0.3 m, not including concealed object detection equipment operating in the frequency range from 30 GHz to 3,000 GHz and having a spatial resolution of 0.5 milliradians up to and including 1 milliradians at a standoff distance of 100 m;

(iii) Inverse Synthetic Aperture Radar (ISAR);

(iv) Radar that geodetically-locates (*i.e.,* geodetic latitude, geodetic longitude, and geodetic height) with a target location error 50 (TLE50) less than or equal to 10 m at ranges greater than 1 km;

(v) Any Ocean Surveillance Radar with an average-power-aperture product of greater than 50 Wm^2;

(vi) Any ocean surveillance radar that transmits a waveform with an instantaneous bandwidth greater than 100 MHz and has an antenna rotation rate greater than 60 Revolutions-per-Minute (RPM);

(vii) Air surveillance radar with free space detection of 1 square meter RCS target at 85 nmi or greater range, scaled to RCS values as RCS to the ¼ power;

(viii) Air surveillance radar with free space detection of 1 square meter RCS target at an altitude of 65,000 feet and an elevation angle greater than 20 degrees (*i.e.,* counter-battery);

(ix) Air surveillance radar with multiple elevation beams, phase or

amplitude monopulse estimation, or 3D height-finding;

(x) Air surveillance radar with a beam solid angle less than or equal to 16 degrees^2 that performs free space tracking of 1 square meter RCS target at a range greater or equal to 25 nmi with revisit rate greater or equal to ⅓ Hz;

(xi) Instrumentation radar for anechoic test facility or outdoor range that maintains positional state of an object of interest in a received radar signal through time or provides measurement of RCS of a static target less than or equal to minus 10dBsm, or RCS of a dynamic target;

(xii) Radar incorporating pulsed operation with electronics steering of transmit beam in elevation and azimuth;

Note to paragraph (a)(3)(xii): This paragraph does not control radars not otherwise controlled in this subchapter, operating with a peak transmit power less than or equal to 250 watts, and employing a design determined to be subject to the EAR via a commodity jurisdiction determination (*see* § 120.4 of this subchapter).

(xiii) Radar with mode(s) for ballistic tracking or ballistic extrapolation to source of launch or impact point of articles controlled in USML Categories III or IV;

(xiv) Active protection radar and missile warning radar with mode(s) implemented for detection of incoming munitions;

(xv) Over the horizon high frequency sky-wave (ionosphere) radar;

(xvi) Radar that detects a moving object through a physical obstruction at distance greater than 0.2 m from the obstruction;

(xvii) Radar having moving target indicator (MTI) or pulse-Doppler processing where any single Doppler filter provides a normalized clutter attenuation of greater than 60dB;

Note to paragraph (a)(3)(xvii): ''Normalized clutter attenuation'' is defined as the reduction in the power level of received distributed clutter when normalized to the thermal noise level.

(xviii) Radar having electronic protection (EP) or electronic counter-countermeasures (ECCM) other than manual gain control, automatic gain control, radio frequency selection, constant false alarm rate, and pulse repetition interval jitter;

(xix) Radar employing electronic attack (EA) mode(s) using the radar transmitter and antenna;

(xx) Radar employing electronic support (ES) mode(s) (*i.e.,* the ability to use a radar system for ES purposes in one or more of the following: as a high-gain receiver, as a wide-bandwidth receiver, as a multi-beam receiver, or as part of a multi-point system);

(xxi) Radar employing non-cooperative target recognition (NCTR) (*i.e.,* the ability to recognize a specific platform type without cooperative action of the target platform);

Note to Paragraph (a)(3)(xxi): The definition of ''type'' in this paragraph is that provided in 14 CFR § 1.1.

(xxii) Radar employing automatic target recognition (ATR) (*i.e.,* recognition of target using structural features (*e.g.,* tank versus car) of the target with system resolution better than (less than) 0.3 m);

(xxiii) Radar that sends interceptor guidance commands or provides illumination keyed to an interceptor seeker;

(xxiv) Radar employing waveform generation for LPI other than frequency modulated continuous wave (FMCW) with linear ramp modulation;

(xxv) Radar that sends and receives communications;

(xxvi) Radar that tracks or discriminates ballistic missile warhead from debris or countermeasures;

(xxvii) Bi-static/multi-static radar that exploits greater than 125 kHz bandwidth and is lower than 2 GHz center frequency to passively detect or track using radio frequency (RF) transmissions (*e.g.,* commercial radio, television stations);

(xxviii) Radar target generators, projectors, or simulators, specially designed for radars controlled by this category; or

(xxix) Radar and laser radar systems specially designed for defense articles in paragraph (a)(1) of USML Category IV or paragraphs (a)(5), (a)(6), or (a)(13) of USML Category VIII (MT if specially designed for rockets, space launch vehicles, missiles, drones, or unmanned aerial vehicles capable of delivering a payload of at least 500 kg to a range of at least 300 km);

Note 1 to paragraph (a)(3)(xxix): Laser radar systems embody specialized transmission, scanning, receiving, and signal processing techniques for utilization of lasers for echo ranging, direction finding, and discrimination of targets by location, radial speed, and body reflection characteristics.

Note 2 to paragraph (a)(3)(xxix): For definition of ''range'' as it pertains to rocket systems, *see* note 1 to paragraph (a) of USML Category IV. ''Payload'' is the total mass that can be carried or delivered by the specified rocket, SLV, or missile that is not used to maintain flight.

Note to paragraph (a)(3): This paragraph does not control: (a) Systems or equipment that require aircraft transponders in order to meet control parameters; (b) precision approach radar (PAR) equipment conforming to ICAO standards and employing electronically steerable linear (1-dimensional) arrays or mechanically positioned passive antennas; and (c) radio altimeter equipment conforming to FAA TSO C87.

*(4) Electronic Combat (*i.e.,* Electronic Warfare) systems and equipment, as follows:

(i) Electronic Support (ES) systems and equipment that search for, intercept and identify, or locate sources of intentional or unintentional electromagnetic energy specially designed to provide immediate threat detection, recognition, targeting, planning, or conduct of future operations;

Note to paragraph (a)(4)(i): ES provides tactical situational awareness, automatic cueing, targeting, electronic order of battle planning, electronic intelligence (ELINT), communication intelligence (COMINT), or signals intelligence (SIGINT).

(ii) Systems and equipment that detect and automatically discriminate acoustic energy emanating from weapons fire (*e.g.,* gunfire, artillery, rocket propelled grenades, or other projectiles), determining location or direction of weapons fire in less than two seconds from receipt of event signal, and able to operate on-the-move (*e.g.,* operating on personnel, land vehicles, sea vessels, or aircraft while in motion); or

(iii) Systems and equipment specially designed to introduce extraneous or erroneous signals into radar, infrared based seekers, electro-optic based seekers, radio communication receivers, navigation receivers, or that otherwise hinder the reception, operation, or effectiveness of adversary electronics (*e.g.,* active or passive electronic attack, electronic countermeasure, electronic counter-countermeasure equipment, jamming, and counter jamming equipment);

*(5) Command, control, and communications (C3); command, control, communications, and computers (C4); command, control, communications, computers, intelligence, surveillance, and reconnaissance (C4ISR); and identification systems or equipment, that:

(i) Are specially designed to integrate, incorporate, network, or employ defense articles that are controlled in paragraphs or subparagraphs of the categories of § 121.1 of this part that do not use the term specially designed;

(ii) Incorporate U.S. government identification friend or foe (IFF) Modes 4 or 5;

(iii) Implement active or passive ECCM used to counter acts of communication disruption (*e.g.,* radios that incorporate HAVE QUICK I/II, SINCGARS, SATURN);

(iv) Specially designed, rated, certified, or otherwise specified or described to be in compliance with U.S. government NSTISSAM TEMPEST 1–92 standards or CNSSAM TEMPEST 01–02, to implement techniques to suppress compromising emanations of information bearing signals; or

(v) Transmit voice or data signals specially designed to elude electromagnetic detection;

(6) [Reserved]

(7) Developmental electronic equipment or systems funded by the Department of Defense via contract or other funding authorization;

Note 1 to paragraph (a)(7): This paragraph does not control electronic systems or equipment (a) in production, (b) determined to be subject to the EAR via a commodity jurisdiction determination (*see* § 120.4 of this subchapter), or (c) identified in the relevant Department of Defense contract or other funding authorization as being developed for both civil and military applications.

Note 2 to paragraph (a)(7): Note 1 does not apply to defense articles enumerated on the USML, whether in production or development.

Note 3 to paragraph (a)(7): This paragraph is applicable only to those contracts and funding authorizations that are dated July 1, 2015, or later.

(8) Unattended ground sensor (UGS) systems or equipment having all of the following:

(i) Automatic target detection;

(ii) Automatic target tracking, classification, recognition, or identification;

(iii) Self-forming or self-healing networks; and

(iv) Self-localization for geo-locating targets;

(9) Electronic sensor systems or equipment for non-acoustic antisubmarine warfare (ASW) or mine warfare (*e.g.,* magnetic anomaly detectors (MAD), electric-field, electromagnetic induction);

(10) Electronic sensor systems or equipment for detection of concealed weapons, having a standoff detection range of greater than 45 m for personnel or detection of vehicle-carried weapons, not including concealed object detection equipment operating in the frequency range from 30 GHz to 3,000 GHz and having a spatial resolution of 0.5 milliradians up to and including 1 milliradians at a standoff distance of 100 m;

(11) Test sets specially designed for testing defense articles controlled in paragraphs (a)(3), (a)(4), (a)(5), or (b); or

(12) Direction finding equipment for determining bearings to specific electromagnetic sources or terrain characteristics specially designed for defense articles in paragraph (a)(1) of USML Category IV or paragraphs (a)(5), (a)(6), or (a)(13) of USML Category VIII (MT if specially designed for rockets, SLVs, missiles, drones, or UAVs capable of delivering a payload of at least 500 kg to a range of at least 300 km. *See* note 2 to paragraph (a)(3)(xxix) of this category).

Note 1 to paragraph (a): The term ''Low Probability of Intercept'' used in this paragraph and elsewhere in this category is defined as a class of measures that disguise, delay, or prevent the interception of acoustic or electromagnetic signals. LPI techniques can involve permutations of power management, energy management, frequency variability, out-of-receiver-frequency band, low-side lobe antenna, complex waveforms, and complex scanning. LPI is also referred to as Low Probability of Intercept, Low Probability of Detection, and Low Probability of Identification.

Note 2 to paragraph (a): Paragraphs (a)(3)(xxix) and (a)(12) include terrain contour mapping equipment, scene mapping and correlation (both digital and analogue) equipment, Doppler navigation radar equipment, passive interferometer equipment, and imaging sensor equipment (both active and passive).

*(b) Electronic systems or equipment, not elsewhere enumerated in this sub-chapter, specially designed for intelligence purposes that collect, survey, monitor, or exploit the electromagnetic spectrum (regardless of transmission medium), or for counteracting such activities.

(c) Parts, components, accessories, attachments, and associated equipment, as follows:

(1) Application Specific Integrated Circuits (ASICs) and Programmable Logic Devices (PLD) programmed for defense articles in this subchapter;

Note 1 to paragraph (c)(1): An ASIC is an integrated circuit developed and produced for a specific application or function regardless of number of customers.

Note 2 to paragraph (c)(1): ASICs and PLDs programmed for 600 series items are controlled in ECCN 3A611.f.

Note 3 to paragraph (c)(1): Unprogrammed PLDs are not controlled by this paragraph.

(2) Printed Circuit Boards (PCBs) and populated circuit card assemblies for which the layout is specially designed for defense articles in this subchapter;

Note to paragraph (c)(2): PCBs and populated circuit card assemblies for which the layout is specially designed for 600 series items are controlled in ECCN 3A611.g.

(3) Multichip modules for which the pattern or layout is specially designed for defense articles in this subchapter;

Note to paragraph (c)(3): Multichip modules for which the pattern or layout is specially designed for 600 series items are controlled in ECCN 3A611.h.

(4) Transmit/receive modules or transmit modules that have any two perpendicular sides, with either length d (in cm) equal to or less than 15 divided by the lowest operating frequency in GHz [d≤15cm*GHz/fGHz], with an electronically variable phase shifter or phasers that are a Monolithic Microwave Integrated Circuit (MMIC), or incorporate a MMIC or discrete RF power transistor;

(5) High-energy storage capacitors with a repetition rate of 6 discharges or more per minute and full energy life greater than or equal to 10,000 discharges, at greater than 0.2 Amps per Joule peak current, that have any of the following:

(i) Volumetric energy density greater than or equal to 1.5 J/cc; or

(ii) Mass energy density greater than or equal to 1.3 kJ/kg;

(6) Radio frequency circulators of any dimension equal to or less than one quarter (¼) wavelength of the highest operating frequency and isolation greater than 30dB;

(7) Polarimeter that detects and measures polarization of radio frequency signals within a single pulse;

(8) Digital radio frequency memory (DRFM) with RF instantaneous input bandwidth greater than 400 MHz, and 4 bit or higher resolution whose output signal is a translation of the input signal (*e.g.* changes in magnitude, time, frequency) and 'specially designed' parts and components therefor;

(9) Vacuum electronic devices, as follows:

(i) Multiple electron beam or sheet electron beam devices rated for operation at frequencies of 16 GHz or above, and with a saturated power output greater than 10,000 W (70 dBm) or a maximum average power output greater than 3,000 W (65 dBm); or

(ii) Cross-field amplifiers with a gain of 15 dB to 17 dB or a duty factor greater than 5%;

(10) Antenna, and specially designed parts and components therefor, that:

(i) Employ four or more elements, electronically steer angular beams, independently steer angular nulls, create angular nulls with a null depth greater than 20 dB, and achieve a beam switching speed faster than 50 milliseconds;

(ii) Form adaptive null attenuation greater than 35 dB with convergence time less than 1 second;

(iii) Detect signals across multiple RF bands with matched left hand and right hand spiral antenna elements for determination of signal polarization; or

(iv) Determine signal angle of arrival less than two degrees (*e.g.,* interferometer antenna);

Note to paragraph (c)(10): This category does not control Traffic Collision Avoidance Systems (TCAS) equipment conforming to FAA TSO C–119c.

(11) Radomes or electromagnetic antenna windows that:

(i) Incorporate radio frequency selective surfaces;

(ii) Operate in multiple non-adjacent frequency bands for radar applications;

(iii) Incorporate a structure that is specially designed to provide ballistic protection from bullets, shrapnel, or blast;

(iv) Have a melting point greater than 1,300° C and maintain a dielectric constant less than 6 at temperatures greater than 500° C;

(v) Are manufactured from ceramic materials with a dielectric constant less than 6 at any frequency from 100 MHz to 100 GHz (MT if usable in rockets, SLVs, or missiles capable of achieving a range greater than or equal to 300 km; or if usable in drones or UAVs capable of delivering a payload of at least 500 kg to a range of at least 300 km. *See* note 2 to paragraph (a)(3)(xxix) of this category);

(vi) Maintain structural integrity at stagnation pressures greater than 6,000 pounds per square foot; or

(vii) Withstand combined thermal shock greater than 4.184×10^6 J/m^2 accompanied by a peak overpressure of greater than 50 kPa (MT if usable in rockets, SLVs, missiles, drones, or UAVs capable of delivering a payload of at least 500 kg to a range of at least 300 km and usable in protecting against nuclear effects (*e.g.,* Electromagnetic Pulse (EMP), X-rays, combined blast and thermal effects). *See* note 2 to paragraph (a)(3)(xxix) of this category);

(12) Underwater sensors (acoustic vector sensors, hydrophones, or transducers) or projectors, specially designed for systems controlled by paragraphs (a)(1) and (a)(2) of this category, having any of the following:

(i) A transmitting frequency below 10 kHz for sonar systems;

(ii) Sound pressure level exceeding 224 dB (reference 1 mPa at 1 m) for equipment with an operating frequency in the band from 10 kHz to 24 kHz inclusive;

(iii) Sound pressure level exceeding 235 dB (reference 1 mPa at 1 m) for equipment with an operating frequency in the band between 24 kHz and 30 kHz;

(iv) Forming beams of less than 1° on any axis and having an operating frequency of less than 100 kHz;

(v) Designed to operate with an unambiguous display range exceeding 5,120 m; or

(vi) Designed to withstand pressure during normal operation at depths exceeding 1,000 m and having transducers with any of the following:

(A) Dynamic compensation for pressure; or

(B) Incorporating other than lead zirconate titanate as the transduction element;

(13) Parts or components containing piezoelectric materials which are specially designed for underwater hardware, equipment, or systems controlled by paragraph (c)(12) of this category;

(14) Tuners specially designed for systems and equipment in paragraphs (a)(4) and (b) of this category;

(15) Electronic assemblies and components, capable of operation at temperatures in excess of 125° C and specially designed for UAVs or drones controlled by USML Category VIII, rockets, space launch vehicles (SLV), or missiles controlled by USML Category IV capable of achieving a range greater than or equal to 300 km (MT) (*see* Note 2 to paragraph (a)(3)(xxix) of this category);

(16) Hybrid (combined analogue/digital) computers specially designed for modeling, simulation, or design integration of systems enumerated in paragraphs (a)(1), (d)(1), (d)(2), (h)(1), (h)(2), (h)(4), (h)(8), and (h)(9) of USML Category IV or paragraphs (a)(5), (a)(6), or (a)(13) of USML Category VIII (MT if for rockets, SLVs, missiles, drones, or UAVs capable of delivering a payload of at least 500 kg to a range of at least 300 km or their subsystems. *See* note 2 to paragraph (a)(3)(xxix) of this category);

(17) Chaff and flare rounds specially designed for the systems and equipment described in paragraph (a)(4)(iii) of this category, and parts and components therefor containing materials controlled in USML Category V;

(18) Parts, components, or accessories specially designed for an information assurance/information security system or radio controlled in this subchapter that modify its published properties (*e.g.,* frequency range, algorithms, waveforms, CODECs, or modulation/demodulation schemes); or

* (19) Any part, component, accessory, attachment, equipment, or system that (MT for those articles designated as such):

(i) Is classified;

(ii) Contains classified software directly related to defense articles in this subchapter or 600 series items subject to the EAR; or

(iii) Is being developed using classified information (*see* § 120.10(a)(2) of this subchapter).

Note to paragraph (c)(19): ''Classified'' means classified pursuant to Executive Order 13526, or predecessor order, and a security classification guide developed pursuant thereto or equivalent, or to the corresponding classification rules of another government or international organization.

Note to paragraph (c)(19)(ii): Parts and components controlled by this paragraph are limited to those that store, process, or transmit classified software (*see* § 121.8(f) of this subchapter).

(d) Technical data (*see* § 120.10 of this subchapter) and defense services (*see* § 120.9 of this subchapter) directly related to the defense articles enumerated in paragraphs (a) through (c) of this category and classified technical data directly related to items controlled in CCL ECCNs 3A611, 3B611, 3C611, and 3D611 and defense services using the classified technical data. (*See* § 125.4 of this subchapter for exemptions.) (MT for technical data and defense services related to articles designated as such.)

(e)–(w) [Reserved];

(x) Commodities, software, and technology subject to the EAR (*see* § 120.42 of this subchapter) used in or with defense articles controlled in this category.

Note to paragraph (x): Use of this paragraph is limited to license applications for defense articles controlled in this category where the purchase documentation includes commodities, software, or technology subject to the EAR (*see* § 123.1(b) of this subchapter).

* * * * *

Category XIX—Gas Turbine Engines and Associated Equipment

* * * * *

(f) * * *

(7) [Reserved]

* * * * *

Rose E. Gottemoeller,

Under Secretary, Arms Control and International Security, Department of State.

[FR Doc. 2014–14681 Filed 6–30–14; 8:45 am]

BILLING CODE 4710–25–P

FEDERAL REGISTER

Vol. 79 Tuesday,

No. 126 July 1, 2014

Part VII

Department of Commerce

Bureau of Industry and Security

15 CFR Part 774

Civil Uses of Certain Microwave Monolithic Integrated Circuit (MMIC) Power Amplifiers, Discrete Microwave Transistors and Bi-Static and Multi-Static Radar; Proposed Rule; Revisions to the Export Administration Regulations (EAR): Control of Military Electronic Equipment and Other Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML); Final Rule

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 140611493–4493–01]

Civil Uses of Certain Microwave Monolithic Integrated Circuit (MMIC) Power Amplifiers, Discrete Microwave Transistors and Bi-Static and Multi-Static Radar

AGENCY: Bureau of Industry and Security, U.S. Department of Commerce.

ACTION: Notice of inquiry with request for comments.

SUMMARY: This notice of inquiry requests comments that cite specific examples of civil uses of certain MMIC power amplifiers and discrete microwave transistors, both of which operate at frequencies exceeding 2.7 GHz, and (3) bi-static/multi-static radar that exploits greater than 125 kHz bandwidth and is lower than 2 GHz center frequency to passively detect or track using radio frequency (RF) transmissions (*e.g.,* commercial radio or television stations). The Bureau of Industry and Security (BIS) is requesting this information because several comments on rules recently published by the Departments of State and Commerce made claims that civil applications for these types of commodities exist or soon will be developed. However, the commenters did not provide specific examples of such applications. BIS is seeking specific examples to assess whether it should propose to the Departments of State and Defense further amendments to the International Traffic in Arms Regulations (ITAR) and the Export Administration Regulations (EAR) as part of the Administration's Export Control Reform Initiative.

DATES: Comments should be received no later than September 2, 2014.

ADDRESSES: Comments may be submitted:

- Via the Federal eRulemaking Portal: *http://www.regulations.gov.* The identification number for this rulemaking is BIS–2012–0045.
- By email directly to *publiccomments@bis.doc.gov.* Include ''Military Electronics Notice of Inquiry'' in the subject line.
- By mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Refer to ''Military Electronics Notice of Inquiry.''

FOR FURTHER INFORMATION CONTACT: Brian Baker, Director, Electronics and Materials Division, Office of National Security and Technology Transfer Controls, (202) 482–5534, *brian.baker@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Industry and Security (BIS) publishes this notice of inquiry to request comments from the public on examples of civil uses of certain (1) MMIC power amplifiers and (2) discrete power transistors, both of which operate at frequencies exceeding 2.7 GHz, and (3) bi-static/multi-static radar that exploits greater than 125 kHz bandwidth and is lower than 2 GHz center frequency to passively detect or track using radio frequency (RF) transmissions (e.g., commercial radio or television stations). Simultaneously with the publication of this notice, the Department of State is publishing a final rule expressing Category XI of the United States Munition List (USML) in positive terms and removing from that category items the President determined no longer warrant control on the USML (herein the State final military electronics rule), and BIS is publishing a final rule adding those items to the Commerce Control List (herein the BIS final military electronics rule). Both rules are being published after review by the Departments of State, Defense and Commerce of public comments on the proposed rules. Some comments received in response to those rules suggested that certain commodities that were retained on the USML and other commodities that were added to a ''600 series'' Export Control Classification Number (ECCN) may have or soon will have substantial civil end uses. BIS is now seeking specific information about the uses of certain MMIC power amplifiers and discrete microwave transistors that would assist it in determining whether those devices would be appropriately controlled under a ''600 series'' or under a non-''600 series'' ECCN. The ''600 series'' ECCNs typically control items of a military nature whereas non-''600 series'' ECCNs typically control items that, although they often have military applications, also have substantial civil applications. BIS is also seeking specific information that would assist in determining whether control of certain bi-static and multi-static radar that passively detects or tracks objects using radio frequency (RF) transmissions (*e.g.,* commercial radio or television stations) would be appropriately controlled under the ITAR or under the EAR.

MMIC Amplifiers and Discrete Microwave Transistors

There are three rules, currently published or in development, that impact MMIC amplifiers and discrete microwave transistors: The rule implementing the decisions of the 2013 plenary meeting of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (herein the Wassenaar 2013 rule), the BIS final military electronics rule, and the State final military electronics rule. The Wassenaar 2013 rule, which is currently under development, is expected to publish and go into effect before the BIS final military electronics rule and the State final military electronics rule become effective. When both the Wassenaar 2013 rule and the BIS final military electronics rule are effective, BIS expects that no unclassified MMIC power amplifiers or discrete microwave transistors will be controlled under the USML. When all three rules are effective, BIS expects that all unclassified MMIC power amplifiers will be controlled under ECCN 3A611.c or ECCN 3A001.b.2 or will be designated EAR99. Discrete microwave transistors will be controlled under ECCN 3A611.d, 3A001.b.3, 3A001.h or EAR99.

Commenters on the proposed rule that led to the BIS military electronics final rule stated use of these amplifiers and transistors enable the production of devices with more power, greater efficiency and fewer parts, goals that are common to civil and military electronic device design. The commenters mentioned several actual or potential civil uses for the MMIC power amplifiers and discrete microwave transistors proposed for control in ECCN 3A611.c and .d. Those uses included: Wi Fi, Wi Max, point-to-point radios for cellular backhaul, commercial Ka-band used in commercial satellite-based wireless internet ground stations, V-Band radios used in small commercial cellular networks, and civil air traffic control systems. However, the commenters did not provide specific examples of such uses. Therefore, the final rule made only four very limited changes to proposed 3A611.c and .d as a result of the review of the public comments. Those changes were increases to the power added efficiency threshold for MMIC power amplifiers and discrete microwave transistors in the frequency ranges from greater than 2.7 GHz up to and including 2.9 GHz and greater than 2.9 GHz up to and including 3.2 GHz.

BIS is seeking information that would help answer whether any of the MMIC power amplifiers that will be controlled under ECCN 3A611.c and .d upon the effective date of the BIS final military electronics rule actually have sufficient civil applications that would justify controlling them under ECCN 3A001.b.2 and .b.3, as those paragraphs are expected to be revised by the Wassenaar 2013 rule, respectively. Specific information that identifies actual uses of the MMIC power amplifiers and discrete microwave transistors that were included in ECCN 3A611 in the BIS final military electronics rule is needed. To the extent feasible, the information should identify product names, models, quantity, and total value of the MMIC power amplifiers and discrete microwave transistors used in those products.

MMIC Power Amplifiers

When the Wassenaar 2013 rule and the BIS final military electronics rule are effective, BIS expects that the Commerce Control List (CCL) will control MMIC power amplifiers as described below.

ECCNs 3A001.b.2 and 3A611.c will each control MMICs that operate at frequencies exceeding 2.7 GHz.

ECCN 3A001.b.2 will control MMIC power amplifiers that operate in 12 frequency ranges. It applies the additional parameter of peak saturated power output and, in 10 of the operating frequency ranges, fractional bandwidth to identify the MMIC power amplifiers that it controls.

ECCN 3A611.c will distinguish the MMIC power amplifiers that it will control from those in the same operating frequency range that ECCN 3A001.b.2 will control by specifying a higher fractional bandwidth value, or a higher peak saturated power output value or both, or by specifying the same fractional bandwidth and peak saturated power output values but also specifying a specified power added efficiency value.

MMIC 3A001.b.2 and 3A611.c Comparison Table

The following table lists the control parameters for ECCNs 3A001.b.2 and 3A611.c. Note that the parameters for 3A001.b.2 are the parameters adopted by Wassenaar Arrangement 2013 plenary meeting for Dual-Use Category 3.A.1.b.2 (that is expected to be implemented in the forthcoming Wassenaar 2013 rule) and the parameters for 3A611.c are those set forth in the BIS final military electronics rule. The first column lists the operating frequency ranges. The second column lists the additional control parameters in each frequency range that will be listed in 3A001.b.2. The third column lists the additional control parameters in each frequency range that will be listed in 3A611.c. Within the third column, the parameters that will cause a MMIC power amplifier to be controlled under ECCN 3A611.c rather than 3A001.b.2 are in *italics.*

If a MMIC power amplifier operates at frequencies in more than one operating frequency range, the range with the lowest peak saturated power output applies.

A MMIC power amplifier is controlled under the applicable ECCN if it meets or exceeds the additional parameters anywhere within the specified operating frequency range. It need not meet those parameters throughout the entire operating frequency range.

Because of the EAR's CCL Order of Review (Supplement No. 4 to Part 774), a MMIC power amplifier that meets the additional parameters of both 3A611.c and 3A001.b.2 will be controlled by 3A611.c.

In the ''additional parameters'' columns, ''FB'' means ''fractional bandwidth;'' ''PSPO'' means ''peak saturated power output;'' and ''PAE'' means ''power added efficiency.''

Operating frequency range	3A001.b.2 Additional parameters (from forthcoming Wassenaar Arrangement 2013 rule)	3A611.c Additional Parameters (from BIS final military electronics rule)
>2.7 GHz & ≤2.9 GHz	FB >15% & PSPO >75W (48.75dBm).	FB >15% & PSPO >75W (48.75dBm) *& PAE ≥55% or FB >60% & PSPO >150W (51.8dBm).*
>2.9 GHz & ≤3.2 GHz	FB >15% & PSPO >55W (47.4dBm).	FB >15% & PSPO >55W (47.4dBm) *& PAE ≥55% or FB >55% & PSPO >110W (50.4dBm).*
>3.2 GHz & ≤3.7 GHz	FB >15% & PSPO >40W (46dBm)	FB >15% & PSPO >40W (46dBm) *& PAE ≥45% or FB >50% & PSPO >80W (49dBm).*
>3.7 GHz & ≤6.8 GHz	FB >15% & PSPO >20W (43dBm)	FB >15% & PSPO >20W (43dBm) *& PAE ≥40% or FB >45% & PSPO >40W (46dBm).*
>6.8 GHz & ≤8.5 GHz	FB >10% & PSPO >10W (40dBm)	FB >10% & PSPO >10W (40.0dBm) *& PAE ≥40% or FB >40% PSPO >20W (43dBm).*
>8.5 GHz & ≤16 GHz	FB >10% & PSPO >5W (37dBm)	FB >10% & PSPO >5W (37dBm) *& PAE ≥35% or FB >40% & PSPO >10W (40dBm).*
>16 GHz & ≤31.8 GHz	FB >10% & PSPO >3W (34.77dBm).	FB >10% & PSPO >3W (34.77dBm) *& PAE ≥20%.*
>31.8 GHz & ≤37 GHz	PSPO >0.1 nW (−70 dBm)	PSPO *>2W (33dBm*).
>37 GHz & ≤43.5 GHz	FB >10% & PSPO >1W (30 dBm)	FB >10% & PSPO >1W (30dBm) *& PAE ≥15%.*
>43.5 GHz & ≤75 GHz	FB >10% & PSPO >31.62 mW (15 dBm).	FB >10% & PSPO >31.62 mW (15dBm) *& PAE ≥10%.*
>75 GHz & ≤90 GHz	FB >5% & PSPO >10mW (10 dBm).	FB >5% & PSPO >10mW (10dBm) *& PAE ≥10%.*
>90 GHz	PSPO >0.1nW (−70 dBm)	If operating frequency range is >90 GHz & ≤110 GHz. *PSPO >1.0mW (0dBm).* If operating frequency range is >110 GHz. *PSPO >100 nW (−40dBm).*

Discrete Microwave Transistors

When the Wassenaar 2103 rule and the BIS final military electronics rules are effective, BIS expects that the CCL will control discrete microwave transistors as described below.

ECCN 3A001.b.3 will divide the discrete microwave transistors into 11 operating frequency ranges and will use the additional control parameter of peak saturated power output to identify the discrete microwave transistors that it controls.

ECCN 3A611.d will distinguish the discrete microwave transistors that it controls from those in the same frequency range that are controlled by

ECCN 3A001.b.3 by specifying a higher value for peak saturated power output, or by specifying a value for power added efficiency or both.

Discrete Microwave Transistor ECCN 3A001.b.3 and 3A611.d Comparison Table

The following table lists the control parameters for ECCNs 3A001.b.3 and 3A611.d. Note that the parameters for 3A001.b.3 are the parameters adopted by the Wassenaar Arrangement 2013 plenary meeting for Dual-Use Category 3.A.1.b.3 (that will be implemented in the forthcoming Wassenaar 2103 rule) and the parameters for 3A611.d are those set forth in the BIS final military electronics rule. The first column lists the operating frequency ranges. The second column lists the additional control parameters in each frequency range listed in 3A001.b.3. The third column lists the additional control parameters in each frequency range listed in 3A611.d. Within the third column, the parameters that cause a discrete microwave transistor to be controlled under ECCN 3A611.d rather than 3A001.b.3 are in *italics.*

If a discrete microwave transistor operates at frequencies in more than one operating frequency range, the range with the lowest peak saturated power output applies. A discrete microwave transistor is controlled under the applicable ECCN if it meets or exceeds the additional parameters anywhere within the specified operating frequency range. It need not meet those parameters throughout the entire operating frequency range.

Because of the EAR's CCL Order of Review (Supplement No. 4 to Part 774), a discrete microwave transistor that meets the additional parameters of both 3A611.d and 3A001.b.3 is controlled by 3A611.d.

In the ''additional parameters'' columns, ''FB'' means ''fractional bandwidth;'' ''PSPO'' means ''peak saturated power output;'' and ''PAE'' means ''power added efficiency.''

Operating frequency range	3A001.b.3 Additional parameters (from forthcoming Wassenaar Arrangement 2013 rule)	3A611.d Additional parameters (from BIS final military electronics rule)
>2.7 GHz & ≤2.9 GHz	PSPO >400W (56dBm)	PSPO >400W (56dBm) *& PAE ≥60%.*
>2.9 GHz & ≤3.2 GHz	PSPO >205W (53.12 dBm)	PSPO >205W (53.12dBm) *& PAE ≥60%.*
>3.2 GHz & ≤3.7 GHz	PSPO >115W (50.61dBm)	PSPO >115W (50.61dBm) *& PAE ≥45%.*
>3.7 GHz & ≤6.8 GHz	PSPO >60W (47.78dBm)	PSPO >60W (47.78dBm) *& PAE ≥45%.*
>6.8 GHz & ≤8.5 GHz	PSPO >50W (47dBm)	PSPO >50W (47dBm) *& PAE ≥50%.*
>8.5 GHz & ≤12 GHz	PSPO >15W (41.76dBm)	*PSPO >20W (43dBm) & PAE ≥35%.*
>12 GHz & ≤16 GHz	PSPO >40W (46dBm)	PSPO >40W(46dBm) *& PAE ≥35%.*
>16 GHz & ≤31.8 GHz	PSPO >7W (38.45dBm)	*PSPO >20W (43dBm) & PAE ≥30%.*
>31.8 GHz & ≤37 GHz	PSPO >0.5W (27dBm)	*PSPO >2W (33dBm).*
>37 GHz & ≤43.5 GHz	PSPO >1W (30dBm).	PSPO >1W (30dBm) & *PAE ≥20%.*
>43.5 GHz	PSPO >0.1nW (−70dBm).	If operating frequency range is >43.5 GHz & ≤75 GHz *PSPO >0.5W (27 dBm) & PAE ≥15%* If operating frequency range is >75 GHz *PSPO >0.1W (20dBm).*

Bi-Static and Multi-Static Radar

When the rule becomes effective, the State final military electronics rule will control in USML Category XI(a)(3)(xxvii) bi-static and multi-static radar that exploits greater than 125 kHz bandwidth and is lower than 2 GHz center frequency to passively detect or track using radio frequency (RF) transmissions (*e.g.,* commercial radio or television stations). Commenters on the proposed rule leading to the State final military electronics rule expressed concern over this text, asserting that bi-static radar that would meet this control parameter is currently being developed as part of an initiative to develop capabilities to improve flight safety in the vicinity of UAV operations and airports not controlled by traditional air traffic management. The comments asserted that bi-static radar will be used as an airborne collision avoidance system for civil UAVs and for possible application to general aviation aircraft. The comments also asserted that essentially the same system as those proposed to be controlled by paragraph Category XI(a)(3)(xxvii) can be installed at ground based locations to provide air traffic information regarding aircraft not equipped with transponders to aircraft operating around uncontrolled airports. However, the commenters did not provide specific examples of such uses.

BIS would like to verify whether the bi-static/multi-static radar described above is in fact in use in civil air traffic control, collision avoidance or weather radar in sufficient quantities to justify moving such radar to the CCL. Specific information that identifies actual uses of the bi-static/multi-static radar enumerated in USML Category XI(a)(3)(xxvii) is needed. To the extent feasible, the information should identify product names, models, quantity and value of the bi-static and multi-static radar used in those products.

Request for comments

BIS is seeking specific examples of actual civil use of the MMIC power amplifiers, discrete microwave transistors, and bi-static or multi-static radar as described above. As stated under the **DATES** caption to this notice, comments should be received no later than September 2, 2014.

Dated: June 19, 2014.

Kevin J. Wolf,

Assistant Secretary for Export Administration.

[FR Doc. 2014–14682 Filed 6–30–14; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 774

[Docket No. 120330233–4307–03]

RIN 0694–AF64

Revisions to the Export Administration Regulations (EAR): Control of Military Electronic Equipment and Other Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML)

AGENCY: Bureau of Industry and Security, Department of Commerce.

ACTION: Final rule.

SUMMARY: This final rule adds to the Commerce Control List military electronics, technology and software for certain wing folding systems, certain superconducting and cryogenic equipment, and related items the President determines no longer warrant control under the United States Munitions List (USML). This also amends ECCNs 7A006 and 7A106 to apply the ''missile technology'' reason for control only to items in those ECCNs on the Missile Technology Control Regime (MTCR) Annex. This rule is being published simultaneously with a Department of State rule that amends the list of articles controlled by USML Category XI to control only those articles the President has determined warrant control in that category of the USML. Both rules are part of the President's Export Control Reform Initiative. The revisions in this rule also are part of the Department of Commerce's retrospective plan under EO 13563 completed in August 2011.

DATES: Effective dates—This rule is effective December 30, 2014, except for the addition of software and technology for certain wing folding systems to ECCNs 0D521 and 0E521 via Supplement No. 5 to part 774 of the EAR (amendatory instruction number 24), which is effective July 1, 2014.

ADDRESSES: The Department of Commerce's full retrospective regulatory review plan can be accessed at: *http://open.commerce.gov/news/2011/08/23/commerce-plan-retrospective-analysis-existing-rules.*

FOR FURTHER INFORMATION CONTACT: Brian Baker, Director, Electronics and Materials Division, Office of National Security and Technology Transfer Controls, (202) 482–5534, *brian.baker@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Export Control Reform Initiative

This final rule is part of the Administration's Export Control Reform Initiative, the objective of which is to protect and enhance U.S. national security interests. The Initiative began in August 2009 when President Obama directed the Administration to conduct a broad-based review of the U.S. export control system to identify additional ways to enhance national security. In April 2010, then-Secretary of Defense Robert M. Gates, describing the initial results of that effort, explained that fundamental reform of the U.S. export control system is necessary to enhance national security. Once the Department of State's International Traffic in Arms Regulations (ITAR) and its U.S. Munitions List (USML) are amended so that they control only the items that provide the United States with a critical military or intelligence advantage or otherwise warrant such controls, and the Export Administration Regulations (EAR) are amended to control military items that do not warrant USML controls, the U.S. export control system will enhance national security by (i) improving interoperability of U.S. military forces with allied countries, (ii) strengthening the U.S. industrial base by, among other things, reducing incentives for foreign manufacturers to design out and avoid U.S.-origin content and services, and (iii) allowing export control officials to focus government resources on transactions that pose greater concern.

The changes described in this rule and the State Department's rule amending USML Category XI are based on a review of that category by the Defense Department, which worked with the Departments of State and Commerce in preparing the amendments. The review was focused on identifying the types of articles that are now controlled by the USML that either (i) are inherently military and otherwise warrant control on the USML, or (ii) if of a type common to civil applications, possess parameters or characteristics that provide a critical military or intelligence advantage to the United States and that are almost exclusively available from the United States. If an article was found to satisfy either or both of those criteria, the article remains on the USML. If an article was found not to satisfy either criterion, but is nonetheless a type of article that is ''specially designed'' for military applications, then, generally, it is identified in one of the new ''600 series'' ECCNs created by this rule.

Section 38(f) of the Arms Export Control Act (AECA) obligates the President to review the USML ''to determine what items, if any, no longer warrant export controls under'' the AECA. The President must report the results of the review to the Congress and wait 30 days before removing any such items from the USML. The report must ''describe the nature of any controls to be imposed on that item under any other provision of law.'' 22 U.S.C. § 2778(f)(1). The Department of State has delivered the required report to the Congress.

The Proposed Rules

This final rule is the successor to two proposed rules, both entitled Revisions to the Export Administration Regulations (EAR): Control of Military Electronic Equipment and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML). The first proposed rule (herein the November 28 (military electronics) rule) published in the **Federal Register** on November 28, 2012 (77 FR 70945). The second proposed rule (herein the July 25 (military electronics) rule) was based on a review of the public comments to the first proposed rule and published on July 25, 2013 (78 FR 45026). Simultaneously, the Department of State published two proposed rules on November 28, 2012 (77 FR 70945) (herein the State November 28 (military electronics) rule) and on July 25, 2013 (78 FR 45018) (herein the State July 25 (military electronics) rule). This final rule is based on an evaluation of those comments by the Departments of Defense, State and Commerce with additional input from other Departments on various portions of the rules.

In addition, this rule adds provisions controlling development software and technology for certain wing folding systems to the EAR. These provisions are related to prior proposed rules of the Departments of State and Commerce: ''Amendments to the International Traffic in Arms Regulations: Revisions of U.S. Munitions List Category VIII,'' November 7, 2011 (76 FR 68694) (herein the State November 7 (aircraft) rule) and ''Revisions to the Export Administration Regulations (EAR): Control of Aircraft and Related Items the President Determines No Longer Warrant Control Under the United States Munitions List (USML),'' November 7, 2011 (76 FR 68675) (herein the November 7 (aircraft) rule). Upon review of the current state of development of such software and technology, the Department of Commerce, with the concurrence of the

Departments of Defense and State, concluded that they should be controlled for export under the EAR rather than the ITAR. This is because these items do not provide a critical military or intelligence advantage to the United States or otherwise warrant ITAR controls but they should be controlled because they provide at least a significant military or intelligence advantage to the United States or foreign policy reasons.

Overview of This Rule

This rule adds to the EAR's CCL certain military electronic equipment and related articles now controlled by the ITAR's USML Category XI and certain cryogenic and superconductive equipment that are now controlled by ''catch all'' provisions of the ITAR's USML Categories VI, VII, VIII, and XV. This rule also corrects two ECCNs in CCL Category 7 to apply the ''missile technology'' reason for control only to items that are on the Missile Technology Control Regime (MTCR) Annex. Finally, this rule controls under ECCNs 0D521 and 0E521 software and technology for the ''development'' of certain wing folding systems for aircraft powered by gas turbine engines while the United States seeks to have such software and technology added to the Dual-Use List of the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies (Wassenaar Arrangement).

This rule also adopts the changes to the structure of the ECCNs and the elimination of the ''Units'' paragraphs from the ECCNs as set forth in the rule entitled ''Revisions to the Export Administration Regulations (EAR) To Make the Commerce Control List (CCL) Clearer'' published in the **Federal Register** on October 4, 2013 (78 FR 61874).

Alignment With the Wassenaar Arrangement Munitions List

The Administration has stated since the beginning of the Export Control Reform Initiative that the reforms are consistent with the obligations of the United States to the multilateral export control regimes. Accordingly, the Administration, in this and subsequent rules, exercises its national discretion to implement, clarify, and, to the extent feasible, align its control text with those of the regimes. This rule maintains the alignment that exists between the USML, in which military electronics are controlled under Category XI, and the Wassenaar Arrangement Munitions List (herein WAML), in which military electronic equipment is controlled under WAML category ML11, and by ECCN 3A611 by this rule. Similarly, 3B611 aligns with WAML category ML18, which, *inter alia,* controls ''specially designed or modified 'production' equipment for the 'production' of products specified by the Munitions List, and ''specially designed'' components therefor.''

This rule aligns cryogenic and superconducting equipment currently controlled in Categories VI, VII, VIII, and XV of the USML with WAML category ML20 by controlling them under ECCN 9A620. As with other ''600 series'' ECCNs, this rule follows the existing CCL numbering pattern for test, inspection and production equipment (3B611 and 9B620), software (3D611 and 9D620) and technology (3E611 and 9E620), rather than strictly following the Wassenaar Arrangement Munitions List pattern of placing production equipment, software and technology for munitions list items in WAML categories ML18, ML21 and ML22, respectively. BIS believes that including the ECCNs for test, inspection and production equipment, software, and technology in the same category as the items to which they relate results in an easier to understand CCL than would separate categories.

Public Comments on the July 25 (Military Electronics) Rule and BIS Responses

Comments Concerning Manner of Listing Items Controlled Only for Antiterrorism and China Military End-Use Reasons

Previous rules creating new ''600 series'' ECCNs have included paragraphs in some of those ECCNs, designated as .y paragraphs, which list items that require a license only if going to countries that have been designated as State Sponsors of Terrorism or to the People's Republic of China. In the preamble to the July 25 (military electronics) rule, BIS announced that it was considering four options to address items of limited military significance for which a license is required only if destined for a terrorist supporting destination or the People's Republic of China. Those options are: (1) Creating separate ECCN-specific .y paragraphs; (2) creating a single list of ''600 series'' items subject only to antiterrorism and China military end-use license requirements; (3) establishing a classification request procedure whereby a ''600 series'' item could be designated as subject to only antiterrorism and China military end-use license requirements, but eliminating the .y listings from the regulations; or (4) removing all .y lists completely. BIS invited comments on these four options.

Comment 1

Comments were divided between options 1 and 2—the options that result in more complex, detailed, and tailored ECCNs. No commenter supported options 3 or 4—the options that would have resulted in significantly shorter and simpler ECCNs. One commenter stated of the four listed options, it favored number 2, but also proposed combining options 1 and 2 to form a fifth option. Under that fifth option, BIS would compile a single .y list composed of basic hardware that is common to many ECCNs and also would list .y items that are specific to particular ECCNs in .y paragraphs within those ECCNs.

Response 1

BIS has decided to accept the commenters' requests for a more complex, tailored regulatory structure by creating a type of a single .y list so that less significant controls are imposed on the less significant items listed. In addition, BIS believes that most of the items that would be appropriate for .y treatment are electronic in nature. Therefore, rather than create a new ECCN to cover such items, this final rule revises the .y paragraph in ECCN 3A611 to include parts, components, accessories and attachments that are eligible for .y treatment regardless of the ECCN of the ''600 series'' item that they are used in or with. Thus, BIS has revised the heading of paragraph .y to apply to ''Specific ''parts,'' ''components,'' ''accessories'' and ''attachments'' ''specially designed'' for a commodity subject to control in a ''600 series'' ECCN and not elsewhere specified in *any* ''600 series'' ECCN . . . .'' This revision combines the benefits of options 1 and 2. BIS did not adopt option 3 because it would create a time consuming process and, although it would tailor .y classification decisions closely to the characteristics of individual items, it would not provide public notice of its results. BIS did not adopt option 4 because doing so would impose license requirements that apply to more destinations and licensing policies that are more restrictive than are warranted for the items that have been selected for .y treatment.

Comments Proposing Additional Items .y Paragraphs

Comment 2

Commenters suggested over 100 items that they believed should be included in .y paragraphs (or excluded from the

definition of ''specially designed''). The commenters favored, in descending order of preference: exclusion from the definition of ''specially designed,'' then inclusion on a universal .y list, and finally inclusion in ECCN 3A611.y. One commenter included in its list some items that were already in ECCN 3A611.y or were already excluded from the definition of specially designed.

Response 2

Technical experts from the Department of Defense reviewed the items suggested by the commenters. On the basis of that review, this final rule includes 37 commodities in ECCN 3A611.y, but also gives that paragraph the status of a universal .y list—*i.e.,* the 3A611.y commodities are those ''specially designed'' for *any* ''600 series'' item or defense article on the USML, not just those ''specially designed'' for 3A611 items or USML Category XI defense articles. Export license requirements allow the United States Government to see the pattern of usage of military equipment. The knowledge of usage patterns of even parts and components that are relatively unsophisticated or that do not directly contribute to the military functions of a ''600 series'' commodity can provide valuable insights into military capabilities and activities of other nations. Therefore, the .y classification must be limited to those parts, components, accessories and attachments for which knowledge of usage patterns are unlikely to provide such insights. Based on the technical experts' review, this final rule removes 11 paragraphs that were included in the July 25 (military electronics) rule because the commodities they listed were redundant or problematic from a nomenclature standpoint. Those 11 commodities are: (1) Electric couplings; (2) cathode ray tubes; (3) rotron fans; (4) electric fuses other than those ''specially designed'' for explosive detonation; (5) grid vacuum tubes; (6) audio headphones, earphones, handsets, and headsets; (7) intercom systems; (8) loudspeakers; (9) electric switches other than RF, pressure, diplexer, duplexer, circulator or isolator switches; (10) vacuum tubes other than TWTs, klystron tubes, or tubes ''specially designed'' for articles enumerated in USML Category XII; and (11) waveguides. This final rule adds 22 paragraphs for a total of 35.

Comment 3

In commenting on the items to be included in the .y paragraphs, one commenter suggested that certain items should be excluded from the specially designed definition based on paragraph (b)(2) of that definition. Those items are not expressly mentioned in paragraph (b)(2) but the commenter implied that they are included within the scope of the items that are expressly mentioned. Spacers, fasteners and grommets are expressly mentioned in paragraph (b)(2). This commenter listed circuit board and enclosure hardware and standoffs as examples of spacers. It listed ''rods, thumbscrews, standoffs, and turnbuckles, etc.'' as examples of fasteners. It listed grommet strips as grommets.

Response 3

The July 25 (military electronics) rule did not propose changes to nor did it request comments on paragraph (b)(2) of ''specially designed.'' As with all provisions of the EAR, BIS is reviewing ways to make them current and directly relevant to the objectives of the EAR. Thus, BIS will consider at another time whether paragraph (b)(2) warrants revision. BIS reminds the commenter that § 748.3(e) invites the submissions of classification requests for consideration by the Departments of Defense, State, and Commerce regarding whether, under paragraph (b)(1) of ''specially designed,'' extraordinarily insignificant items not listed in paragraph (b)(2) warrant treatment as ''specially designed'' items.

Comments Concerning Whether To Move Certain ''600 Series'' Electronic Items From CCL Category 3 to CCL Categories Containing Similar Non-''600 Series'' Items

The July 25 (military electronics) rule included radars, acoustic systems, computers, telecommunications equipment, and navigation and avionics equipment ''specially designed'' for a military use in a single CCL category (Category 3—Electronics). Doing so is consistent with the USML, which also covers such commodities in a single category (Category XI—Military Electronics). However, the CCL divides those same types of items not ''specially designed'' for a military use into four categories. Computers are in Category 4—Computers. Telecommunication equipment is in Category 5, Part 1—Telecommunications. Radars and acoustic systems are in Category 6—Sensors and Lasers. Navigation and avionics equipment are in Category 7—Navigation and Avionics. The July 25 (military electronics) rule proposed to place in Categories 4, 5, 6 and 7 ECCNs that contain no substantive text but merely advised readers that proposed ECCN 3A611 in Category 3 controlled radars, acoustic systems, computers and telecommunications equipment ''specially designed'' for a military use. The rule invited comment on which approach to take, 1) the July 25 (military electronics) rule approach of placing the items in a single category with cross references or 2) placing each type of item in the category that includes similar items that already are on the CCL.

Comment 4

Comments were divided on this topic. Two reasons were provided in support of placing these ''600 series'' items in the categories that control similar items currently on the CCL. First, having similar items (*e.g.,* military radar and civil radar) in different categories is likely to lead to confusion and misclassification or even incorrect ECCNs on licenses. Second, moving military computers, telecommunications devices and radars to separate categories that are aligned with the current CCL is likely to be necessary as the government moves towards its stated goal of a single control list for both military and commercial items.

Four reasons were provided in support of placing these ''600 series'' items in a single CCL category. (1) Such placement would better align such items with the order of review (Supplement No. 4 to Part 774 of the EAR). (2) The Department of State Export Control Reform rules tend to classify components according to the end item for which they are designed. (3) The items in CCL Category 3 in the proposed rule often are installed into other items. (4) The existing CCL approach, which follows the pattern of the Wassenaar Arrangement Dual Use List (although the lack of a definition for ''avionics'' sometimes causes uncertainty as to whether a component in CCL Category 7 or Category 9).

One commenter also noted that BIS does not appear to have contemplated creating specialized electronics ECCNs related to end items (*e.g.,* 0Y611 for vehicle electronics or 8Y611 for surface vessel and submersible electronics).

Response 4

On balance, BIS has concluded that the approach proposed in the July 25 (military electronics) rule is the better of the two. The alternative would have resulted in the creation of 20 new ECCNs with no change in the scope of controls. Accordingly, this final rule makes no changes to the July 25 (military electronics) rule on this point. As noted above, commenters made valid points for both approaches. However, BIS has concluded that attempting to spread the contents of proposed ECCN

3A611 over five CCL categories (one each for radar, acoustic sensors, telecommunications equipment, computers and electronic parts and component that are common to multiple categories) would unnecessarily complicate and lengthen the EAR.

As noticed by one commenter, BIS did not propose creating new ECCNs in categories 0 and 8 for electronic items that are specially designed for ground vehicles, surface vessels and submersibles. BIS believes that such ECCNs are not necessary because as noted in the related controls paragraph of ECCN 3A611 in the July 25 (military electronics) rule and in this final rule ''Electronic items 'specially designed' for military application that are not controlled in any USML category but are within the scope of another '600 series' ECCN are controlled by that '600 series' ECCN.'' This sentence would resolve any ambiguity concerning whether a particular device is to be treated as a specially designed part of a land vehicle, surface vessel or submersible vessel or as a military electronic item controlled under 3A611.

Three of the four types of items about which BIS sought comments on possible movement from CCL Category 3 to CCL categories containing similar non-''600 series'' are computers, telecommunication, and radar. Each of these three was expressly mentioned in ECCN 3A611 in the July 25 (military electronics) rule and each is expressly mentioned in a category other than Category 3 on the CCL. The fourth, avionics, was added to the proposal in response to a comment on the November 28 (military electronics) rule. Land vehicles, surface vessels and submersible vessels are not expressly mentioned in ECCN 3A611 and were not suggested by any commenters. Therefore, less likelihood of confusion existed in the case of these items than in the case of the items about which BIS sought comments on this topic.

Comments Concerning Defining Elements Used in ''600 Series'' Software and Technology ECCNs

Comment 5

Two commenters objected to the use of the word ''or'' in software and technology ''600 series'' ECCNs, which apply, respectively, to software for the ''development,'' ''production,'' operation *or* maintenance of specified items and to technology for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul *or* refurbishing of specified items. The commenters noted that BIS interprets the elements of ''use'' software and technology elsewhere in the EAR as operation, installation, maintenance, repair, overhaul *and* refurbishing.'' The commenters stated that use of the disjunctive in the ''600 series'' ECCNs would force academic institutions to screen foreign students and visitors before even showing them how to operate ''600 series'' or other ECCN equipment. The commenters expressed the opinion that such screening would require expensive, complex security programs with no clear national security benefit.

One commenter noted that in response to similar comments in other rules creating ''600 series'' ECCNs, BIS stated that''[n]early all the software and technology in existing and proposed ''600 series'' ECCNs comes from USML categories. One goal of the U.S. government in the Export Control Reform Initiative is not to decontrol completely and inadvertently items the President determines no longer warrant control on the USML.'' The commenter noted that ''BIS believes the 'or' formulation achieves this objective.'' The commenter found this reason ''unpersuasive'' because ''[i]t essentially states that even though the items are being transferred to the CCL they still will be subject to USML type controls. In our opinion, this contradicts the objectives of the Export Control Reform Initiative to create 'bright lines' between the two control lists. We worry that by creating inconsistencies within the EAR this will lead to confusion and misunderstanding. Moreover, this outcome appears inconsistent with the goal of the Export Control Reform Initiative to reduce unnecessary and burdensome controls and to allow the government and regulated community to focus resources on transactions that pose the greatest concern.''

Response 5

BIS continues to believe in identifying in the new software and technology controls the types of software and technology that warrant control. The controls are not increasing or decreasing the scope of what is controlled under the ITAR's definition of ''technical data.'' (See 22 CFR § 120.10). Thus, BIS is not increasing the regulatory compliance burden with respect to such technology. To the contrary, it is reducing the regulatory compliance burden with respect to such software and technology to the extent their release would be within the scope of one of the license exceptions (such as License Exception STA) that is available in the EAR but not in the ITAR.

The commenters' proposal would result in a significant decontrol of technology that is now ITAR controlled, which is not the objective of the reform effort or this final rule. BIS recognizes that it is treating software and technology for ''600 series'' items more strictly than software and technology for similar dual-use items. However, this stricter treatment is warranted because of the military nature of the ''600 series'' items to which the software and technology relate.

BIS also recognizes that its decision requires academic institutions to be aware of the nationalities of students and researchers for whom they provide instruction on how to operate these items that are ''specially designed'' for military applications and, in some instances, obtain authorization before providing such instruction even if the recipient of the instruction uses the item for a civil or commercial purpose. Again, BIS believes that this requirement is justified by the military nature of the items enumerated in the ''600 series'' ECCNs. Moreover, these requirements are no stricter or more burdensome than the requirements currently imposed for these items by the ITAR.

Recommendations for Removal of Certain EAR Provisions as Erroneous or Obsolete

Comment 6

One commenter recommended removing text describing certain helix tubes, microwave solid state amplifiers and traveling wave tube amplifiers from the related control notes ECCNs 3A001, 3D001, and 3E001 that direct the reader to regulations of the Department of State, Directorate of Defense Trade Controls (DDTC). This same commenter recommended removing similar references to technology for certain electron vacuum tubes from the related control notes of ECCN 3E003. The commenter recommended these changes because under proposed rules published by the Department of State these items would not be ''positively controlled under Category XI or XV of the USML.''

Response 6

BIS agrees with the commenter's assessment and concludes that changes made to USML Category XV by the rule entitled ''Amendments to the International Traffic in Arms Regulations: Revision of U.S. Munitions List Category XV (79 FR 27180, May 13, 2014) and by the revisions to USML Category XI being published simultaneously with this rule make obsolete all of the references in the ''Related Controls'' paragraphs of ECCNs 3A001 and 3D001, all of the references

in the ''Related Controls'' paragraph of ECCN 3E001 except those to ECCN 3E101 and 3E201 and all of the references in the ''Related Controls'' paragraph of 3E003 except that to 3E001. Accordingly, this final rule revises ''Related Controls'' paragraphs in ECCNs 3A001, 3D001, 3E001 and 3E003 to remove the obsolete references. This rule also adds general references to USML Categories XI and XV and ECCNs 9A515 and 3A611 to the related controls paragraph of ECCN 3A001.

Comments Concerning ECCN 3A611, in General

Comment 7

One commenter recommended adding the phrase ''not enumerated in either a USML category or another ECCN'' to the heading of ECCN 3A611 and removing similar text from paragraph .a of that ECCN. The commenter said that the statement applies to the entire ECCN not just paragraph .a.

Response 7

BIS is making no changes to the rule in response to this comment. As noted in Supplement No. 4 to Part 774 of the EAR—the Commerce Control List Order of Review, the USML takes precedence over the CCL. That precedence applies to all ECCNs, and BIS believes that it is not necessary to reiterate this concept in the heading of the ''600 series'' ECCNs.

Comment 8

One commenter recommended that in the ''Reasons for Control,'' the phrase ''NS applies to entire entry except 3A611.y'' be revised to read ''NS applies to entire entry except 3x611.y or other portions of 3x611 not controlled by Wassenaar Munitions List or Wassenaar Dual-Use List'' to comply with Section 5(c)(6) of the Export Administration Act, which prescribes certain limits on unilateral national security export controls, and that such unilateral controls should be identified on the CCL. This commenter also recommended that the missile technology (MT) reason for control be added to ECCN 3A611 with the phrase ''MT applies to portion of 3x611 controlled by MTCR—MT Column 1'' because items covered on the Missile Technology Control Regime (MTCR) Annex (the basis for imposing the MT reason for control in the EAR) should be identified. The commenter indicated that his reasoning for this proposal was that it might not be possible to identify all items in 3A611 that are covered on the MTCR Annex at this time because continuing transfers ''make this a moving target,'' suggesting that once the Export Control Reform Initiative was complete a comprehensive review would be in order.

Response 8

BIS is making no changes to the rule in response to this comment. BIS believes that all of the items covered by ECCN 3A611 (including those listed in 3A611.y) and all of the items covered by ECCNs 3B611, 3D611 and 3E611 are within the scope of the Wassenaar Arrangement Munitions List. BIS also believes that none of the items in ECCN 3A611 as published in this final rule are listed on the MTCR Annex.

Comment 9

One commenter recommended removing related controls (1), (2), (4) and (5), which identify items that are subject to the ITAR, from the ''Related Controls'' paragraph of ECCN 3A611 because the ''ITAR, rather than the EAR, should define what is controlled on the ITAR.'' The commenter stated specifically that part (1) is redundant, especially if the commenter's recommendation to put ''not enumerated in . . . a USML category'' in the heading of 3A611 is accepted. The commenter recommended that if ''Part (2)'' is retained, it should be revised to change ''defense articles'' to ''a characteristic in the text of a U.S. Munitions List description of a defense article.'' Without that change, the commenter asserted the specific application could concern a trivial functionality having no connection to the reason for the control of the defense article. Parts (4) and (5), if retained, should similarly be revised to change ''is 'specially designed' for defense articles'' to ''furthers a characteristic in the text of a U.S. Munitions List description of a defense article.''

Response 9

BIS is making no changes to the rule based on this comment. One purpose of related control notes is to alert readers to regulations published by other government agencies that control items related to those controlled on the CCL (*see* 15 CFR 738.2(d)(2)(iii)(B)). The four paragraphs that the commenter recommended be removed provide such alerts with respect to commodities controlled by the ITAR that are related to items controlled in ECCN 3A611. The EAR cannot define what is controlled on the ITAR, and BIS does not intend that they do so. That which is subject to the jurisdiction of the ITAR is that which is described in the ITAR's U.S. Munitions List. See 22 CFR 120.6 and 121.1. However, BIS believes that such cross references help readers who need to understand the relationship between the ITAR and the EAR—two separate bodies of rules that regulate exports and reexports—and encourage readers to read the relevant USML categories when determining the jurisdictional and classification status of items.

Comment 10

One commenter recommended either deleting ECCN 3A611.a (and 3A611.x Note 1, 4A611, 5A611, 6A611, 7A611) or changing the phrase '' 'specially designed' for military use'' to either ''having a predominant military use'' or ''having a critical military or intelligence advantage.'' This commenter stated that as defined in the EAR, the term ''specially designed'' does not make sense when applied to end items. Paragraph (a)(1) of the ''specially designed'' definition applies to end items. Under that paragraph, an item is ''specially designed'' if it is peculiarly responsible for achieving or exceeding controlled performance levels, characteristics, or functions. The commenter stated that ''military use'' is not a performance level or a characteristic. The function of ''military use'' is achieved by any military use. Therefore, under this definition, there is no difference between ''specially designed for military use'' and just ''military use.'' The commenter stated that removal of 3A611.a would be consistent with the goals of the Export Control Reform Initiative to avoid controls based simply on military use. Additionally, the commenter asserted that "'Military use' with no further modification is far broader than existing [§] 120.3(a) [of the ITAR].''

Response 10

This final rule replaces the term ''military use'' in ECCN 3A611 with the phrase ''military application'' to clarify that mere use by a military organization does not bring something within the ambit of ECCN 3A611. One of the goals of the current phase of export control reform is to control on the CCL items the President determines no longer warrant control on the USML without inadvertently decontrolling items currently on the USML. To do so, some standards must be expressed in broad terms. BIS believes that the phrase "'specially designed' for a military application'' provides adequate specificity and clarity to distinguish items that are developed in ways that enable them to perform a military role or function from items that, although used by the military, are indistinguishable from items that are widely used in civil activities. Thus, contrary to the assertion of the commenter, paragraph (a)(1) of the

definition is relevant to such controls because ''military application'' is the referenced ''characteristic.'' If someone does something to an item during its development to achieve the characteristic of being for a military application, then the item would be within the scope of paragraph (a)(1). The term ''characteristic'' was never limited to technical control thresholds, such as heat, speed, size, power, or strength.

Comment 11

One commenter recommended changing the phrase ''nor controlled in another ''600 series'' ECCN'' to ''nor controlled in another ECCN'' in ECCNs 3A611.a, 3A611.a Note 1, 3A611.x Note 1, 3B611.a, 3B611.x, and 7A611. This same commenter recommended inserting ''or another ECCN'' following the phrase ''not enumerated in any USML category'' in ECCNs 4A611 and 5A611. The commenter asserted that many existing ECCNs, after years of intense negotiations, have technical descriptions designed to be more precise than ''military use'' or ''specially designed.'' The commenter argued that this ''progress toward these major objectives of the ECR would be undone in these areas unless this recommendation is accepted.''

Response 11

The changes proposed by the commenter are inconsistent with the order of review in Supplement No. 4 to Part 774 of the EAR. That order specifies that ''600 series'' ECCNs take precedence over non-600 series ECCNs. Therefore, this final rule does not adopt the changes proposed in this comment. This means that if an item were ''specially designed'' for a military application or a military item not described on the USML, then it would be within the scope of a 600 series ECCN, even if the same type of item were described in an ECCN elsewhere on the CCL. This is not a change from the long-standing rule under the ITAR that if a part or component were specifically designed or modified for a defense article, then the part or component would be ITAR controlled, even if the CCL described the same item or type of item.

Comments Concerning ECCN 3A611.a—Electronic ''Equipment,'' ''End Items'' and ''Systems'' ''Specially Designed'' for Military End Use That Are Not Enumerated in Any USML Category or Controlled by Another ''600 Series'' ECCN

Comment 12

One commenter stated that electronically steerable airborne weather radar should not be controlled by USML Category XI because its use is for civil aviation. The State July 25 (military electronics) rule would have included all ''[r]adar incorporating pulsed operation with electronics steering of transmit beam in elevation and azimuth'' in USML Category XI. This commenter proposed eight characteristics that it believed should exclude such radars from the USML. The commenter believes that if electronically steerable radar that it manufactures were not controlled in Category XI of the USML, it would be subject to the EAR and controlled in ECCN 6A998.a. The commenter pointed out the necessity of rapidly shipping replacement radar units or parts to replace or repair broken radar units in aircraft that may be on the ground in any of a large number of countries. The commenter noted that if a radar unit were classified in a ''600 series'' ECCN, the ability to use License Exception STA would be sharply curtailed. The commenter stated that a radar designed for a civil aircraft application should be eligible for License Exceptions STA and RPL.

Response 12

BIS is making no changes to the rule based on this comment.

A similar comment on the State July 25 (military electronics) rule was submitted to that department. After considering that comment, the Department of State has added a note to Category XI(a)(3)(xii) excluding radars, not otherwise controlled in the ITAR, operating with a peak transmit power less than or equal to 250 watts, and employing a design determined to be subject to the EAR via a commodity jurisdiction determination. Please see the Department of State's companion to this rule for its full response to the comment.

If an airborne radar unit has been determined to be subject to the EAR pursuant to such a commodity jurisdiction, it would be subject to the EAR. If the radar were given a CCL classification as part of that commodity jurisdiction process, the ECCN so given would govern. If the classification were not given as part of the commodity jurisdiction process, the order of review in Supplement No. 4 to Part 774 of the EAR would govern its treatment under the EAR. Following the order of review, one would proceed to the ''600 series.'' If the radar were a ''specially designed'' part for an aircraft controlled under ECCN 9A610—Military aircraft and related items, paragraph .x of that ECCN would control the radar. If it were not so ''specially designed,'' one would check 3A611.a (electronics ''specially designed'' for a military application) and 3A611.x ''specially designed'' for a commodity controlled in USML Category XI. If the radar were not so specially designed, one would look outside the ''600 series'' to CCL Category 6. BIS notes that most radars used in civil aircraft are controlled by ECCN 6A998.a.

Comment 13

One commenter recommended that proposed ECCN 3A611.a be revised to clarify that it does not control routine telecommunications or computer networks used by a military end-user for administrative functions, where such networks utilize only equipment and software that are not enumerated in a USML Category or controlled by a ''600 series'' ECCN and where such networks that do not contain, and are not designed or configured to contain, types of security as described in USML Category XIII(b).

This commenter noted that military organizations use communications networks for command and control purposes and for routine administrative matters or, in some instances, to facilitate communications home by troops stationed abroad. The commenter stated that even though operated by the military, communication networks for administrative purposes typically have no higher level of security than similar networks used by a business or even a residential end-user—whereas command and control networks typically use special encryption devices controlled under USML Category XIII(b) to maintain a higher level of security. This commenter suggested that, based on the definition of ''system'' in the EAR, and the phrase ''specially designed for military use,'' as it appears in ECCN 3A611.a and in the note immediately following that paragraph, could be read to include administrative communications networks that do not contain, and were not designed or configured, to contain USML Category XIII(b) levels of security that would be considered ''specially designed'' for military use. The commenter recommended adding a note stating:

ECCN 3A611.a does not include a routine telecommunications or computer network that utilizes only equipment and software that are not enumerated in a USML Category or controlled by a ''600 series'' ECCN where the network does not contain, and is not designed or configured to contain, types of security as described in USML Category XIII(b).

Response 13

BIS does not intend that ECCN 3A611.a apply to communication networks that, although owned, leased, or operated by military organizations, have no security or technical features other than those found in ordinary commercial communications networks. However, BIS believes that the information security assurance systems described in USML Category XIII(b) are not the only features that distinguish a network that performs military functions from one that performs only routine administrative or civilian communications functions. To draw the proper distinction, this final rule replaces the term ''specially designed for military use'' in ECCN 3A611 with the phrase ''specially designed for military application.'' BIS believes that the latter phrase addresses the commenter's concerns by emphasizing that ECCN 3A611.a does not apply to electronic ''equipment,'' ''end items'' and ''systems'' merely because the military uses them. Rather, the commodity must be ''specially designed'' to perform a military function or activity. This change is consistent with the long-standing policy in the ITAR that the mere use of an item should not determine its jurisdictional or control status. See 22 CFR 120.3.

Comment 14

One commenter recommended changing ''a'' to ''another'' in the phrase ''not enumerated in any USML category or controlled by a '600 series' ECCN'' that appears in the note immediately following ECCN 3A611.a.

Response 14

BIS agrees that the recommended change more precisely states the scope of ECCN 3A611.a; therefore, this final rule adopts that change.

Comments Applicable to ECCN 3A611.c or .d.

Comment 15

One commenter stated that the definition of output power is inconsistent among ECCNs that control microwave transistors. ECCN 3A001 uses ''average output power;'' 3A982 uses both ''average output power'' and ''pulsed output power;'' and 3A611 uses ''saturated power.'' The commenter asserted that this variation will create confusion and inconsistent results.

Response 15

After the comment period for the July 25 (military electronics) rule closed, changes to the Wassenaar Arrangement's Dual Use List, Category 3 were adopted at its December 2013 plenary meeting. Those changes included new criteria for paragraphs 3.A.1.b.2 (MMIC power amplifiers) and 3.A.1.b.3 (discrete microwave transistors). The changes eliminated the need for ECCN 3A982 by expanding the operating frequency ranges in paragraphs 3.A.1.b.2 and 3.A.1.b.3 to include the operating frequency ranges currently found in the ECCN 3A982. This change made the MMIC power amplifiers and discrete microwave transistors currently controlled under ECCN 3A982 eligible for inclusion in ECCN 3A001, which is based on Wassenaar Arrangement Dual Use List paragraph 3.A.1. The Wassenaar Arrangement Dual Use List changes also revised the criteria for inclusion of MMIC power amplifiers and discrete microwave transistors in 3.A.1.b.2 and 3.A.1.b.3. Those changes, which will eliminate inconsistencies in the definitions of output power, will be incorporated into ECCN 3A001.b.2 and .b.3 by the rule implementing the Wassenaar Arrangement 2013 plenary meeting decisions, which BIS expects will be published and become effective before this final rule becomes effective. This final rule will then build on the changes made by the Wassenaar 2013 plenary meeting rule by creating ECCN 3A611 and moving some MMIC power amplifiers and discrete microwave transistors from 3A001.b.2 and .b.3 to 3A611.c and .d based on the values for power added efficiency, fractional bandwidth, or peak saturated power output (or some combination thereof).

Comment 16

One commenter noted that the frequency range from 2.7 GHz–2.9 GHz is internationally recognized as a standard band for civilian air traffic control (ATC) systems. Regulating devices in this band has the effect of limiting U.S. participation in the global civil ATC market, and providing an unfair advantage to our worldwide competitors, as well as an incentive for our foreign competitors to invest in developing their own amplifier technology. This particular frequency band is predominantly used for civil ATC rather than military applications. In addition, the international ATC band is under consideration to be expanded upwards to 3.2 GHz, due to conflicts with civil communications in the lower end of the band.

Response 16

BIS' implementation of the decisions of the Wassenaar Arrangement December 2013 plenary meeting, noted in Response 15, will, when published in the EAR revise ECCN 3A001.b.2 (MMIC power amplifiers) and b.3 (discrete microwave transistors) to encompass the frequency range noted in this comment. The additional technical parameters of power added efficiency, fractional bandwidth and peak saturated power output determine whether MMIC power amplifiers are controlled in ECCN 3A611.c. The additional technical parameters of power added efficiency and peak saturated power output determine whether discrete microwave transistors are controlled in ECCN 3A611.d. The EAR control over these devices are based on the multinational Wassenaar Arrangement, under which other member states should implement similar export controls, reducing any disadvantage faced by U.S. companies.

Comment 17

Several commenters stated that the parameters in ECCN 3A611.c and .d would cover MMIC power amplifiers and discrete microwave transistors that have civil applications now, or that are likely to have important civil applications in the near future. The civil applications mentioned were Wi Fi, Wi Max, point-to-point radios for cellular backhaul, Commercial Ka-band used in commercial satellite based wireless internet ground stations and V-Band radios used in small commercial cellular networks. The specific points raised by these are as follows.

The differences between devices that would be controlled by ECCN 3A611.c or .d and those that are controlled by ECCN 3A001.b.2 or .b.3 in many instances are only a matter of efficiency. Because increasing efficiency is driving development in both civil and military applications, higher efficiency is not a good criterion for distinguishing military from civil applications. Increasing efficiency, saturated power and bandwidth are common objectives in both military and civil applications. In commercial cellular base stations, high power efficient devices enable achieving necessary power levels without combining multiple lower power devices, thereby simplifying manufacturing, lowering costs and producing more efficient transmitter design. Increasing bandwidth is needed to handle greater data volume in commercial networks, and OEMs are requiring vendors of semiconductor

power devices to supply it for increased system capability and inventory management reasons. The performance levels in proposed ECCN 3A611.c and .d do not lead to a valid conclusion that a device is inherently military or that it is unlikely to be used in a commercial application.

The frequency range from 3.1–3.5 GHz is not restricted to military use. The International Telecommunication Union (ITU) designates this band for radio location, and the band is also in active use internationally as an additional civilian air traffic control (ATC) band. Today's transistors for air traffic control can exhibit efficiencies, which commonly exceed 60%. The commenter cited one example of a transistor that it stated achieved such efficiency exceeding 60%.

One commenter stated that proposed ECCN 3A611.c.9, .c.10 and .c.11 overlap with ECCN 3A001.b.2.e, .b.2.f and .b.2.g as set forth in the Wassenaar Arrangement implementation rule published in June 2013. The commenter noted that the three 3A611 paragraphs differ from the corresponding 3A001 paragraphs in that the former specify values for peak saturated output power whereas the latter specify values for average output power instead and only the former specify a value for power added efficiency. In addition, proposed 3A611.c.9 specifies a value of fractional bandwidth whereas 3A001.b.2.e does not. This commenter stated that, although its current products do not meet the threshold values for inclusion in 3A611, only a small amount of advancement would be needed for its products to do so. The commenter recommended the following changes to ECCN 3A611 to provide a reasonable allowance for improvements of commercial amplifiers. In paragraph .c.9, increase the peak saturated output power from 1 W to 3 W and the power added efficiency from 15% to 35%. In paragraph .c.10, increase the peak saturated output power form 31.62 mW to 100 mW and the power added efficiency from 25% to 35%. In paragraph .c.11, increase the peak saturated output power from 10 mW to 100 mW and the power added efficiency from 10% to 20%.

One commenter reiterated its comment made in response to the November 28 (military electronics) rule that most gallium nitride (''GaN'') MMICs and discrete transistors currently available on the commercial market (and classified as ECCN 3A982 or 3A001 or designated EAR99) perform at levels that exceed even the revised proposed power added efficiency thresholds for ECCN 3A611. Accordingly, that metric, as currently proposed, still does not sufficiently focus the proposed regulation on high performance parts. Rather, most GaN MMICs and discrete transistors that presently are used in commercial telecommunications, backhaul, point-to-point and satellite applications would still meet the proposed thresholds under ECCN 3A611.

The commenter reiterated its request for BIS to consider the power added efficiency thresholds set forth in its earlier comment, which it stated reflect the realities of the commercial market.

One commenter recommended adding the phrase ''specially designed for military use'' to paragraphs .c and .d. The commenter stated that without this change, the paragraphs would cover MMICs and transistors that currently are classified in ECCNs 3A001 and 3A982 or those that currently designated EAR99. The order of review in Supplement No. 4 to Part 774 would cause ECCN 3A611 to prevail over the others. The commenter states that it is aware of a large number of circuits and transistors that have been classified under ECCN 3A001 that would be classified under 3A611.c or .d causing a large number of commercial products that have already been exported on the global market to be controlled by ECCN 3A611.

Response 18

Experts in this area from the Departments of Defense, State, and Commerce reviewed the parameters proposed in ECCN 3A611.c (MMIC power amplifiers) and .d (discrete microwave transistors). The conclusion of that review was that, in most instances, the civil market for these devices at the parameters set forth in the proposed rule is minimal to non-existent. However, the reviewers concluded existing civil applications justify raising the power added efficiency in four instances. Accordingly, in this final rule, for the operating frequency range exceeding 2.7 GHz up to and including 2.9 GHz, the power added efficiency threshold has been raised to 55% for MMIC power amplifiers and to 60% for discrete microwave transistors from a proposed threshold of 50% for both. In the operating frequency range exceeding 2.9 GHz up to and including 3.2 GHz, the power added efficiency threshold has been raised to 55% for MMIC power amplifiers and to 60% for discrete microwave transistors from proposed thresholds of 45% for MMIC power amplifiers and 50% for discrete microwave transistors. Although more efficient and powerful MMIC power amplifiers and discrete microwave transistors may have widespread use in civil communications in the future, this rule is based on conditions as they exist at the time the rule is being written. Like any other aspect of the EAR, ECCN 3A611 paragraphs .c and .d may be modified in the future if changes in civil and military applications and concerns warrant a change.

As noted in Response 15, BIS intends to publish a rule implementing the decisions of the Wassenaar Arrangement December 2013 plenary meeting. That rule will revise ECCN 3A001.b.2 (MMIC power amplifiers) and b.3 (discrete microwave transistors) to encompass the frequency ranges used in ECCN 3A611.c and .d. The additional technical parameters of power added efficiency, fractional bandwidth and peak saturated power output will determine whether MMIC power amplifiers are controlled in ECCN 3A611.c. The additional technical parameters of power added efficiency and peak saturated power output determine whether discrete microwave transistors are controlled in ECCN 3A611.d. That rule also will remove ECCN 3A982. Thus, none of the MMIC power amplifiers or discrete microwave transistors that this final rule controls under ECCN 3A611 will be EAR99 at the time this final rule becomes effective, and therefore, no changes are being made to this rule. The EAR control over these devices is based on the multinational Wassenaar Arrangement, under which other member states should implement similar export controls, reducing any disadvantage faced by U.S.-based producers of these products.

Comment 19

One commenter stated that the broadband proposed language for each frequency range, in the definition of the broadband behavior, regulates devices that operate far below that range and whose center frequency is below the performance limits of 3A001 and 3A982 (<2.7 GHz). For example, a MMIC with a 60% bandwidth which operates to 2.7 GHz would have a center frequency of ~2 GHz and a lower operating frequency of 1.45 GHz.

Response 19

The commenter's observation is correct. However, the ability of a MMIC power amplifier or discrete transistor to operate within a frequency band specified in, and meet the other control parameters of, a particular ECCN items paragraph give it the capabilities that warrant export license requirements, even if it can also operate outside that

frequency band or at lower performance parameters.

Comment 20

One commenter stated that cycle times for commercial technology innovation can be shorter than that for military technology innovation. The development of state-of-the-art power amplifier devices for civil communications systems is driven by the ever increasing quantity of information transmitted over wireless networks. Higher quality network data links coupled with longer distances between cellular backhaul radios is yet an additional driver for increasing power requirements. Operation across broader frequency ranges coupled with OEMs' demand to stock fewer parts generates an industry demand for broadband power amplifiers.

Response 20

BIS recognizes that performance of civil communications networks increases over time and that the increased performance requires more capable components. However, the technical personnel from the Departments of Defense, State, and Commerce attempted to set the parameters for the MMIC power amplifiers and discrete microwave transistors controlled by ECCN 3A611 to cover those with important military applications and few or no *current* civil applications. BIS is willing regularly to accept and consider information from interested persons about developments that would result in such items being used in non-military, commercial applications.

Comment 21

One commenter recommended deleting ECCN 3A611.c and .d, stating that there is no publicly available evidence that either MMIC power amplifiers or discrete microwave transistors are now subject to DDTC licensing authority. The commenter recapitulated text currently in USML Category XI(a) and (b) and the ''Related Controls'' paragraph of ECCN 3A001 in support of this contention. The commenter noted the description of both MMIC power amplifiers and discrete microwave transistors in ECCN 3A001 and noted that the preamble to the July 25 (military electronics) rule referred to a United States proposal to modify language related to such amplifiers and transistors in the Wassenaar Arrangement Dual Use List. The commenter noted that ECCN 3A001 license requirements applicable to MMIC power amplifiers and discrete microwave transistors apply to fewer destinations than would the requirements in proposed ECCN 3A611.c and .d. The commenter also noted a broader range of license exceptions available under ECCN 3A001 than under 3A611, especially for MMIC power amplifiers. The commenter asserted that, to include these two items in 3A611, BIS would first need to transfer licensing jurisdiction to the Directorate of Defense Trade Controls.

Response 21

BIS is making no changes to the rule in response to this comment. The parameters for MMIC power amplifiers and discrete microwave transistors included in 3A611 will differ from those in ECCN 3A001.b.2 and .b.3 (as to be revised by the yet-to-be published final rule implementing the decisions of the Wassenaar Arrangement December 2013 plenary meeting) based on their power added efficiency, peak saturated power output, fractional bandwidth or some combination of those parameters. BIS believes that the values selected in this final rule are adequate for readers to readily distinguish the MMIC power amplifiers and discrete transistors in ECCN 3A611.c and .d from those in ECCN 3A001.b.2 and .b.3. BIS is unaware of any commodity jurisdiction determinations issued by the State Department that the MMICs described in the new ''600 series'' controls were not previously subject to the jurisdiction of the ITAR.

Comment 22

One commenter noted that ECCN 3A982 controls packaged transistors and packaged MMICs but does not control unpackaged devices or bare die. Therefore, unpackaged devices and bare die that meet the frequency and power parameters of ECCN 3A982 but not that of ECCN 3A001.b.2 or .b.3 are designated EAR99. Thus, as proposed, 3A611 would impose controls on devices that are currently designated EAR99.

Response 22

BIS notes that this comment was made prior to the Wassenaar Arrangement December 2013 plenary meeting that, *inter alia,* revised the Wassenaar Arrangement Dual Use List Category 3.A.1 to include coverage of MMIC power amplifiers and discrete microwave transistors with operating frequencies exceeding 2.7 GHz. When published, the rule implementing that change on the CCL will provide the same frequency thresholds for ECCN 3A001.b.2 and .b.3. It will also remove ECCN 3A982 from the CCL because the devices listed therein will then be within the scope of ECCN 3A001.b.2 and .b.3. Neither the Wassenaar Arrangement Dual Use List Category 3.A.1.b.2 and .3 nor ECCN 3A001.b.2 and .b.3 are currently limited to packaged devices. ECCN 3A611.c and .d are based on the parameters of Wassenaar Arrangement Dual Use List Category 3.A.1.b.2 and .3 that BIS intends to add to ECCN 3A001.b.2 and .b.3 with additional parameters of power added efficiency, peak saturated power output and fractional bandwidth to differentiate the devices in ECCN 3A001.b.2 and .b.3 from those in ECCN 3A611.c and .d. Thus, although some of the devices covered in ECCN 3A611 may have been designated EAR99 at the time the comment was made, by the time this final rule is effective, they will be on the CCL in conformance with the United States' Wassenaar Arrangement commitment. Therefore BIS is making no changes to the rule in response to this comment.

Comments Concerning ECCN 3A611.e—Certain High Frequency Surface Wave Radar

Comment 23

One commenter stated that the seemingly technical descriptions in proposed USML Category XI(a)(3)(i) and proposed ECCN 3A611.e cover virtually all airborne and maritime radar. A primary purpose of ship-borne radar is traffic control. The commenter cited his experience as a U.S. Navy-trained radar officer from 1943 to 1946 in which he ''learned that the fundamental purpose of both military and civil radar is as described in [proposed USML Category] XI(a)(3)(i) and [proposed ECCN] 3A611.e.''

The commenter also stated that the Note to 3A611.e would unintentionally decontrol much of what 3A611.e would control. ''Specially designed'' in that Note does not effectively narrow the scope of its decontrol. The words ''achieve or exceed'' in (a)(1) of the definition of ''specially designed'' logically narrow only controls, not decontrols. The lack of any such Note to XI(a)(3)(i) would not only transfer much of 6A008 and 6A108 to the USML but also would transfer from EAR99 to the USML much of what is excluded from 6A008 in technical decontrol Notes.

Response 23

BIS does not agree with the commenter that the technical description in 3A611.e would cover virtually all airborne or maritime radar. Paragraph .e—''High frequency (HF) surface wave radar that maintains the positional state of maritime surface or

low altitude airborne objects of interest in a received radar signal through time''—describes specific radar capabilities that have distinct military applications and that are not found in most civil radars. HF radar manufactured for only maritime traffic control would be designed with performance limitations that would limit the military utility.

BIS also does not agree that the note, which makes clear that paragraph .a does not apply to radars that are ''specially designed'' for marine traffic control, would exclude all radars that would otherwise be covered by paragraph .e. The text of paragraph .e describes capabilities that would not likely be needed in a maritime traffic control system. BIS also disagrees with the commenter's opinion that ''specially designed'' cannot apply to a decontrol. In this instance, the note excludes radars that as a result of ''development'' have properties that are peculiarly responsible for achieving a maritime traffic control system performance, a very different thing than the kinds of radars controlled by 3A611.e. BIS does not agree with the commenter's assertion that a note to proposed USML Category XI(a)(3)(i) is needed to prevent transfer of some radars from the CCL to the USML.

Comments Concerning ECCN 3A611.f—Application Specific Integrated Circuits And Programmable Logic Devices Programmed for ''600 series'' Items

Comment 24

One commenter recommended changing the phrase ''600 series'' in ECCN 3A611.f, .g, and .h to read ''a characteristic in the text of a description of a ''600 series'' ECCN'' and deleting the phrase ''specially designed'' from ECCN 3A611.g and .h.

Response 24

BIS is not making the changes suggested by the commenter. ECCN 3A611 paragraphs .f, .g and .h control, respectively, application specific integrated circuits and programmable logic devices programmed for ''600 series'' items, printed circuit boards and populated circuit cards with layouts ''specially designed'' for ''600 series'' items, and multichip modules with a pattern that is ''specially designed'' for ''600 series'' items. Changing the phrase ''600 series'' to ''a characteristic in the text of a description of a ''600 series ECCN'' would add to the text length and complexity, but neither accuracy nor clarity. The phrase ''specially designed'' is needed in paragraphs .g and .h so that those paragraphs do not inadvertently apply to printed circuit boards and populated circuit cards with layouts and to multichip modules with patterns that are common to ''600 series'' items and items in other ECCNs or to EAR99 items.

Comments Concerning ECCN 3A611.g—Multichip Modules for Which the Pattern or Layout is ''Specially Designed'' for ''600 Series'' Items

Comment 25

One commenter noted that the July 25 (military electronics) rule proposed to regulate printed circuit boards and populated circuit card assemblies ''specially designed'' for ''600 series'' items under ECCN 3A611.g, and multichip modules similarly under ECCN 3A611.h.

The commenter stated that when these items are used in items controlled by a ''.y'' paragraph, they are inherently non-significant and should either be released by paragraph (b)(3)(ii) of the ''specially designed'' definition, or themselves controlled by the ''.y'' paragraph. A similar approach may be suitable for application-specific integrated circuits and programmable logic devices proposed for ECCN 3A611.f.

Response 25

To the extent that the layout or pattern of a device listed in ECCN 3A611.f, .g or .h is ''specially designed'' for an item listed in the .y paragraph of a ''600 series'' ECCN, BIS agrees with the commenter that the device should be controlled to the same extent as the device of which it is a ''specially designed'' part or component. Accordingly, this final rule addresses the commenter's concerns by adding text to paragraphs .f, .g and .h referring reader to paragraph .y of ECCN 3A611 for such devices and adds text controlling such devices to ECCN 3A611.y.

Comments Concerning ECCN 3A611.y

Comment 26

One commenter stated that its connectors that currently are classified under USML Category XI(c) would transfer to 3A611.y.3. The commenter noted that the problem with the 3A611.y text is that it states that it is ''for a commodity subject to control in this entry and not elsewhere specified in any ''600 series'' ECCN.'' Thus, an electrical connector that is ''specially designed'' for military aircraft equipment currently under USML Category VIII, would be classified under ECCN 9A610.x.

Response 26

In this final rule, ECCN 3A611.y applies to parts, components, accessories and attachments that are ''specially designed'' for a commodity subject to control in a ''600 series'' ECCN and not elsewhere specified in any ''600 series'' ECCN, and includes in its list of commodities electrical connectors. Thus, if the connectors in fact are moved from the USML to the CCL and are not ''specified in another ''600 series'' ECCN,'' they are controlled by ECCN 3A611.y.

Comment 27

One commenter stated that under the current wording, [of 3A611.y and .x] 3A611.y items would be restricted exclusively to items ''specially designed for a commodity subject to control in this entry and not elsewhere specified in any ''600 series'' ECCN.'' This means, by way of example, the commenter asserted that a ''speaker'' (y.19) ''specially designed'' for a USML item would necessarily be classified as a 3A611.x item, despite the positive enumeration of ''speakers'' within 3A611.y and the clear intent that .y items are intended to constitute a positive list of ''specially designed'' items which warrant no more than AT-only controls, whether ''specially designed'' for ECCN 3X600 series items or USML items.

The commenter recommends fixing this by revising paragraphs .x and .y to exclude items elsewhere specified on the USML or CCL and by revising paragraph .y to apply to specific ''parts,'' ''components,'' ''accessories'' and ''attachments'' ''specially designed'' for a commodity subject to control in this entry or for an article controlled by USML Category XI.

Response 27

BIS believes that no ambiguity exists between the scope of paragraphs .x and .y. The commenter's proposed solution would undermine the order of review set forth in Supplement No. 4 to part 774 of the EAR. However, BIS makes changes to this final rule to address the concern of the commenter. In this final rule, BIS makes paragraph .y applicable to commodities listed therein if they are ''specially designed'' for a commodity in *any* ''600 series'' ECCN or USML defense article and adds text to paragraph .x that explicitly excludes commodities in paragraph .y from the control of .x.

Comment Concerning ECCN 3B611

Comment 28

One commenter expressed support for the proposal in the State and Commerce July 25 (military electronics) rules to transfer to the CCL under ECCN 3B611 all ''Test, Inspection and Production Equipment for Military Electronics'' that is not explicitly enumerated in the revised USML Category XI. The commenter expressed a belief that this proposal recognizes an important technical difference and implements an equally important policy differentiation between test equipment and operational military equipment.

Response 28

BIS acknowledges the comment.

Comments Concerning ECCN 3D611

Comment 29

One commenter recommended changing ''specially designed'' to ''required'' in the heading and in paragraphs .a, .b, .y of ECCN 3D611 for consistency with EAR definition of ''required.'' This commenter also recommended changing ''commodities'' to ''items'' 3D611.a and adding ''or 3D611'' to comply with WAML category 21.a. Finally, this commenter recommended adding new 3D611.c ''software'' not enumerated in the USML or otherwise enumerated in the CCL performing the military functions of equipment enumerated in USML Category XI or 3A611 to comply with WAML category 21.c.

Response 29

BIS is making no changes to the rule in response to this comment. Although the definition of ''required'' in the EAR can apply to software, nothing in that definition requires that the word be used in all ECCNs that control software. The definition is very similar to paragraph (a)(1) of the definition of specially designed. In this instance the term ''specially designed'' tailors the ECCN text more closely to BIS's objective of not including dual-use software in a ''600 series'' ECCN.

BIS does not agree with this commenter's interpretation of WAML category ML21. BIS believes that the phrase ''specified by the Munitions List'' in category ML21 refers to categories on the WAML that cover equipment, materials or related software, not to WAML category ML21 itself, which applies to software generally. WAML category ML11 applies to military electronic equipment not specified elsewhere on the WAML, which, in this rule, is covered by ECCN 3A611. ECCN 3D611 applies to software for that equipment, thereby implementing the scope of WAML category ML21 as it applies to software for military electronics. Because ECCN 3A611 controls commodities as that term is defined in the EAR, describing the software controlled by ECCN 3D611 as being for commodities controlled by ECCN 3A611 is appropriate.

Comment Concerning ECCN 3E611

Comment 30

One commenter noted that discrete items on a network that are classified as 4x994, 5x001, 5x002, 5x991 and EAR99 sometimes require maintenance, repair or replacement. Proposed 3E611 would control ''operation, installation, maintenance, and repair of 'commodities' controlled by ECCN 3A611.'' In the case of a system classified as ECCN 3A611, the proposed ECCN is ambiguous as to whether, for example, the maintenance and repair of an end-item such as a switch classified as ECCN 5A002 would be controlled by ECCN 3E611.

The commenter recommended eliminating the ambiguity by adding a note to ECCN 3E611 to read as follows: ''ECCN 3E611.a does not control the operation, installation, maintenance, or repair of non-'600 series' items that are or are intended to be included in 'systems' controlled by ECCN 3A611.a.''

Response 30

ECCN 3E611.a controls ''technology'' (other than that described in 3E611.b or 3E611.y) ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or software controlled by ECCN 3A611, 3B611 or 3D611. It does not control other technology that is not so ''required,'' even if that other technology is being used to service a network that contains devices or software controlled by ECCN 3A611, 3B611 or 3D611, nor does it control such other technology that is used to service the commodities or software controlled by 3A611, 3B611 or 3D611. However, ECCN 3E611 does control technology that is so ''required,'' even if that technology is being used to service something else. Given the military nature of ''600 series'' technology, BIS believes that this level of control must be maintained. Accordingly, BIS is making no changes to the final rule in response to this comment.

Comment 31

One commenter recommended changing the phrase found in 3E611.a ''other than that described in 3E611.b or 3E611.y'' to read ''not controlled by 3E611.b or 3E611.y.'' This same commenter also recommended deleting 3E611.b because, he asserted, with the above change in 3E611.a, 3E611.b would be covered by 3E611.a.

Response 31

This final rule adopts the commenter's recommendation in part. The proposed rule text ''other than that described in 3E611.b or 3E611.y'' is revised to read ''other than that controlled by 3E611.b or 3E611.y.'' The revised text for 3E611.a more closely follows the text generally used in ECCNs and, being a familiar phrasing, is less likely to be misunderstood. However, BIS does not agree that the change brings ECCN 3E611.b within the scope of 3E611.a. Paragraph .b controls technology for four specific commodities. Without the specific listing in paragraph .b and a related exclusion in paragraph .a, that technology would be controlled under the broader general language of paragraph .a. The purpose of paragraph .b in ECCN 3E611 is to delineate technology types for which License Exception STA may be used only for ''build-to-print'' technology, a limitation that does not apply to paragraph .a. Placing these items in a separate paragraph allows for simpler language in paragraph .a and, BIS believes, will make the scope of the STA limitation more readily discernible to readers.

Comment 32

One commenter recommended that BIS add a new 3E611.c: ''Technology'' ''required'' for the design of, the assembly of components into, and the operation, maintenance, and repair of complete production installations for items specified by the U.S. Munitions List or ''600 series'' ECCNs. The commenter's proposed paragraph .c would apply even if the components of such production installations are not specified. The commenter stated that this proposal is necessary to comply with WAML category 22.b.1.

Response 32

The product group ''E'' ''600 series'' ECCNs provide controls consistent with the United States commitment as a Wassenaar Arrangement member state for the commodities and software that are in the related ''600 series'' ECCNs (*e.g.,* 3E611 controls technology for commodities and software in other ECCNs that end in 611). An additional control on all such technology is not needed and could cause confusion about where on the CCL a particular technology is controlled. Therefore this

final rule does not adopt the changes recommended in this comment.

Comments Concerning Definitions

Comment 33

One commenter recommended adding definitions for ''form,'' ''fit'' and ''function'' to § 772.1 of the EAR.

Response 33

These three terms are defined for purposes of the definition of the term ''specially designed'' within the text of that definition in § 772.1 of the EAR. That definition became effective on October 15, 2013, after the comment period on the July 25 (military electronics) rule closed on September 9, 2013. Therefore, BIS makes no changes to the EAR in response to this comment.

Comment 34

One commenter stated that the ''Digital Computer'' definition currently applies to Categories 4 and 5 and that BIS now needs to add Category 3 to that definition.

Response 34

ECCN 3A611.a, which is being created by this rule, includes, *inter alia,* the phrase ''. . . computer equipment, end items, or systems ''specially designed'' for military use. . . .'' However, the term ''digital computer'' is not used in 3A611, nor does it appear in the text of this final rule or elsewhere in CCL Category 3. Therefore, this final rule does not add a reference to Category 3 to the definition of digital computer in § 772.1 of the EAR.

Comment 35

One commenter recommended harmonizing the definition of ''export'' in the ITAR and EAR. This commenter expressed the opinion that the EAR is less restrictive than the ITAR with respect to sending equipment into international waters temporarily because it defines ''export'' differently than does the ITAR.

Response 35

The change suggested in this comment is outside the scope of the July 25 (military electronics) rule and is, therefore, not adopted in this final rule. Nevertheless, harmonizing definitions in the ITAR and the EAR remains one of the Administration's goals in the Export Control Reform Initiative. BIS and the other government bodies involved in that initiative continue to review the possibility of harmonizing this definition.

Comment 36

One commenter asked that BIS clarify whether paragraph (b)(3)(ii) of the ''specially designed'' definition releases .y items. Paragraph (b)(3)(iii) releases items used in or with an item that is either not enumerated on the CCL or USML *or* in an ECCN controlled only for AT reasons. The commenter stated that the .y paragraphs are controlled for AT *and* China military end use (744.21) *and* the *de minimis* restriction for foreign articles containing items that are in ''600 series'' ECCNs.

Response 36

To be excluded from the definition of ''specially designed'' under paragraph, (b)(3)(ii), the item either must be controlled in an ECCN in which the only reason for control is antiterrorism or must be controlled in an ECCN that Note 1 to the definition of ''specially designed'' identifies as an ECCN that is treated as such for the purposes of the definition. The .y paragraphs do not meet either of those standards and, thus, are not excluded from the definition of ''specially designed.''

Comment 37

One commenter requested that BIS clarify use of the phrase ''for use in or with a commodity or defense article enumerated or otherwise described on the CCL or the USML'' in paragraph (a)(2) of the ''specially designed'' definition. The commenter stated that BIS and DDTC personnel have described this phrase as meaning ''one level up'' in a hierarchical design structure. For example, a part might be incorporated into a component, which is further incorporated into an end item. The commenter indicated that in determining whether the part was within the scope of specially designed, one would need to look only at the component into which the part would be incorporated, not the end item into which the component would be incorporated. The commenter suggested that this practice would not be appropriate for sensitive military items because (in this example) the part might be peculiarly responsible for achieving the performance levels of the end item. Moreover, the commenter stated that unscrupulous manufacturers could insert artificial non-enumerated levels into a hierarchal design for the purpose of decontrolling a sensitive item.

Response 37

After some review, BIS concludes that no change to this final rule is needed in response to this comment. A part that is ''peculiarly responsible for achieving or exceeding the performance levels, characteristics or functions in the . . . ECCN or the U.S. Munitions List (USML) paragraph'' that controls the end item would, according to paragraph (a)(1) of the definition, be ''specially designed'' for that end item unless released by paragraph (b). Paragraphs (b)(1) and (b)(2), if applicable, would release the part regardless of the level of the component into which it was installed. Paragraph (b)(3) releases parts because they are in fact used in or with an item that is in production and is either EAR99 or in an ECCN controlled only for antiterrorism reasons. Release of parts that are *in fact* so used is appropriate regardless of whether the item in production is an end item or an intermediate part or component because of the actual use in a civil product or the actual intent at the design stage not to design the item for a military application. Paragraphs (b)(4), (b)(5) and (b)(6) release items based on documented design intent. Release of a part from the definition is appropriate if the actual documented design intent applicable to that part meets the criteria set forth in one of those paragraphs regardless of the nature of the end item that the part is used in or with. Merely creating an artificial non-enumerated [on the CCL] level in design documents in an attempt to decontrol a part or component would not satisfy the criteria for release from the definition of ''specially designed'' because such documents would not reflect actual use or actual design intent. Moreover, such an attempt would likely be an attempt to evade a requirement of the EAR and possibly a violation of other laws as well.

Comment 38

One commenter recommended that both the ITAR and the EAR adopt the JEDEC [Joint Electron Device Engineering Council] definition of the term ''application specific integrated circuit (ASIC),'' i.e., ''an integrated circuit developed and produced for a specific application or function and for a single customer.'' The commenter stated that ''[d]oing so will utilize existing industry terminology and, accordingly, will provide exporters with a clear basis upon which to classify an integrated circuit.''

Response 38

Although BIS believes that a definition would add clarity, it is concerned that the definition that the commenter recommends could result in the unwarranted removal of ASICs from ECCN 3A611 that are specific to a ''600 series'' commodity merely because a second customer purchases the circuit.

Because of these concerns, BIS is not adopting the commenter's definition for the term ''application specific integrated circuit (ASIC).'' However, to enhance clarity, this final rule includes text in ECCN 3A611 describing application specific integrated circuits as ''integrated circuits developed and produced for a specific application or function regardless of the number of customers.''

Comments Concerning Commodity Jurisdiction Decisions

Comment 39

Three commenters addressed the effect of the Department of State commodity jurisdiction determinations (CJs) that designated an item as subject to the EAR prior to the effective date of this rule. One commenter recommended that the definition of ''specially designed'' be revised to state either that CJs take precedence over the new rules or that a CJ request needs to be resubmitted if it does not explicitly address parameters in the new rules. One commenter stated that the text of paragraph (b)(1) of the ''specially designed'' definition differs from the text of General Order No. 5. The commenter pointed out that some CJs did not provide an ECCN, but simply stated that an item was not subject to the USML. This commenter asserted that an item with such a CJ and not listed in an ''018'' ECCN would not be in the ''600 series'' by General Order No. 5, but would not be released by paragraph (b)(1) in the ''specially designed'' definition. A third commenter recommended adding a note to General Order No. 5 to read ''Note 1: 'Enumerated' refers to any item (i) on either the USML or CCL not controlled in a 'catch-all' paragraph and (ii) when on the CCL, controlled by an ECCN for more than Anti-Terrorism (AT) reasons only.'' This commenter stated that ''with the implementation of 3A611.x, a series 600 ''specially designed'' catch-all paragraph, commodities previously self-determined to be EAR99 may be controlled under 3A611.x as a result of the product's original design intent.'' The commenter stated that it had received ''a class commodity jurisdiction that determined a product is subject to the EAR when the commodity fails to meet or exceed the minimum performance levels for control under the ITAR.'' The commenter then classified the commodities as EAR99 ''because the commodities are not positively controlled in the CCL.''

Response 39

BIS believes that no change to the wording of either General Order No. 5 or the ''specially designed'' definition is needed to address the concerns of these commenters. Paragraph (c) of General Order No. 5 reads:

> *Prior commodity jurisdiction determinations.* If the U.S. State Department has previously determined that an item is not subject to the jurisdiction of the ITAR and the item was *not listed in a then existing ''018'' series ECCN,* then the item is per se not within the scope of a ''600 series'' ECCN. If the item was not listed elsewhere on the CCL *at the time of such determination* (i.e., the item was designated EAR99), the item shall remain designated as EAR99 unless *specifically enumerated* by BIS or DDTC in an amendment to the CCL or to the USML, respectively. (Emphasis added.)

The question of whether the item was listed in a ''018'' series ECCN that existed at the time of the determination or whether it was listed on the CCL at all at the time of the determination is a question of fact. It is not a question of whether CJs take precedence over recent amendments to the EAR. Paragraph (c) applies to determinations by the State Department ''*that an item is not subject to the jurisdiction of the ITAR.''* It does not require that the State Department determine that the item is EAR99 for the paragraph to be applicable. The phrase ''such determination'' in the second sentence refers to the State Department's determination that the item was not subject to the ITAR. Items subject to such determinations that were not in a ''018'' series at the time of that State Department determination do not become ''600 series'' items as a result of this rule. Items subject to such determinations that became EAR99 because they were not on the CCL at all at the time of the State Department determination do not lose their EAR99 status unless subsequently ''specifically enumerated'' in an amendment to the CCL or USML. The .x paragraphs of the ECCNs in this rule are ''catch all'' paragraphs that do not specifically enumerate the items that they control. There is no need to resubmit CJ requests to determine whether the criteria in paragraph (c) of General Order No. 5 are met.

Comment Concerning License Exceptions

Comment 40

One commenter expressed concern about what it termed ''the proposed prohibition on the use of the STA Exception for this Category [ECCN 3A611].'' The commenter suggested a modification to the STA paragraph in 3A611 that it said would allow for control by DOC of the applicability of the exception. Under the commenter's suggested language, the STA paragraph in ECCN 3A611 would read as follows: ''Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 3A611, unless determined by BIS to be eligible for License Exception STA in accordance with § 740.20(g) (License Exception STA eligibility requests for ''600 series'' end items).''

Response 40

BIS believes that the commenter is misreading the STA paragraph in ECCN 3A611. That paragraph precludes use of paragraph (c)(2) of License Exception STA; it does not preclude the use of paragraph (c)(1). Paragraph (c)(1) authorizes the use of License Exception STA to the 36 destinations in Country Group A:5. Paragraph (c)(2) authorizes limited use of License Exception STA to send certain items to the eight destinations listed in Country Group A:6 if the only reason for control that applies to the transaction is national security. No ''600 series'' items are eligible to be exported to destinations in Country Group A:6 under License Exception STA, a policy that has been followed consistently in all rules creating ''600 series'' ECCNs. Accordingly, BIS is making no changes to the rule in response to this comment.

Comment Concerning Recordkeeping

Comment 41

One commenter stated that BIS takes the view that EAR recordkeeping requirements apply to all transactions described in § 762.1 of the EAR, including those transactions that are completed without a license, under a License Exception, or pursuant to an individual license issued by BIS. The commenter stated that recording intangible technology transfers that do not require a license may have made sense when fewer methods of making such transfers existed. However, the commenter asserts that the same recordkeeping requirement for intangible transfers of NLR technology now applies to email, individual phones, VOIP and teleconferences. Large companies with multinational operations can generate thousands of records annually. The benefit of not requiring a license is largely negated by this recordkeeping requirement, with no obvious corresponding benefit to national security. This also seems to contradict the goals of Export Control Reform—previously licensed technology will become NLR, but records of

unlicensed, intangible transfers still need to be kept.

The commenter suggested that BIS review the value of industry maintaining records of transfers of technologies for which no license is required. BIS might be guided by its approach to EAR § 732.5(b), which states that exports from the United States of items on the CCL that are designated EAR99 generally do not require a Destination Control Statement, even though such items are ''subject to the EAR.'' Similar flexibility in interpreting what is subject to the EAR could be usefully applied to NLR recordkeeping.

Response 41

BIS is not making any changes to the EAR recordkeeping requirements in response to this comment because such changes would be outside the scope of the changes proposed in the July 25 (military electronics) rule. However, BIS is planning to undertake a comprehensive review of its recordkeeping requirements, including seeking public comment on those requirements in the near future.

Comment Concerning Conflict Between the EAR and the ITAR

Comment 42

One commenter recommended that BIS ''revise [ECCN] 2A984 parameters to de-conflict with the parameters included in the [USML] Category XI(a)(10). As written [in the July 25 Department of State Military Electronics Rule], Category XI(a)(10) identifies electronic sensor systems or equipment for detection of concealed weapons having a standoff detection range of greater than *45 meters* this conflicts with [current ECCN] 2A984 entry for concealed object detection equipment which includes a standoff distance of *100 meters.''* (Emphasis in original).

Response 42

This comment was also made in connection with the State July 25 (military electronics) rule. The Department of State's final rule includes language in Category XI(a)(10) that excludes sensor systems that meet the technical parameters set forth in ECCN 2A984, effectively eliminating any overlap in coverage. Therefore, this final rule makes no change to ECCN 2A984 in response to this comment.

Comments Not Related to the Proposed Rule

Comment 43

One commenter recommended changes to 37 ECCNs and several changes to the USML to address instances where the commenter believed the regulations are inconsistent with the Missile Technology Control Regime or where the commenter believed that ITAR and the EAR are inconsistent or overlap.

Response 43

BIS is taking no action on this comment because it is not relevant to the July 25 (military electronics) rule.

Comment 44

Two commenters recommended that certain items be removed from the USML.

Response 44

BIS is taking no action on these comments because the USML is administered by the Department of State.

Detailed Description of Changes Made by This Rule

Revision to Note 1 to ECCN 0A614

This rule adds the phrase ''radar trainers for radars classified under ECCN 3A611'' to Note 1 to (ECCN) 0A614, which is an illustrative list of items controlled by that entry. BIS proposed including that phrase in its initial proposal to create ECCN 0A614 (*see* 77 FR 35310, 35316, June 13, 2012). When the final rule creating ECCN 0A614 was published, ECCN 3A611, although proposed, did not yet exist so BIS omitted that phrase from ECCN 0A614 and stated its intent to add the phrase to ECCN 0A614 once ECCN 3A611 was created (*see* 79 FR 264, 267, January 2, 2014). Because this final rule creates ECCN 3A611, it also adds the phrase to ECCN 0A614.

Removal of Obsolete Cross References From the ''Related Controls'' Paragraphs of ECCNs 3A001, 3D001, 3E001 and 3E003

This rule removes from the ''Related Controls'' paragraphs of ECCNs 3A001, 3D001, 3E001 and 3E003 references to certain specific provisions of the USML because the Department of State rule that is being published concurrently with this rule makes those references obsolete. This rule also adds to ECCN 3A001 a general reference to USML Categories XI and XV and ECCNs 9A515 and 3A611.

Revisions to ECCN 3A101

Currently, ECCN 3A101 refers readers to the ITAR for analog-to-digital converters described in paragraph .a. These converters are being moved to the CCL and continue to be controlled for MT reasons because they are identified on the MTCR Annex. Placing such items in this ECCN, rather than the new ECCN 3A611, makes it easier to identify, classify, and control such items. Consequently, this rule revises ECCN 3A101.a to control analog-to-digital converters usable in ''missiles'' and having any of the characteristics described in 3A101.a.1 or a.2. This rule also makes a conforming revision to the ''Related Controls'' paragraph of that ECCN.

New 3Y611 Series of ECCNs

This rule adds new ECCNs 3A611, 3B611, 3D611, and 3E611 to control military electronics and related test, inspection, and production equipment and software and technology currently controlled by USML Category XI that the President determined no longer warrant control on the USML. These new ECCNs also control computers, telecommunications equipment, radar and avionics ''specially designed'' for military use, and parts, components, accessories, and attachments ''specially designed'' therefor, and related software and technology to the extent that they are not enumerated on the proposed revisions to Category XI. This structure aligns with the current USML Category XI and ML11, which include within the scope of ''electronics'' such items as computers, telecommunications equipment, and radar. BIS believes that it is easier to include such items within the scope of the proposed new ''600 series'' that corresponds to USML Category XI, rather than creating new ''600 series'' ECCNs in CCL Categories 4 (computers), 5 (telecommunications), 6 (radar) and 7 (avionics). BIS, however, includes cross references in CCL Categories 4, 5, 6 and 7 to alert readers that ECCN 3A611 may control such items.

The ECCN 3Y611 series, except for ECCN 3Y611.y, is controlled for national security (NS Column 1 or NS1), regional stability (RS Column 1 or RS1), antiterrorism (AT Column 1 or AT1), and United Nations embargo (UN) reasons. ECCNs 3Y611.y will only be controlled for AT1 reasons (with this final rule, ECCN 3B611 does not have a .y paragraph). Each ECCN in this 3Y611 series is described more specifically below.

New ECCN 3A611

ECCN 3A611 paragraph .a controls electronic ''equipment,'' ''end items,'' and ''systems'' ''specially designed'' for military application that are not enumerated in either a USML category or another ''600 series'' ECCN.

Paragraph .b is being reserved. The corresponding USML Category is XI(b),

which, in the Department of State rule being published concurrently with this rule, continues to be a catch-all control for ''Electronic systems or equipment, not elsewhere enumerated in . . . [the ITAR], specially designed for intelligence purposes that collects, surveys, monitors, or exploits the electromagnetic spectrum (regardless of transmission medium), or for counteracting such activities.''

Paragraphs .c and .d control MMIC power amplifiers and discrete microwave transistors, respectively.

Paragraph .c controls MMIC power amplifiers in 13 frequency ranges and paragraph .d controls discrete microwave transistors in 12 distinct frequency ranges. Each range has additional control parameters of peak saturated power output, power added efficiency or fractional bandwidth or some combination of the three. These three parameters also distinguish ECCN 3A611.c and .d from ECCN 3A001.b.2 and .b.3, which also control MMIC power amplifiers and discrete microwave transistors.

A note states that paragraph .d includes bare dice, dice mounted on carriers or dice mounted in packages. The note also recognizes discrete transistors may also be referred to as power amplifiers but that doing so does not change the classification, whether under ECCN 3A001.b.3 or 3A611.d.

Paragraph .e controls high frequency (HF) surface wave radar that maintains the positional state of maritime surface or low altitude airborne objects of interest in a received radar signal through time.

Paragraphs .f, .g, and .h apply respectively to: (1) Application specific integrated circuits (ASICs) and programmable logic devices (PLD) programmed for ''600 series'' items other than .y items; (2) printed circuit boards and populated circuit card assemblies whose layout is ''specially designed'' for ''600 series'' items other than .y items; and (3) multichip modules for which the pattern or layout is ''specially designed'' for ''600 series'' items other than .y items. In the Note to paragraph .f, ASIC is defined as ''an integrated circuit developed and produced for a specific application or function regardless of number of customers for which the integrated circuit is developed or produced.'' ASICs, printed circuit boards and populated circuit card assemblies and multichip modules for .y items are controlled in paragraph .y.

Paragraphs .i through .w are reserved.

Paragraph .x controls ''parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for a commodity controlled by ECCN 3A611 or for an article controlled by USML Category XI, and not enumerated or described in a USML category.

A related control note in ECCN 3A611 clarifies that electronic parts, components, accessories, and attachments that are ''specially designed'' for military applications that are not enumerated in any USML Category, but are within the scope of a ''600 series'' ECCN, are controlled by that ''600 series'' ECCN. For example, electronic components not enumerated on the USML that are ''specially designed'' for a military aircraft controlled by USML Category VIII or ECCN 9A610 are controlled by ECCN 9A610.x by this final rule. Similarly, electronic components not enumerated on the USML that are ''specially designed'' for a military vehicle controlled by USML Category VII or ECCN 0A606 are controlled by ECCN 0A606.x. The purpose of this note and the limitations in ECCN 3A611.x is to prevent any overlap of controls over electronics ''specially designed'' for particular types of items described in other ''600 series'' ECCNs (which is not be controlled by 3A611.x), on one hand, and other electronic parts, components, accessories, and attachments ''specially designed'' for military electronics that are not enumerated on the USML (which is controlled by ECCN 3A611.x), on the other.

Additional related control notes address: Electronic items that are enumerated in USML categories, application specific integrated circuits, unprogrammed programmable logic devices, printed circuit boards and populated circuit cards, and multichip modules. Finally, a related control note informs readers that certain radiation-hardened microelectronic circuits are controlled by ECCN 9A515.d.

Notes to ECCN 3A611.x specify that it controls: (1) Parts, components, accessories, and attachments ''specially designed'' for a radar, telecommunications, acoustic system or equipment or computer ''specially designed'' for military application that are neither controlled in any USML category nor controlled in another ''600 series'' ECCN; and (2) parts and components ''specially designed'' for underwater sensors or projectors controlled by proposed USML Category XI(c)(12) containing single-crystal lead magnesium niobate lead titanate (PMN–PT) based piezoelectrics.

This rule includes an additional note to ECCN 3A611.x stating that ''Forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacture where they are clearly identifiable by mechanical properties, material composition, geometry, or function as commodities controlled by ECCN 3A611.x are controlled by ECCN 3A611.x.'' This note, which did not appear in the November 28 (military electronics) rule or the July 25 (military electronics) rule, clarifies BIS' intent to define the parts, components, accessories and attachments controlled by paragraph .x in an manner that makes the controls under paragraph .x consistent with the controls currently imposed on such parts, components, accessories and attachments by the ITAR (22 C.F.R. § 121.10).

ECCN 3A611 also contains a paragraph .y with 35 subparagraphs that control specified parts, components, accessories and attachments for commodities *in any* ''600 series'' ECCNs. Antiterrorism (AT Column 1) is the only reason for control that applies to paragraph .y. However, as with other ''600 series'' .y ECCN paragraphs, § 744.21 of the EAR imposes a license requirement for the People's Republic of China.

New ECCN 3B611

ECCN 3B611 imposes, under paragraph .a, controls on test, inspection, and production end items and equipment ''specially designed'' for the ''development,'' ''production,'' repair, overhaul, or refurbishing of items controlled in ECCN 3A611 or USML Category XI that are not enumerated in USML Category XI or controlled by another ''600 series'' ECCN and, under paragraph .x, for ''parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for such test, inspection and production end items and equipment that are not enumerated on the USML or controlled by another ''600 series'' ECCN. Paragraphs .b through .w are reserved.

New ECCN 3D611

ECCN 3D611 paragraph .a imposes controls on software ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by 3A611 or 3B611 other than software for 3A611.y. Paragraph .b imposes controls on software ''specially designed'' for the ''development,'' ''production,'' operation or maintenance of technology in ECCN 3E611.b; *i.e.,* software (other than build-to-print software) for technology for helix traveling wave tubes (TWTs), transmit/receive or transmit modules, MMICs, and discrete microwave transistors

controlled under ECCN 3A611 is not eligible for License Exception STA. Paragraphs .c through .x is reserved. Paragraph .y controls specific ''software'' ''specially designed'' for the ''production,'' ''development,'' operation or maintenance of commodities enumerated in ECCNs 3A611.y.

New ECCN 3E611

ECCN 3E611 imposes controls on ''technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or software controlled by ECCN 3A611, 3B611 or 3D611. Technology other than ''build-to-print'' technology for helix traveling wave tubes (TWTs), transmit/receive or transmit modules, MMICs, and discrete microwave transistors controlled under ECCN 3A611 is not eligible for License Exception STA.

Revisions to ECCN 4A003

As noted above, the analog-to-digital converters described in ECCN 3A101.a are now subject to the EAR and controlled under that ECCN. Adding the text in 3A101.a.2.b for electrical input type analog-to-digital converter printed circuit boards or modules requires this rule to amend ECCN 4A003 to add an MT control for items classified under ECCN 4A003.e when meeting or exceeding the parameters described in ECCN 3A101.a.2.b. This amendment is necessary because the MT items in new paragraph 3A101.a.2.b are a subset of the items in paragraph 4A003.e. As a technical correction, this rule removes from the ''Reasons for Control'' section of ECCN 4A003 the phrase ''NP applies, unless a license exception is available. See § 742.3(b) of the EAR for information on applicable licensing review policies.'' That text does not articulate any license requirement, and no nuclear nonproliferation license requirement for digital computers is set forth elsewhere in the EAR. BIS's regular practice is to impose a license requirement for nuclear nonproliferation reasons on items that are controlled by the Nuclear Suppliers Group. Digital computers are not so controlled.

Revisions to ECCN 5A001

This rule revises the ''Related Controls'' paragraph in ECCN 5A001 to provide more detailed references to telecommunications equipment subject to the ITAR under USML Categories XI and XV, while adding a reference to 5A980 and maintaining references to ECCNs 5A101, and 5A991.

New Cross Reference ECCNs

This final rule creates four new cross reference ECCNs to alert readers that computers, telecommunications equipment, radar and avionics—and parts, components, accessories and attachments ''specially designed'' therefor—are controlled by ECCN 3A611 if they are ''specially designed'' for military application. These cross references are intended to reduce the likelihood of confusion that might otherwise arise because computers, telecommunications equipment, radar and avionics generally are in CCL Categories 4, 5 (Part 1), 6 and 7, respectively. The new cross reference ECCNs and the Categories in which they appear are: 4A611, Category 4; 5A611, Category 5, Part 1; 6A611, Category 6; 7A611, Category 7. The avionics cross reference ECCN was not in the November 28 (military electronics) rule.

Corrections to ECCNs 7A006 and 7D101

This rule corrects the reasons for control paragraph of ECCN 7A006 to state that the MT reason for control applies to those items covered by ECCN 7A006 that also meet or exceed the parameters of ECCN 7A106. ECCN 7A006 now applies the missile technology reason for control to a range of airborne altimeters that extends beyond the range of altimeters that are on the MTCR Annex. BIS's practice is to apply the MT reason for control only to items on that Annex. This change conforms ECCN 7A006 to that practice. Similarly, this rule adds the phrase ''for missile technology (MT) reasons'' to the heading of ECCN 7D101. Currently, ECCN 7D101 applies the MT reason for control to software for a range of commodity ECCNs. Not all of those commodities are controlled for MT reasons. The new text limits the scope of MT controls in ECCN 7A106 to commodities on the MTCR Annex, and that of ECCN 7D101 to software for commodities on the MTCR Annex.

New 9Y620 Series of ECCNs

This rule creates ECCNs 9A620, 9B620, 9D620, and 9E620 to apply NS1, RS1, AT1 and UN reasons for control to cryogenic and superconducting equipment described in category ML20 of the WAML, and to test, inspection and production equipment, software and technology therefor. Category ML20 covers cryogenic and superconducting equipment that is ''specially designed'' to be installed in a vehicle for military ground, marine, airborne, or space applications. BIS believes that such equipment is used in experimental or developmental vehicle propulsion systems that employ superconducting components and cryogenic equipment to cool those components. BIS has not identified evidence of trade in such items. To the extent that exports do exist, the items currently are subject to the license requirements of the USML category that controls the vehicle into which the equipment will be installed, *i.e.,* Category VI, surface vessels; Category VII, ground vehicles; Category VIII, aircraft; and Category XV, spacecraft. This rule places this cryogenic and superconducting equipment, its related test, inspection and production equipment, and its related software and technology into a single set of ''600 series'' ECCNs ending with the digits ''20'' to correspond to the relevant WAML category. This approach furthers the administration's Export Control Reform Initiative goal of aligning U.S. controls with multilateral controls wherever feasible. Each ECCN in this series is described more specifically below.

New ECCN 9A620

ECCN 9A620.a controls equipment ''specially designed'' to be installed in a vehicle for military ground, marine, airborne, or space applications, capable of operating while in motion and of producing or maintaining temperatures below 103 K (−170 °C). Paragraph .b controls ''superconductive'' electrical equipment (rotating machinery and transformers) ''specially designed'' to be installed in a vehicle for military ground, marine, airborne, or space applications, and capable of operating while in motion. Paragraphs .c through .w are reserved. Paragraph .x controls parts, components, accessories and attachments ''specially designed'' for a commodity controlled by ECCN 9A620.

This rule adds a note to ECCN 9A620.x stating that ''Forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacture where they are clearly identifiable by mechanical properties, material composition, geometry, or function as commodities controlled by ECCN 9A620.x are controlled by ECCN 9A620.x.'' This note, which did not appear in the November 28 (military electronics) rule or the July 25 (military electronics) rule, clarifies BIS' intent to define the parts, components, accessories and attachments controlled by paragraph .x in an manner that makes the controls under paragraph .x consistent with the controls currently imposed on such parts components, accessories and attachments by the ITAR (22 CFR § 121.10).

New ECCN 9B620

ECCN 9B620 controls test, inspection, and production end items and equipment ''specially designed'' for the ''development,'' ''production,'' repair, overhaul or refurbishing of items controlled in ECCN 9A620.

New ECCN 9D620

ECCN 9D620 controls software ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by ECCNs 9A620 or 9B620.

New ECCN 9E620

ECCN 9E620 controls ''technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or software controlled by ECCNs 9A620, 9B620 or 9D620.

New Controls on Software and Technology for Certain Wing Folding Systems

The Department of State rule being published simultaneously with this final rule revises USML Category VIII, paragraph (h)(4) by adding criteria to ensure that certain wing folding systems for commercial aircraft, and the related software and technology, are not controlled as defense articles on the USML. As a result, the Department of Commerce implements in this final rule provisions to control software and technology for the development of certain wing folding systems for aircraft with gas turbine engines.

A wing folding system for military aircraft, other than one described in the revised USML Category VIII(h)(4), is controlled in the catch-all paragraph .x and related software and technology controls in the 600 Series ECCNs 9A610, 9D610 and 9E610. A wing folding system for commercial and other civilian aircraft is controlled under ECCN 9A991, which controls, for antiterrorism reasons, aircraft and parts and components that are not elsewhere specified on the CCL. Production and use software and technology for such systems can be adequately controlled under the related ECCNs 9D991 and 9E991, respectively. However, software and technology controlled by these two ECCNs require a license to only five destinations. License requirements for a greater number of destinations are needed for development software and technology for wing folding systems to be used on large commercial aircraft because the software and technology required to develop a robust civil system would confer insights that would be useful to the development of a military wing folding system. Ability to develop or acquire aircraft with robust wing folding systems greatly increases the number and types of military aircraft that can be deployed from an aircraft carrier because of the limited space available for storage and maintenance activities on such vessels as compared to a land based airport.

No multilateral export controls on this development software and technology currently exist. Moreover, this software and technology does not meet the parameters of any current ECCN that would provide a license requirement for the appropriate number of destinations, creating a risk that the civil development software and technology will be exported without the U.S. Government prior review that such transactions merit.

Based on the foregoing, the Department of Commerce, with the concurrence of the Departments of Defense and State, has determined that software and technology for the development of wing folding systems for aircraft with gas turbine engines should be controlled on the CCL for export due to the growth in civil application for wing folding systems. The software and technology for the development of these systems still provide at least a significant military or intelligence advantage to the United States such that control at the AT-only level in ECCNs 9D991 and 9E991 would not sufficiently limit the proliferation of this technology contrary to U.S. national security and foreign policy interest. Therefore, this final rule adds such software and technology to Supplement No. 5 to part 774, thereby controlling them under ECCNs 0D521 and 0E521, respectively. In accordance with § 742.6(a)(7)(iii) of the EAR, this software and technology will remain so-classified for one year from the date they are listed in Supplement No. 5 to part 774 of the EAR unless the software or technology is re-classified under a different ECCN, the 0Y521 classification is extended, or the software or technology is designated as EAR99. The U.S. Government intends to submit a proposal to control this software and technology on the Wassenaar Arrangement Dual-Use List. An ECCN 0Y521 classification may be extended for two one-year periods to provide time for the U.S. Government and multilateral regime(s) to reach agreement on controls for the item, and provided that the U.S. Government has submitted a proposal to obtain multilateral controls over the item. Further extension beyond three years may occur only if the Under Secretary for Industry and Security makes a determination that such an extension is in the national security or foreign policy interests of the United States. An extension or re-extension, including a determination by the Under Secretary for Industry and Security, will be published in the **Federal Register**.

Export Administration Act

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 8, 2013, 78 FR 49107 (August 12, 2013), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distribute impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated a ''significant regulatory action,'' although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget (OMB).

2. Notwithstanding any other provision of law, no person is required to respond to, nor is subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid OMB control number. This final rule affects two approved collections: Simplified Network Application Processing System (control number 0694–0088), which includes, among other things, license applications, and License Exceptions and Exclusions (0694–0137).

As stated in the proposed rule published on July 15, 2011 (76 FR

41958), BIS initially believed that the combined effect of all rules to be published adding items to the EAR that will be removed from the ITAR as part of the administration's Export Control Reform Initiative will increase the number of license applications to be submitted by approximately 16,000 annually. As the review of the USML has progressed, the interagency group has gained more specific information about the number of items that will come under BIS jurisdiction and whether those items would be eligible for export under license exception. As of June 21, 2012, BIS revised that estimate to an increase in license applications of 30,000 annually, resulting in an increase in burden hours of 8,500 (30,000 transactions at 17 minutes each) under control number 0694–0088. BIS continues to believe that its revised estimate is accurate.

Military electronic equipment, certain cryogenic and superconducting equipment, related test, inspection and production equipment, ''parts,'' ''components,'' ''accessories'' and ''attachments,'' ''software'' and ''technology'' formerly on the USML become eligible for License Exception STA under this rule. BIS believes that the increased use of License Exception STA resulting from the combined effect of all rules to be published adding items to the EAR that would be removed from the ITAR as part of the Administration's Export Control Reform Initiative would increase the burden associated with control number 0694–0137 by about 23,858 hours (20,450 transactions @ 1 hour and 10 minutes each).

BIS expects that this increase in burden will be more than offset by a reduction in burden hours associated with approved collections related to the ITAR. The largest impact of the proposed rule would likely apply to exporters of replacement parts for military electronic equipment that has been approved under the ITAR for export to allies and regime partners. Because, with few exceptions, the ITAR allows exemptions from license requirements only for exports to Canada, most exports of such parts, even when destined to NATO and other close allies, require specific State Department authorization. Under the EAR, as proposed here, such parts would become eligible for export to NATO and other multi-regime allies under License Exception STA. Use of License Exception STA imposes a paperwork and compliance burden because, for example, exporters must furnish information about the item being exported to the consignee and obtain from the consignee an acknowledgement and commitment to comply with the EAR. However, the Administration understands that complying with the burdens of STA is likely less burdensome than applying for licenses. For example, under License Exception STA, a single consignee statement can apply to an unlimited number of products, need not have an expiration date, and need not be submitted to the government in advance for approval. Suppliers with regular customers can tailor a single statement and assurance to match their business relationship rather than applying repeatedly for licenses with every purchase order to supply reliable customers in countries that are close allies or members of export control regimes or both.

Even in situations in which a license would be required under the EAR, the burden is likely to be reduced compared to the license requirement of the ITAR. In particular, license applications for exports of technology controlled by ECCN 3E611 are likely to be less complex and burdensome than the authorizations required to export ITAR-controlled technology, *i.e.,* Manufacturing License Agreements and Technical Assistance Agreements.

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

4. BIS finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice, the opportunity for public comment for the provisions of this final rule imposing controls on software and technology for the development and production of wing folding systems for civil aircraft with gas turbine engines to ECCN 0D521 and 0E521 via Supplement No. 5 to part 774 of the EAR. BIS, with the concurrence of the U.S. Departments of Defense and State, is implementing this rule because the software and technology for those wing folding systems provide a significant military or intelligence advantage to the United States and that expedited control on the CCL is needed to prevent diversion of such software and technology to governments or parties that could use the knowledge conveyed by such software and technology to acquire insights that would be useful in developing military aircraft wing folding systems and that likely would use such insights to the detriment of United States national security and foreign policy interests.

Immediate implementation will allow BIS to prevent exports of these items to users and for uses that pose a national security threat to the United States or its allies. If BIS delayed this rule to allow for prior notice and opportunity for public comment, the resulting delay in implementation would afford an opportunity for the export of these items to users and uses that pose such a national security threat, thereby undermining the purpose of the rule. In addition, if parties receive notice of the U.S. Government's intention to control these items under 0Y521 once a final rule was published, they would have an incentive to either accelerate orders of these items or attempt to have the items exported prior to the imposition of the control.

Further, BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(3). Immediate implementation will allow BIS to prevent exports of these items to users and for uses that pose a national security threat to the United States or its allies. If BIS delayed this rule to allow for a 30-day delay in effectiveness, the resulting delay in implementation would afford an opportunity for the export of these items to users and uses that pose such a national security threat, thereby undermining the purpose of the rule.

Although notice and opportunity for comment are not required, BIS welcomes comments on the addition of wing folding technology or any other aspects of this rule at any time.

Because prior notice and an opportunity for public comment are not required to be given by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable for the provisions imposing controls on software and technology for the development and production of wing folding systems for aircraft with gas turbine engines.

5. The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.,* generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the notice and comment rulemaking requirements under the Administrative Procedure Act (5 U.S.C. 553) or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Under section 605(b) of the RFA, however, if the head of an agency (or his or her designee) certifies that a rule will not have a significant impact on a substantial number of small entities, the statute does not require the agency to prepare a regulatory flexibility analysis. Pursuant to section 605(b), the Chief Counsel for Regulation, Department of Commerce, submitted a memorandum to the Chief Counsel for

Advocacy, Small Business Administration, certifying that the November 28 (military electronics) rule would not have a significant impact on a substantial number of small entities. The rationale for that certification was set forth in the preamble to that proposed rule (77 FR 70945, 70950–70951, November 28, 2012). Although BIS received no comments on that rationale, and has accordingly made no changes to the proposed rule based on the RFA certification, BIS, in the interest of openness and transparency, briefly restates the rationale behind the certification in this final rule.

This rule is part of the Administration's Export Control Reform Initiative, which seeks to revise the USML to a positive list—one that does not use generic, catch-all controls for items listed—and to move some items that the President has determined no longer merit control under the ITAR and should be controlled under the CCL.

Although BIS does not collect data on the size of entities that apply for and are issued export licenses, and is therefore unable to estimate the exact number of small entities—as defined by the Small Business Administration's regulations implementing the RFA—BIS acknowledges that some small entities may be affected by this proposed rule.

The main effects on small entities resulting from this rule will be in application times, costs, and delays in receiving licenses to export goods subject to the CCL. However, while small entities may experience some costs and time delays for exports due to the license requirements of the CCL, these costs and delays will likely be significantly less than they were for items previously subject to the USML. BIS believes that in fact this rule will result in significantly reduced administrative costs and delays for exports of items that will, upon this rule's implementation, be subject to the EAR rather than the ITAR. Currently, USML applicants must pay to use the USML licensing procedure even if they never actually are authorized to export. Registration fees for manufacturers and exporters of articles on the USML start at $2,250 per year, increase to $2,750 for organizations applying for one to ten licenses per year and further increases to $2,750 plus $250 per license application (subject to a maximum of three percent of total application value) for those who need to apply for more than ten licenses per year. By contrast, BIS is statutorily prohibited from imposing licensing fees. In addition, exporters and reexporters of goods that would become subject to the EAR under this rule would need fewer licenses because their transactions would become eligible for license exceptions that were not available under the ITAR. Additionally, the ITAR controlled parts and components even when they were incorporated—in any amount—into a foreign-made product. That limitation on the use of U.S.-made goods subject to the ITAR discouraged foreign manufacturers from importing U.S. goods. However, the EAR has a *de minimis* exception for U.S.-manufactured goods that are incorporated into foreign-made products. This exception may benefit small entities by encouraging foreign producers to use more U.S.-made items in their goods.

Even where an exporter or reexporter would need to obtain a license under the EAR, that process is both cheaper and the process is more flexible than obtaining a license under the ITAR. For example, unlike the ITAR, the EAR does not require license applicants to provide BIS with a purchase order with the application, meaning that small (or any) entities can enter into negotiations or contracts for the sale of goods without having to caveat any sale presentations with a reference to the need to obtain a license under the ITAR before shipment can occur. Second, the EAR allows license applicants to obtain licenses to cover all expected exports or reexports to a particular consignee over the life of a license, rather than having to obtain a new license for every transaction.

In short, BIS expects that the changes to the EAR proposed in this rule will have a positive effect on all affected entities, including small entities. While BIS acknowledges that this rule may have some cost impacts to small (and other) entities, those costs are more than offset by the benefits to the entities from the licensing procedures under the EAR, which are much less costly and less time consuming than the procedures under the ITAR. Accordingly, the Chief Counsel for Regulation for the Department of Commerce has certified that this rule, if implemented, will not have a significant economic impact on a substantial number of small entities. Accordingly, an initial regulatory flexibility analysis is not required, and none has been prepared.

List of Subjects in Part 774

Exports, Reporting and recordkeeping requirements.

Accordingly, part 774 of the Export Administration Regulations (15 CFR Parts 730–774) is amended as follows:

PART 774—[AMENDED]

■ 1. The authority citation for 15 CFR part 774 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c, 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 30 U.S.C. 185(s), 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 15 U.S.C. 1824a; 50 U.S.C. app. 5; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013).

■ 2. In Supplement No. 1 to part 774, amend Export Control Classification Number 0A614 by revising ''Note 1 to 0A614'' to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

0A614 Military Training ''Equipment,'' as Follows (see List of Items Controlled).

* * * * *

Note 1 to 0A614: *This entry includes operational flight trainers, radar target trainers, flight simulators for aircraft classified under ECCN 9A610.a, human-rated centrifuges, radar trainers for radars classified under ECCN 3A611, instrument flight trainers for military aircraft, navigation trainers for military items, target equipment, armament trainers, military pilotless aircraft trainers, mobile training units and training ''equipment'' for ground military operations.*

* * * * *

■ 3. In Supplement No. 1 to part 774, revise the ''Related Controls'' paragraph in the ''List of Items Controlled'' of ECCN 3A001 to read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

3A001 Electronic components and ''specially designed'' ''components'' therefor, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

Related Controls: See USML Categories XI and XV and ECCNs 9A515 and 3A611.

* * * * *

■ 4. In Supplement No. 1 to part 774, Category 3, amend Export Control Classification Number (ECCN) 3A101 by:

■ a. Revising the Related Controls paragraph in the List of Items Controlled section; and

■ b. Revising paragraph a. in the Items paragraph in the List of Items Controlled section.

The revisions read as follows:

Supplement No. 1 to Part 774—The Commerce Control List

* * * * *

3A101 Electronic equipment, devices and components, other than those controlled by 3A001, as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Related Controls: See also ECCN 4A003.e for controls on analog-to-digital converters, printed circuit boards, or modules for computers.

* * * * *

Items:

a. Analog-to-digital converters usable in ''missiles,'' and having any of the following characteristics:

a.1. ''Specially designed'' to meet military specifications for ruggedized equipment;

a.2. ''Specially designed'' for military use and being any of the following types:

a.2.a. Analog-to-digital converter microcircuits which are radiation-hardened or have all of the following characteristics:

a.2.a.1. Having a quantization corresponding to 8 bits or more when coded in the binary system;

a.2.a.2. Rated for operation in the temperature range from −54 °C to above +125 °C; *and*

a.2.a.3. Hermetically sealed; *or*

a.2.b. Electrical input type analog-to-digital converter printed circuit boards or modules, having all of the following characteristics:

a.2.b.1. Having a quantization corresponding to 8 bits or more when coded in the binary system;

a.2.b.2. Rated for operation in the temperature range from below −45 °C to above +55 °C; *and*

a.2.b.3. Incorporating microcircuits identified in 3A101.a.2 .a;

* * * * *

■ 5. In Supplement No. 1 to Part 774, between the entries for ECCNs 3A292 and 3A980, add an entry for ECCN 3A611 to read as follows:

3A611 Military electronics, as follows (see List of Items Controlled).

Reason for Control: NS, RS, AT, UN.

Control(s)	*Country chart* (see Supp. No. 1 to part 738)
NS applies to entire entry except 3A611.y.	NS Column 1
RS applies to entire entry except 3A611.y.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry except 3A611.y.	See § 746.1(b) for UN controls

List Based License Exceptions (See Part 740 for a Description of All License Exceptions)

LVS: $1500 for 3A611.a, .d through .h and .x; N/A for ECCN 3A611.c.

GBS: N/A

CIV: N/A

Special Conditions for STA

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 3A611.

List of Items Controlled

Related Controls: (1) Electronic items that are enumerated in USML Category XI or other USML categories, and technical data (including software) directly related thereto, are subject to the ITAR. (2) Application specific integrated circuits (ASICs) and programmable logic devices (PLD) that are programmed for defense articles that are subject to the ITAR are controlled in USML Category XI(c)(1). (3) See ECCN 3A001.a.7 for controls on unprogrammed programmable logic devices (PLD). (4) Printed circuit boards and populated circuit cards with a layout that is ''specially designed'' for defense articles are controlled in USML Category XI(c)(2). (5) Multichip modules for which the pattern or layout is ''specially designed'' for defense articles are controlled in USML Category XI(c)(3). (6) Electronic items ''specially designed'' for military application that are not controlled in any USML category but are within the scope of another ''600 series'' ECCN are controlled by that ''600 series'' ECCN. For example, electronic components not enumerated on the USML or a ''600 series'' other than 3A611 that are ''specially designed'' for a military aircraft controlled by USML Category VIII or ECCN 9A610 are controlled by the catch-all control in ECCN 9A610.x. Electronic components not enumerated on the USML or another ''600 series'' entry that are ''specially designed'' for a military vehicle controlled by USML Category VII or ECCN 0A606 are controlled by ECCN 0A606.x. Electronic components not enumerated on the USML that are ''specially designed'' for a missile controlled by USML Category IV are controlled by ECCN 0A604. (7) Certain radiation-hardened microelectronic circuits are controlled by ECCN 9A515.d or 9A515.e, when ''specially designed'' for defense articles, ''600 series'' items, or items controlled by 9A515.

Related Definitions: N/A.

Items:

a. Electronic ''equipment,'' ''end items,'' and ''systems'' ''specially designed'' for a military application that are not enumerated or otherwise described in either a USML category or another ''600 series'' ECCN.

Note to 3A611.a: ECCN 3A611.a includes any radar, telecommunications, acoustic or computer equipment, end items, or systems ''specially designed'' for military application that are not enumerated or otherwise described in any USML category or controlled by another ''600 series'' ECCN.

b. [Reserved]

c. Microwave ''monolithic integrated circuits'' (MMIC) power amplifiers having any of the following:

c.1. Rated for operation at frequencies exceeding 2.7 GHz up to and including 2.9 GHz *and* having any of the following:

c.1.a. A ''fractional bandwidth'' greater than 15%, with a peak saturated power output greater than 75 W (48.75 dBm) *and* a power added efficiency of 55% or greater anywhere within the operating frequency range; *or*

c.1.b. A ''fractional bandwidth'' greater than 60%, with a peak saturated power output greater than 150 W (51.8 dBm) anywhere within the operating frequency range;

c.2. Rated for operation at frequencies exceeding 2.9 GHz up to and including 3.2 GHz *and* having any of the following:

c.2.a. A ''fractional bandwidth'' greater than 15%, with a peak saturated power output greater than 55 W (47.4 dBm) *and* a power added efficiency of 55% or greater anywhere within the operating frequency range; *or*

c.2.b. A ''fractional bandwidth'' greater than 55%, with a peak saturated power output greater than 110 W (50.4 dBm) anywhere within the operating frequency range;

c.3. Rated for operation at frequencies exceeding 3.2 GHz up to and including 3.7 GHz *and* having any of the following:

c.3.a. A ''fractional bandwidth'' greater than 15%, with a peak saturated power output greater than 40 W (46 dBm) *and* a power added efficiency of 45% or greater anywhere within the operating frequency range; *or*

c.3.b. A ''fractional bandwidth'' greater than 50%, with a peak saturated power output greater than 80 W (49 dBm) anywhere within the operating frequency range;

c.4. Rated for operation at frequencies exceeding 3.7 GHz up to and including 6.8 GHz and having any of the following:

c.4.a. A ''fractional bandwidth'' greater than 15%, with a peak saturated power output greater than 20 W (43 dBm) *and* a power added efficiency of 40% or greater anywhere within the operating frequency range; *or*

c.4.b. A ''fractional bandwidth'' greater than 45%, with a peak saturated power output greater than 40 W (46 dBm) anywhere within the operating frequency range;

c.5. Rated for operation at frequencies exceeding 6.8 GHz up to and including 8.5 GHz *and* having any of the following:

c.5.a. A ''fractional bandwidth'' greater than 10%, with a peak saturated power output greater than 10 W (40.0 dBm) and a power added efficiency of 40% or greater anywhere within the operating frequency range; *or*

c.5.b. A ''fractional bandwidth'' greater than 40%, with a peak saturated power output greater than 20 W (43 dBm) anywhere within the operating frequency range;

c.6. Rated for operation at frequencies exceeding 8.5 GHz up to and including 16 GHz *and* having any of the following:

c.6.a. A ''fractional bandwidth'' greater than 10%, with a peak saturated power output greater than 5 W (37 dBm) *and* a power added efficiency of 35% or greater anywhere within the operating frequency range; *or*

c.6.b. A ''fractional bandwidth'' greater than 40%, with a peak saturated power output greater than 10 W (40 dBm) anywhere within the operating frequency range;

c.7. Rated for operation at frequencies exceeding 16 GHz up to and including 31.8

GHz with a ''fractional bandwidth'' greater than 10%, *and* having a peak saturated power output greater than 3 W (34.77 dBm) *and* a power added efficiency of 20% or greater anywhere within the operating frequency range;

c.8. Rated for operation at frequencies exceeding 31.8 GHz up to and including 37 GHz, *and* having a peak saturated power output greater than 2 W (33 dBm) anywhere within the operating frequency range;

c.9. Rated for operation at frequencies exceeding 37 GHz up to and including 43.5 GHz with a ''fractional bandwidth'' greater than 10%, *and* having a peak saturated power output greater than 1 W (30 dBm) *and* a power added efficiency of 15% or greater anywhere within the operating frequency range;

c.10. Rated for operation at frequencies exceeding 43.5 GHz up to and including 75 GHz with a ''fractional bandwidth'' greater than 10%, *and* having a peak saturated power output greater than 31.62 mW (15 dBm) and a power added efficiency of 10% or greater anywhere within the operating frequency range;

c.11. Rated for operation at frequencies exceeding 75 GHz up to and including 90 GHz with a ''fractional bandwidth'' greater than 5%, *and* having a peak saturated power output greater than 10 mW (10 dBm) *and* a power added efficiency of 10% or greater anywhere within the operating frequency range;

c.12. Rated for operation at frequencies exceeding 90 GHz up to and including 110 GHz and having a peak saturated power output greater than 1.0 mW (0 dBm) anywhere within the operating frequency range; or

c.13. Rated for operation at frequencies exceeding 110 GHz and having a peak saturated power output greater than 100 nW (−40 dBm) anywhere within the operating frequency range.

Note 1 to 3A611.c: The control status of an item that has rated operating frequency including frequencies listed in more than one frequency range, as defined by 3A611.c.1 through 3A611.c.13, is determined by the lowest saturated power output threshold.

Note 2 to 3A611.c: Peak saturated power output may also be referred to as output power, saturated power output, maximum power output, peak power output, or peak envelope power output.

d. Discrete microwave transistors having any of the following:

d.1. Rated for operation at frequencies exceeding 2.7 GHz up to and including 2.9 GHz *and* having a peak saturated power output greater than 400 W (56 dBm) *and* a power added efficiency of 60% or greater anywhere within the operating frequency range;

d.2. Rated for operation at frequencies exceeding 2.9 GHz up to and including 3.2 GHz and having a peak saturated power output greater than 205 W (53.12 dBm) *and* a power added efficiency of 60% or greater anywhere within the operating frequency range;

d.3. Rated for operation at frequencies exceeding 3.2 GHz up to and including 3.7 GHz *and* having a peak saturated power output greater than 115 W (50.61 dBm) *and* a power added efficiency of 45% or greater anywhere within the operating frequency range;

d.4. Rated for operation at frequencies exceeding 3.7 GHz up to and including 6.8 GHz *and* having a peak saturated power output greater than 60 W (47.78 dBm) *and* a power added efficiency of 45% or greater anywhere within the operating frequency range;

d.5. Rated for operation at frequencies exceeding 6.8 GHz up to and including 8.5 GHz *and* having a peak saturated power output greater than 50 W (47 dBm) *and* a power added efficiency of 50% or greater anywhere within the operating frequency range;

d.6. Rated for operation at frequencies exceeding 8.5 GHz and up to and including 12 GHz *and* having a peak saturated power output greater than 20 W (43 dBm) *and* a power added efficiency of 35% or greater anywhere within the operating frequency range;

d.7. Rated for operation at frequencies exceeding 12 GHz up to and including 16 GHz *and* having a peak saturated power output greater than 40 W (46 dBm) *and* a power added efficiency of 35% or greater anywhere within the operating frequency range;

d.8. Rated for operation at frequencies exceeding 16 GHz up to and including 31.8 GHz *and* having a peak saturated power output greater than 20 W (43 dBm) *and* a power added efficiency of 30% or greater anywhere within the operating frequency range;

d.9. Rated for operation at frequencies exceeding 31.8 GHz up to and including 37 GHz *and* having a peak saturated power output greater than 2 W (33 dBm) anywhere within the operating frequency range;

d.10. Rated for operation at frequencies exceeding 37 GHz up to and including 43.5 GHz *and* having a peak saturated power output greater than 1 W (30 dBm) *and* a power added efficiency of 20% or greater anywhere within the operating frequency range; or

d.11. Rated for operation at frequencies exceeding 43.5 GHz to and including 75 GHz *and* having a peak saturated power output greater than 0.5 W (27 dBm) *and* a power added efficiency of 15% or greater anywhere within the operating frequency range;

d.12. Rated for operation at frequencies exceeding 75 GHz *and* having a peak saturated power output greater than 0.1 W (20 dBm) anywhere within the operating frequency range.

Note 1 to 3A611.d: The control status of an item that has rated operating frequency including frequencies listed in more than one frequency range, as defined by 3A611.d.1 through 3A611.d.12, is determined by the lowest saturated output power threshold.

Note 2 to 3A611.d: Peak saturated power output may also be referred to as output power, saturated power output, maximum power output, peak power output, or peak envelope power output.

Note 3 to 3A611.d: 3A611.d includes bare dice, dice mounted on carriers, or dice mounted in packages. Some discrete transistors may also be referred to as power amplifiers, but the status of these products is determined by 3A001.b.3. and 3A611.d.

e. High frequency (HF) surface wave radar that maintains the positional state of maritime surface or low altitude airborne objects of interest in a received radar signal through time.

Note to 3A611.e: ECCN 3A611.e does not apply to systems, equipment, and assemblies ''specially designed'' for marine traffic control.

f. Application specific integrated circuits (ASICs) and programmable logic devices (PLD) that are not controlled by paragraph .y of this entry and that are programmed for ''600 series'' items.

Note to paragraph .f: In this paragraph, the term 'application specific integrated circuit' means an integrated circuit developed and produced for a specific application or function regardless of number of customers for which the integrated circuit is developed or produced.

g. Printed circuit boards and populated circuit card assemblies that are not controlled by paragraph .y of this entry and for which the layout is ''specially designed'' for ''600 series'' items.

h. Multichip modules that are not controlled by paragraph .y of this entry and for which the pattern or layout is ''specially designed'' for ''600 series'' items.

i. through w. [Reserved]

x. ''Parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for a commodity controlled by this entry or for an article controlled by USML Category XI, and not enumerated or described in any USML category or another 600 series ECCN or in paragraph .y of this entry.

Note 1 to ECCN 3A611.x: ECCN 3A611.x includes ''parts,'' ''components'', ''accessories'', and ''attachments'' ''specially designed'' for a radar, telecommunications, acoustic system or equipment or computer ''specially designed'' for military application that are neither controlled in any USML category nor controlled in another ''600 series'' ECCN.

Note 2 to ECCN 3A611.x: ECCN 3A611.x controls ''parts'' and ''components'' ''specially designed'' for underwater sensors or projectors controlled by USML Category XI(c)(12) containing single-crystal lead magnesium niobate lead titanate (PMN–PT) based piezoelectrics.

Note 3 to ECCN 3A611.x: Forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacture where they are clearly identifiable by mechanical properties, material composition, geometry, or function as commodities controlled by ECCN 3A611.x are controlled by ECCN 3A611.x.

y. Specific ''parts,'' ''components,'' ''accessories'' and ''attachments'' ''specially designed'' for a commodity subject to control in a ''600 series'' ECCN or a defense article and not elsewhere specified in any ''600 series'' ECCN or the USML as follows, and

''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor:

y.1. Electrical connectors;
y.2. Electric fans;
y.3. Heat sinks;
y.4. Joy sticks;
y.5. Mica paper capacitors;
y.6. Microphones;
y.7. Potentiometers;
y.8. Rheostats;
y.9. Electric connector backshells;
y.10. Solenoids;
y.11. Speakers;
y.12. Trackballs;
y.13. Electric transformers;
y.14. Application specific integrated circuits (ASICs) and programmable logic devices (PLD) that are programmed for commodities controlled in the .y paragraph of any ''600 series'' ECCN;
y.15. Printed circuit boards and populated circuit card assemblies for which the layout is ''specially designed'' for an item controlled by the .y paragraph of any ''600 series'' ECCN;
y.16. Multichip modules for which the pattern or layout is ''specially designed'' for an item in the .y paragraph of a ''600 series'' ECCN;
y.17. Circuit breakers;
y.18. Ground fault circuit interrupters;
y.19. Electrical contacts;
y.20. Electrical guide pins;
y.21. Filtered and unfiltered mechanical switches;
y.22. Thumbwheels;
y.23. Fixed resistors;
y.24. Electrical jumpers;
y.25. Grounding straps;
y.26. Indicator dials;
y.27. Contactors;
y.28. Touchpads;
y.29. Mechanical caps;
y.30. Mechanical plugs;
y.31. Finger barriers;
y.32. Flip-guards;
y.33. Identification plates and nameplates;
y.34. Knobs;
y.35. Hydraulic, pneumatic, fuel and lubrication gauges.

■ 6. In Supplement No. 1 to Part 774, between the entries for ECCNs 3B002 and 3B991, add an entry for ECCN 3B611 to read as follows:

3B611 Test, inspection, and production commodities for military electronics, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT, UN.

Control(s)	*Country chart* (see Supp. No. 1 to part 738)
NS applies to entire entry.	NS Column 1
RS applies to entire entry.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry.	See § 746.1(b) for UN controls

List Based License Exceptions (see Part 740 for a description of all license exceptions)

LVS: $1500.
GBS: N/A.
CIV: N/A.

Special Conditions for STA

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 3B611.

List of Items Controlled

Related Controls: N/A.
Related Definitions: N/A.
Items:

a. Test, inspection, and production end items and equipment ''specially designed'' for the ''development,'' ''production,'' repair, overhaul or refurbishing of items controlled in ECCN 3A611 (except 3A611.y) or USML Category XI that are not enumerated in USML Category XI or controlled by another ''600 series'' ECCN.
b. through w. [Reserved]
x. ''Parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for a commodity listed in this entry and that are not enumerated on the USML or controlled by another ''600 series'' ECCN.

■ 7. In Supplement No. 1 to part 774, revise the ''Related Controls'' paragraph in the ''List of Items Controlled'' of ECCN 3D001 to read as follows:

3D001 ''Software'' ''specially designed'' for the ''development'' or ''production'' of equipment controlled by 3A001.b to 3A002.g or 3B (except 3B991 and 3B992).

* * * * *

List of Items Controlled

Related Controls: N/A.

* * * * *

■ 8. In Supplement No. 1 to Part 774, between the entries for ECCNs 3D101 and 3D980, add an entry for ECCN 3D611 to read as follows:

3D611 ''Software'' ''specially designed'' for military electronics, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT, UN.

Control(s)	*Country chart* (see Supp. No. 1 to part 738)
NS applies to entire entry except 3D611.y.	NS Column 1
RS applies to entire entry except 3D611.y.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry except 3D611.y.	See § 746.1(b) for UN controls

List Based License Exceptions (see Part 740 for a description of all license exceptions)

CIV: N/A.
TSR: N/A.

Special Conditions for STA

STA: 1. Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any ''software'' in 3D611. 2. Except for ''build-to-print'' software, License Exception STA is not eligible for software enumerated in ECCN 3D611.b.

List of Items Controlled

Related Controls: ''Software'' directly related to articles enumerated in USML Category XI is controlled in USML Category XI(d).
Related Definitions: N/A.
Items:

a. ''Software'' ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by ECCN 3A611 (other than 3A611.y) and 3B611.
b. ''Software'' ''specially designed'' for the ''development,'' ''production,'' operation or maintenance of technology in ECCN 3E611.b.
c. through x. [Reserved]
y. ''Software'' ''specially designed'' for the ''production,'' ''development,'' operation or maintenance of commodities enumerated in ECCNs 3A611.y.

■ 9. In Supplement No. 1 to part 774, revise the ''Related Controls'' paragraph in the ''List of Items Controlled'' of ECCN 3E001 to read as follows:

3E001 ''Technology'' according to the General Technology Note for the ''development'' or ''production'' of equipment or materials controlled by 3A (except 3A292, 3A980, 3A981, 3A991 3A992, or 3A999), 3B (except 3B991 or 3B992) or 3C (except 3C992).

* * * * *

List of Items Controlled

Related Controls: See also 3E101 and 3E201.

* * * * *

■ 10. In Supplement No. 1 to part 774, revise the ''Related Controls'' paragraph in the ''List of Items Controlled'' of ECCN 3E003 to read as follows:

3E003 Other ''technology'' for the ''development'' or ''production'' of the following (see List of Items Controlled).

List of Items Controlled

Related Controls: See 3E001 for silicon-on-insulation (SOI) technology for the ''development'' or ''production'' related to radiation hardening of integrated circuits.

■ 11. In Supplement No. 1 to Part 774, between the entries for ECCNs 3E292 and 3E980, add an entry for ECCN 3E611 to read as follows:

3E611 ''Technology'' ''required'' for military electronics, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT, UN.

Control(s)	Country chart (see Supp. No. 1 to part 738)
NS applies to entire entry except 3E611.y.	NS Column 1
RS applies to entire entry except 3E611.y.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry except 3E611.y.	See § 746.1(b) for UN controls

List Based License Exceptions (see Part 740 for a description of all license exceptions)

CIV: N/A.
TSR: N/A.

Special Conditions for STA

STA: 1. Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any ''technology'' in 3E611. 2. Except for ''build-to-print technology,'' License Exception STA is not eligible for ''technology'' enumerated in ECCN 3E611.b.

List of Items Controlled

Related Controls: Technical data directly related to articles enumerated in USML Category XI is controlled in USML Category XI(d).
Related Definitions: N/A.
Items:

a. ''Technology'' (other than that controlled by 3E611.b or 3E611.y) ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or software controlled by ECCN 3A611, 3B611 or 3D611.

b. ''Technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of the following if controlled by ECCN 3A611, including 3A611.x:

b.1. Helix traveling wave tubes (TWTs);

b.2. Transmit/receive or transmit modules;

b.3. Microwave monolithic integrated circuits (MMIC); or

b.4. Discrete microwave transistors.

c. through x. [Reserved]

y. ''Technology'' ''required'' for the ''production,'' ''development,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or software enumerated in ECCNs 3A611.y or 3D611.y.

■ 12. In Supplement No. 1 to Part 774, amend ECCN 4A003 by revising the License Requirements section to read as follows:

4A003 ''Digital computers'', ''electronic assemblies'', and related equipment therefor, as follows (see List of Items Controlled) and ''specially designed'' components therefor.

License Requirements

Reason for Control: NS, MT, CC, AT.

Control(s)	Country chart (see Supp. No. 1 to part 738)
NS applies to 4A003.b and .c.	NS Column 1
NS applies to 4A003.e and .g.	NS Column 2
MT applies to 4A003.e when the parameters in 3A101.a.2.b are met or exceeded.	MT Column 1
CC applies to ''digital computers'' for computerized finger-print equipment.	CC Column 1
AT applies to entire entry (refer to 4A994 for controls on ''digital computers'' with a APP >0.0128 but ≤3.0 WT).	AT Column 1

Note 1: For all destinations, except those countries in Country Group E:1 of Supplement No. 1 to part 740 of the EAR, no license is required (NLR) for computers with an ''Adjusted Peak Performance'' (''APP'') not exceeding 3.0 Weighted TeraFLOPS (WT) and for ''electronic assemblies'' described in 4A003.c that are not capable of exceeding an ''Adjusted Peak Performance'' (''APP'') exceeding 3.0 Weighted TeraFLOPS (WT) in aggregation, except certain transfers as set forth in § 746.3 (Iraq).

Note 2: Special Post Shipment Verification reporting and recordkeeping requirements for exports of computers to destinations in Computer Tier 3 may be found in § 743.2 of the EAR.

* * * * *

■ 13. In Supplement No. 1 to Part 774, between the entries for ECCNs 4A102 and 4A980, add an entry for ECCN 4A611 as follows:

4A611 Computers, and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor, ''specially designed'' for a military application that are not enumerated in any USML category are controlled by ECCN 3A611.

■ 14. In Supplement No. 1 to Part 774, amend ECCN 5A001 by revising the Related Controls paragraph of the List of Items Controlled section, to read as follows:

5A001 Telecommunications systems, equipment, ''components'' and ''accessories,'' as follows (see List of Items Controlled).

* * * * *

List of Items Controlled

* * * * *

Related Controls: 1. See USML Category XV for controls on telecommunications equipment, including the types of equipment described in ECCN 5A001.a.1, and any other equipment used in satellites that is subject to the ITAR. See USML Category XI for controls on direction finding equipment including types of equipment in ECCN 5A001.e and any other military or intelligence electronic equipment subject to the ITAR. 2. See USML Category XI(a)(4)(iii) for controls on electronic attack and jamming equipment defined in 5A001.f and .h that are subject to the ITAR. 3. See also ECCNs 5A101, 5A980, and 5A991.

* * * * *

■ 15. In Supplement No. 1 to Part 774, between the entries for ECCNs 5A101 and 5A980, add an entry for ECCN 5A611 as follows:

5A611 Telecommunications equipment, and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor, ''specially designed'' for a military application that are not enumerated in any USML category are controlled by ECCN 3A611.

■ 16. In Supplement No. 1 to Part 774, between the entries for ECCNs 6A226 and 6A991, add an entry for ECCN 6A611 as follows:

6A611 Acoustic systems and equipment, radar, and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor, ''specially designed'' for a military application that are not enumerated in any USML category or other ECCN are controlled by ECCN 3A611.

■ 17. In Supplement No. 1 to Part 774, ECCN 7A006, revise the Reasons for Control paragraph of the License Requirements section to read as follows:

7A006 Airborne altimeters operating at frequencies other than 4.2 to 4.4 GHz inclusive and having any of the following (see List of Items Controlled).

License Requirements

Reason for Control: NS, MT, AT.

Control(s)	Country chart (see Supp. No. 1 to part 738)
NS applies to entire entry.	NS Column 1
MT applies to commodities in this entry that meet or exceed the parameters of 7A106.	MT Column 1
AT applies to entire entry.	AT Column 1

* * * * *

■ 18. In Supplement No. 1 to Part 774, between the entries for ECCNs 7A117 and 7A994, add an entry for ECCN 7A611 as follows:

7A611 Navigation and avionics equipment and, systems and ''parts,'' ''components,'' ''accessories,'' and ''attachments'' ''specially designed'' therefor, ''specially designed'' for a military

application that are not enumerated in any USML category or another ''600 series'' ECCN are controlled by ECCN 3A611.

■ 19. In Supplement No. 1 to Part 774, ECCN 7D101, revise the heading to read as follows:

7D101 ''Software'' ''specially designed'' or modified for the ''use'' of equipment controlled for missile technology (MT) reasons by 7A001 to 7A006, 7A101 to 7A107, 7A115, 7A116, 7A117, 7B001, 7B002, 7B003, 7B101, 7B102, or 7B103.

* * * * *

■ 20. In Supplement No. 1 to Part 774, between the entries for ECCNs 9A619 and 9A980, add an entry for ECCN 9A620 to read as follows:

9A620 Cryogenic and ''superconductive'' equipment, as follows (see list of items controlled).

Reason for Control: NS, RS, AT, UN.

Control(s)	*Country chart* (see Supp. No. 1 to part 738)
NS applies to entire entry.	NS Column 1
RS applies to entire entry.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry.	See § 746.1(b) for UN controls

List Based License Exceptions (see Part 740 for a description of all license exceptions)

LVS: $1500.
GBS: N/A.
CIV: N/A.

Special Conditions for STA

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 9A620.

List of Items Controlled

Related Controls: Electronic items that are enumerated in USML Category XI or other USML categories, and technical data (including software) directly related thereto, are subject to the ITAR.
Related Definitions: N/A.
Items:

a. Equipment ''specially designed'' to be installed in a vehicle for military ground, marine, airborne, or space applications, and capable of operating while in motion and of producing or maintaining temperatures below 103 K (−170°C).

Note to 9A620.a: ECCN 9A620.a includes mobile systems incorporating or employing ''accessories'' or ''components'' manufactured from non-metallic or non-electrical conductive materials such as plastics or epoxy-impregnated materials.

b. ''Superconductive'' electrical equipment (rotating machinery and transformers) ''specially designed'' to be installed in a vehicle for military ground, marine, airborne, or space applications, and capable of operating while in motion.

Note to 9A620.b: ECCN 9A620.b. does not control direct-current hybrid homopolar generators that have single-pole normal metal armatures which rotate in a magnetic field produced by superconducting windings, provided those windings are the only superconducting components in the generator.

c. through w. [Reserved].

x. ''Parts,'' ''components,'' ''accessories'' and ''attachments'' that are ''specially designed'' for a commodity controlled by ECCN 9A620.

Note to 9A620.b: Forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacture where they are clearly identifiable by mechanical properties, material composition, geometry, or function as commodities controlled by ECCN 9A620.x are controlled by ECCN 9A620.x.

■ 21. In Supplement No. 1 to Part 774, between the entries for ECCNs 9B619 and 9B990, add an entry for ECCN 9B620 to read as follows:

9B620 Test, inspection, and production commodities for cryogenic and ''superconductive'' equipment (see List of Items controlled).

License Requirements

Reason for Control: NS, RS, AT, UN.

Control(s)	*Country chart* (see Supp. No. 1 to part 738)
NS applies to entire entry.	NS Column 1
RS applies to entire entry.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry.	See § 746.1(b) for UN controls

List Based License Exceptions (see Part 740 for a description of all license exceptions)

LVS: $1500.
GBS: N/A.
CIV: N/A.

Special Conditions for STA

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any item in 9B620.

List of Items Controlled

Related Controls: N/A.
Related Definitions: N/A.
Items:

a. Test, inspection, and production end items and equipment ''specially designed'' for the ''development,'' ''production,'' repair, overhaul or refurbishing of items controlled in ECCN 9A620.

b. [Reserved]

■ 22. In Supplement No. 1 to Part 774, between the entries for ECCNs 9D619 and 9D990, add an entry for ECCN 9D620 to read as follows:

9D620 ''Software'' ''specially designed'' for cryogenic and ''superconductive'' equipment, as follows (see List of Items Controlled).

License Requirements

Reasons for Control: NS, RS, AT, UN.

Control(s)	*Country chart* (see Supp. No. 1 to part 738)
NS applies to entire entry.	NS Column 1
RS applies to entire entry.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry.	See § 746.1(b) for UN controls

List Based License Exceptions (see Part 740 for a description of all license exceptions)

CIV: N/A.
TSR: N/A.

Special Conditions for STA

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any ''software'' in 9D620.

List of Items Controlled

Related Controls: ''Software'' directly related to articles enumerated on USML are subject to the control of that USML category.
Related Definitions: N/A.
Items: Software ''specially designed'' for the ''development,'' ''production,'' operation, or maintenance of commodities controlled by ECCNs 9A620 or 9B620.

■ 23. In Supplement No. 1 to Part 774, between the entries for ECCNs 9E619 and 9E990, add an entry for ECCN 9E620 to read as follows:

9E620 Technology ''required'' for cryogenic and ''superconductive'' equipment, as follows (see List of Items Controlled).

License Requirements

Reason for Control: NS, RS, AT, UN.

Control(s)	*Country chart* (see Supp. No. 1 to part 738)
NS applies to entire entry.	NS Column 1
RS applies to entire entry.	RS Column 1
AT applies to entire entry.	AT Column 1
UN applies to entire entry.	See § 746.1(b) for UN controls

List Based License Exceptions (see Part 740 for a description of all license exceptions)

CIV: N/A.
TSR: N/A.

Special Conditions for STA

STA: Paragraph (c)(2) of License Exception STA (§ 740.20(c)(2) of the EAR) may not be used for any technology in 9E620.

List of Items Controlled

Related Controls: Technical data directly related to articles enumerated on USML are

subject to the control of that USML category.

Related Definitions: N/A.

Items: ''Technology'' ''required'' for the ''development,'' ''production,'' operation, installation, maintenance, repair, overhaul, or refurbishing of commodities or software controlled by ECCN 9A620, 9B620 or 9D620.

■ 24. Supplement No. 5 to Part 774 is revised by adding to the table, in numerical order, item No. 3 under the heading ''0D521. Software'' and item No. 2 to under the heading ''0E521. Technology'' to read as follows:

SUPPLEMENT NO. 5 TO PART 774—ITEMS CLASSIFIED UNDER ECCNS 0A521, 0B521, 0C521, 0D521 AND 0E521

* * * * *

Item descriptor *Note:* The description must match by model number or a broader descriptor that does not necessarily need to be company specific.	Date of initial or subsequent BIS classification. (ID = initial date; SD = subsequent date).	Date when the item will be designated EAR99 unless reclassified in another ECCN or the 0Y521 classification is reissued.	Item-specific license exception eligibility.
* *	*	*	* *
0D521. Software			
* *	*	*	* *
No. 3 ''Software'' ''specially designed'' or modified for the ''development'' of ''technology'' controlled by 0E521 No. 2.	7/1/2014	7/1/2015	License Exception GOV under § 740.11(b)(2)(ii) only.
0E521. Technology			
* *	*	*	* *
No. 2 ''Technology'' ''required'' for the ''development'' of aircraft wing folding systems, designed for aircraft powered by gas turbine engines.	7/1/2014	7/1/2015	License Exception GOV under § 740.11(b)(2)(ii) only.
* *	*	*	* *

Dated: June 19, 2014.

Kevin J. Wolf,

Assistant Secretary of Commerce for Export Administration.

[FR Doc. 2014–14683 Filed 6–30–14; 8:45 am]

BILLING CODE 3510–33–P

FEDERAL REGISTER

Vol. 79 Tuesday,

No. 126 July 1, 2014

Part VIII

Department of the Interior

Fish and Wildlife Service

50 CFR Chapter I

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Chapter II

Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species''; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Chapter I

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Chapter II

[Docket No. FWS–R9–ES–2011–0031; FXES11130900000C6–145–FF09E42000; DOC Docket No. 110131072–4385–02]

RIN 1018–AX49; 0648–BA78

Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species''

AGENCIES: Fish and Wildlife Service, Interior; National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of final policy.

SUMMARY: We, the United States Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) (collectively, the Services), announce a policy to provide our interpretation of the phrase ''significant portion of its range'' in the Endangered Species Act's (Act's) definitions of ''endangered species'' and ''threatened species.'' The purpose of this final policy is to provide an interpretation and application of ''significant portion of its range'' that reflects a permissible reading of the law and minimizes undesirable policy outcomes, while fulfilling the conservation purposes of the Act. This final policy provides a consistent standard for interpretation of the phrase and its role in listing determinations.

DATES: This policy is effective on July 31, 2014.

ADDRESSES: This final policy is available on the Internet at *http://www.regulations.gov* at Docket Number FWS–R9–ES–2011–0031. Comments and materials received, as well as supporting documentation used in the preparation of this policy, are also available at the same location on the Internet.

FOR FURTHER INFORMATION CONTACT: Gina Shultz, U.S. Fish and Wildlife Service, Ecological Services Program, 4401 North Fairfax Drive, Room 420, Arlington, VA 22203; telephone 703–358–2171; facsimile 703–358–1735; or Marta Nammack, National Marine Fisheries Service, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910; telephone 301–427–8469; facsimile 301–713–0376. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Changes from the Draft Policy
III. Policy Explanation
A. Purpose
B. The First Component: Consequences of a Species Being in Danger of Extinction or Likely to Become So Throughout a Significant Portion of Its Range (SPR)
C. Second Component: The Definition of ''Significant'' as it Relates to SPR
1. Circumstances under which a portion can be ''significant''
2. Biological basis for ''significant''
3. The threshold for ''significant''
D. Range and Historical Range
E. Relationship of SPR to the Act's Distinct Population Segment (DPS) Authority
F. Procedure for Implementing the Policy
IV. Summary of Comments and Responses
A. The Policy is Not Needed, Needs Additional Process, or Legislation is Required
B. The SPR Language Provides an Independent Basis for Listing
C. Apply Protections to Entire Species if Listed Because it is Endangered or Threatened Throughout an SPR
D. The Biological Basis for ''Significant''
E. The Threshold for ''Significant''
F. Quantitative Approaches or Rebuttable Presumptions to Determine Whether a Portion is ''Significant''
G. Range and Historical Range
H. Relationship with DPS Authority
I. Whether a Species Can Be Both Threatened Throughout All of Its Range and Endangered Throughout an SPR
J. Use of Best Available Science, Appropriate Analyses, Correct Conclusions
K. Implementation in Listing Determinations
L. Effects on Implementation of Other Portions of the Act
M. Procedural Requirements and Compliance with Laws
V. Policy
VI. Effects of Policy
A. Designation of Critical Habitat
B. Rules Promulgated Under Section 4(d) of the Act
C. Recovery Planning and Implementation
D. Sections 7, 9, and 10 of the Act
VII. Required Determinations
A. Regulatory Planning and Review (E.O.s 12866 and 13563)
B. Regulatory Flexibility Act
C. Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)
D. Takings (E.O. 12630)
E. Federalism (E.O. 13132)
F. Civil Justice Reform (E.O. 12988)
G. Government-to-Government Relationship with Tribes
H. Paperwork Reduction Act
I. National Environmental Policy Act
J. Energy Supply, Distribution or Use (E.O. 13211)

I. Introduction

On December 9, 2011, the Services published a notice of a draft policy in the **Federal Register** (76 FR 76987) regarding the interpretation and application of the phrase ''significant portion of its range'' (SPR) as it occurs in the Act's definitions of ''endangered species'' and ''threatened species.'' The Act defines the term ''endangered species'' to mean any species which is in danger of extinction throughout all or a significant portion of its range and the term ''threatened species'' to mean any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. In the December 9, 2011, **Federal Register** notice, we provided the background for our draft policy in terms of the statute, legislative history, and case law. We also explained different aspects of the draft policy and discussed various alternatives for interpreting the phrase ''significant portion of its range,'' including defining ''significant.'' Finally, we discussed the effects the draft policy would have with respect to implementation of other sections of the Act.

We intend this final policy to be legally binding. It sets forth the Services' interpretation of ''significant portion of its range'' and its place in the statutory framework of the Act. In this final policy, we focus our discussion on changes to the draft policy based on comments we received during the comment period. For background on the statutory, legislative history, and case law relevant to this policy, as well as alternatives we considered for interpreting the phrase ''significant portion of its range'' and defining ''significant,'' we refer the reader to our draft policy and the environmental assessment of the policy, which is available at *http://www.regulations.gov* under Docket No. FWS–R9–ES–2011–0031.

II. Changes From the Draft Policy

This final policy differs from our draft policy in one substantive respect and three editorial respects. Here we summarize those changes. They are explained in greater detail in section III. First, we modified the definition of ''significant.'' The definition in the draft policy was: ''A portion of the range of a species is 'significant' if its contribution to the viability of the species is so important that, without that portion, the species would be in

danger of extinction.'' The definition in this final policy reads:

> A portion of the range of a species is 'significant' if the species is not currently endangered or threatened throughout all of its range, but the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range.

We explain in detail why we revised the definition of ''significant'' in section III.C. In brief, the revised definition will:

1. Remove problems associated with allowing a species to qualify as both threatened throughout its range and endangered throughout an SPR. The change to the first part of the definition ensures that only one legal status is assigned to the species: If a species is endangered or threatened throughout its range, no portions of its range can qualify as ''significant.'' We made this change in response to numerous comments, which raised two issues. First, commenters were concerned that a species simultaneously meeting the definitions of an ''endangered species'' and a ''threatened species'' would be extremely confusing. Second, some commenters thought that it was inappropriate to protect the entire range of a species as endangered if the species, viewed rangewide, met the definition of a ''threatened species.'' This change eliminates these concerns.

2. Lower and simplify the threshold for ''significant.'' Because we have changed ''the species would be in danger of extinction'' to ''the species would be in danger of extinction, or likely to become so in the foreseeable future,'' a portion of the range of a species would be significant if the species would, without that portion, be either endangered *or* threatened. Many commenters requested this change, and we concluded that the change is appropriate in combination with the other change we made to the definition of ''significant.'' A lower threshold will further the conservation purposes of the statute and more clearly avoid the appearance of similarity to the ''clarification'' approach. (The clarification approach was rejected by the Ninth Circuit, as discussed in the draft policy [76 FR 76987, p. 76991, section II.A].) Using this standard, we may list a few more species with important populations that are facing substantial threats. Nonetheless, this relaxed threshold is still relatively high. As discussed in the draft policy (76 FR 76987, p. 76995), this is desirable because we have concluded that, if a species is endangered or threatened in a significant portion of its range, it is protected throughout all of its range. Thus, we conclude that listings dependent on an SPR determination still will be infrequent.

Second, we made a nonsubstantive change to the first section of the policy, regarding the consequences of a species being endangered or threatened throughout an SPR. The second paragraph of the draft policy stated (emphasis added):

> If a species is found to be endangered or threatened in only a significant portion of its range, the entire species is listed as endangered or threatened, respectively, and the Act's protections apply *across the species' entire range.*

In the final policy, we replaced ''across the species' entire range'' with ''to all individuals of the species wherever found.'' This does not reflect a change in the intended meaning of the language but instead simply clarifies how protections will apply. As we explain in section III.D., the protections apply to the species itself, not the ''range'' in which it is found. Further, this change aligns our interpretation with our regulations at 50 CFR 17.11(e) and 17.12(e) that state that once a species is determined to be an endangered species or threatened species, the protections of the Act apply ''to all individuals of the species, wherever found.''

Third, we made a nonsubstantive change to the last section of the policy, reconciling the SPR and Distinct Population Segment (DPS) authorities. In the draft policy, this paragraph read (emphasis added):

> If the species *is not endangered or threatened throughout all of its range, but it* is endangered or threatened within a significant portion of its range, and the population in that significant portion is a valid DPS, we will list the DPS rather than the entire taxonomic species or subspecies.

In the final policy, we have deleted the language in italics as redundant. It is no longer necessary to specify this as a prerequisite for when this provision will operate, in light of the revised definition of ''significant.'' Under the final policy, it will be a prerequisite to *any* SPR analysis that the Services first find that the species is neither endangered nor threatened throughout all of its range. Thus, the edit to this paragraph does not represent a change in meaning, but merely harmonizes the language in this paragraph with the previously described edit.

Fourth, we substituted ''throughout'' for ''in'' or ''within'' in several places to track the statutory language (''throughout . . . a significant portion of its range'') more closely.

III. Policy Explanation

A. Purpose

The purpose of this policy is to develop a joint interpretation of ''significant portion of its range'' to reduce inconsistencies in applying the phrase and to improve effective and efficient implementation of the Act. The Services need to ensure that the policy is consistent with the plain language and mandates of the Act, is consistent with case law, provides clarity as to both the meaning and consequences of the SPR phrase so that the Services will be accorded deference when they apply the interpretation in making status determinations, and furthers the conservation purposes of the Act.

The relevant statutory provisions together create a variety of tensions and ambiguities, so there is no single best interpretation. Here, we adopt a reasonable interpretation of these statutory provisions. We conclude that (1) if a species is found to be endangered or threatened throughout a significant portion of its range, the entire species is listed as endangered or threatened, respectively, and the Act's protections apply to all individuals of the species wherever found; (2) a portion of the range of a species is ''significant'' if the species is not currently endangered or threatened throughout all of its range, but the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range; (3) the range of a species is considered to be the general geographical area within which that species can be found at the time FWS or NMFS makes any particular status determination; and (4) if a vertebrate species is endangered or threatened throughout an SPR, and the population in that significant portion is a valid DPS, we will list the DPS rather than the entire taxonomic species or subspecies.

As discussed in the draft policy (76 FR 76987, pp. 76988–76990) and in more detail in the Department of the Interior (DOI) (2010) and FWS and NMFS SPR Working Group (2010), the role of the SPR language in the context of the entire statutory scheme is not clear from the text itself or the legislative history. However, the Ninth Circuit's ruling in *Defenders of Wildlife* v. *Norton,* 258 F.3d 1136 (9th Cir. 2001) (*Defenders (Lizard)*), indicates that, with respect to the statutory language ''throughout all or a significant portion of its range,'' we should give the words on either side of the ''or'' operational

meaning (see *Defenders (Lizard)* 258 F.3d at 1141–42). We agree, and we have therefore developed a policy that gives operational effect to the SPR language instead of treating it as merely a clarification of the ''throughout all'' language. Thus, under our policy, a species will be able to qualify as an ''endangered species'' in two different situations: (1) If it is in danger of extinction throughout all of its range, or (2) if it is in danger of extinction throughout a significant portion of its range. The same is true for ''threatened species.''

This policy addresses two separate, but interrelated, components to giving the phrase ''a significant portion of its range'' operational meaning. First, we establish the consequence of a species being endangered or threatened throughout an SPR. Second, we define ''significant,'' thereby providing a standard for determining when a portion of a species' range constitutes an SPR, and thus when that consequence may be triggered. (We address the consequences issue first because the Services have greater discretion in defining ''significant,'' and those consequences play an important role in the Services' decision as to how to exercise that discretion.) We address each of these components in turn.

We note that throughout this policy when discussing SPR and ''portion of the range'' and similar phrases, we are referring to the members of the species within that portion of the range. As explained further below, when analyzing portions of ranges we consider the contribution of the individuals in that portion to the viability of the species in determining whether a portion is significant, and we consider the status of the species in that portion. Thus, when we refer to ''portion of its range,'' we mean the individuals of the species that occupy that portion. However, for the sake of readability, in this policy we sometimes refer to ''a portion of the range'' or similar phrases as a short hand for the ''members of the species in that portion of its range.''

B. The First Component: Consequences of a Species Being in Danger of Extinction or Likely To Become So Throughout a Significant Portion of Its Range (SPR)

Given that we have determined that a species may be an ''endangered species'' or ''threatened species'' if it is in danger of extinction (endangered) or likely to become so (threatened) throughout an SPR but not throughout all of its range, we considered what consequences under the Act flow from such a determination. In particular, we considered two alternative interpretations: individuals of a species that are endangered or threatened throughout an SPR are protected wherever found, or individuals of a species that are endangered or threatened throughout an SPR are protected only in that SPR. The legal opinion issued by the Solicitor of the DOI in 2007 (referred to as the ''M-Opinion'') (DOI 2007) took the latter view (for additional discussion of the M-Opinion, see our draft policy (76 FR 76987, p. 76990)). We conclude that the former view is the best interpretation of the Act. As we explained in the draft policy (76 FR 76987, pp. 76991–76993), the statutory text and the most relevant case law strongly support our conclusion, while the purposes of the Act, the legislative history, and past agency practice are of little help in answering this question. (We acknowledge that one of the district court opinions we discussed was vacated after we published the draft policy: *Defenders of Wildlife* v. *Salazar,* 729 F. Supp. 2d 1207 (D. Mont. 2010), *vacated,* 2012 U.S. App. Lexis 26769 (9th Cir. Nov. 7, 2012). That opinion was vacated, however, not on the merits, but solely because the pending appeal of the opinion became moot due to intervening congressional action. Thus, to the extent that this policy is informed by the reasoning of the district court opinion, it is because we have concluded that that reasoning is valid notwithstanding the opinion's vacatur for technical reasons.)

In addition, we note that our revised definition of ''significant'' bolsters our conclusion in the draft policy that our interpretation does not render irrelevant the ''all'' language in the definitions of ''endangered species'' and ''threatened species'' (76 FR 76987, p. 76992). As discussed in our draft policy, the ''all'' language retains independent meaning via the practical way in which the Services actually determine the status of a species. Our revised definition of ''significant'' further reinforces the ''all'' language by essentially stipulating that a portion can be significant only if we first find that the species is not currently endangered or threatened throughout all of its range. Thus, the ''all'' language will retain independent meaning and play an important role in status determinations.

C. Second Component: The Definition of ''Significant'' as It Relates to SPR

Having concluded that the phrase ''significant portion of its range'' provides an independent basis for listing and protecting the entire species, we next turn to defining ''significant'' to establish a standard for when such an independent basis for listing exists. As we explained in our draft policy, we have broad discretion to interpret ''significant,'' particularly in the context of creating a policy related to SPR after notice and comment, as we have done here (see 76 FR 76987, p. 76993). In this final policy, we determine that a portion of the range of a species is ''significant'' if the species is not currently endangered or threatened throughout all of its range, but the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range. Our definition of ''significant'' addresses three questions: (1) Under what circumstances can a portion be significant? (2) what information is relevant to determining whether a portion is significant? and (3) what is the threshold or level of importance required for a portion to be significant?

1. Circumstances Under Which a Portion Can Be ''Significant''

As discussed in our draft policy (76 FR 76987, p. 76992), we have concluded that we must give both the ''all'' language and the SPR phrase operational effect. In other words, there must be some circumstances in which each provision results in listing species. The Act, however, does not specify the relationship between the two provisions. Based in part on public comments on our draft policy, we now conclude that a portion of the range of a species can be ''significant'' only if the species is not currently endangered or threatened throughout all of its range.

We reach this conclusion for both textual and practical reasons. With regard to the text of the Act, we note that Congress placed the ''all'' language before the SPR phrase in the definitions of ''endangered species'' and ''threatened species.'' This suggests that Congress intended that an analysis based on consideration of the entire range should receive primary focus, and thus that the agencies should do an SPR analysis as an alternative to a rangewide analysis only if necessary. Under this reading, the Services should first consider whether listing is appropriate based on a rangewide analysis and proceed to conduct an SPR analysis if (and only if) a species does not qualify for listing according to the ''all'' language.

A practical consideration, as made clear by numerous commenters, is that interpreting the definitions of an

''endangered species'' and a ''threatened species'' in a way that a species could meet both definitions simultaneously (*i.e.,* threatened throughout all of its range and endangered throughout a significant portion of its range) would be extremely confusing to the public. Limiting significance to circumstances in which the species is not currently endangered or threatened throughout all of its range eliminates that concern. A related benefit of limiting the applicability of the SPR language is to reduce the circumstances in which additional legal determinations are necessary. This will allow us to more efficiently use our limited resources to undertake additional actions required in administering the Act to further its conservation purposes.

As noted below (section VI. Effects of Policy) and in the draft policy (76 FR 77003), we conclude that finding that a species is an endangered species or a threatened species based on its status in an SPR will occur only under a limited set of circumstances and will be relatively uncommon. Under the draft policy, finding that a species is threatened throughout its range and also endangered in a significant portion of its range is only one of the possible circumstances (of that already limited set) that would have led to finding that a species is endangered or threatened in an SPR, and thus would have been relatively uncommon even within that set of limited circumstances. Moreover, in no circumstance should the interpretation in this final policy lead to a reduction in protections that the Secretaries deem to be necessary and advisable, as the Secretaries have the authority under section 4(d) to apply the full protections of the Act to threatened species.

2. Biological Basis for ''significant''

As we explained in our draft policy (76 FR 76987, p. 76994), we conclude that a definition of ''significant'' that is biologically based best conforms to the purposes of the Act, is consistent with judicial interpretations, and best ensures species' conservation. This policy's definition emphasizes the biological importance of the portion of the range to the conservation of the species as the measure for determining whether the portion is ''significant.'' For that reason, it describes the threshold for ''significant'' in terms of an increase in the risk of extinction for the species. We evaluate biological significance based on the principles of conservation biology using the concepts of redundancy, resiliency, and representation (the three Rs) (Schaffer and Stein 2000). These concepts also can be expressed in terms of the four viability characteristics used more commonly by NMFS: abundance, spatial distribution, productivity, and diversity of the species.

3. The Threshold for ''significant''

As discussed in our draft policy (76 FR 76987, p. 76995) and below, we conclude that the threshold for ''significant'' should be high enough to avoid dilution of conservation efforts and unnecessary restrictions that may result from listing a species based on its status throughout an SPR, but not so high as to make it indistinguishable from the ''clarification interpretation'' in the M–Opinion (the clarification approach was rejected by the Ninth Circuit, as discussed in the draft policy). After considering comments received on the draft policy, we have lowered the threshold for ''significant'' somewhat by incorporating the concept of being likely to become in danger of extinction in the foreseeable future (the threatened standard) along with the standard for endangered in the definition of ''significant.'' Use of the somewhat lowered threshold furthers the conservation purposes of the statute and more clearly avoids the appearance of similarity to the ''clarification'' approach while striking a balance between too high and too low a threshold. At the same time, use of the endangered and threatened standards in the definition of ''significant'' minimizes the introduction of complicating new concepts into the status-determination process.

Use of Endangered and Threatened Standards: We used the endangered and threatened standards from the Act to define the threshold for ''significant'' because they are well-understood concepts that are directly linked to the conservation status of the species, and are within the expertise of the Services. Lowering the threshold further, beyond the endangered and threatened standards, would require that we define new standards that would complicate the understanding, and analysis, of how or whether a species meets the definitions of the Act. We also considered using another well-known standard—the definition of significance in the DPS policy—as a threshold for ''significant'' in this policy. We rejected this option, however, because it would result in all DPSs being SPRs, rendering the DPS language in the Act meaningless. We concluded that the threshold for significance must be higher than that in the DPS policy in order to avoid this outcome.

Lower Threshold Furthers the Conservation Purposes of the Act: The threshold for ''significant'' in our draft policy furthered the conservation purposes of the Act by adding an independent basis for listing. In other words, under the draft policy we would consider not only whether a species is endangered or threatened throughout its range, but also whether it is endangered or threatened throughout an SPR. This final policy retains the additional, independent basis for listing and, by lowering the threshold for ''significant'' to incorporate the threatened standard, may slightly increase (compared to the draft policy) the number of species we consider for listing. In other words, the lower threshold for ''significant'' in this final policy will further the conservation purposes of the statute beyond that already embodied in the draft policy because it will enable us to provide protection under the Act to species with important populations facing significant threats that we might not have otherwise listed.

Lower Threshold is More Clearly Distinguishable from the ''Clarification Interpretation'': Although this final policy's definition establishes a threshold for ''significant'' that is relatively high, lowering it somewhat from what we described in the draft policy will make it clearer that we are giving the phrase ''a significant portion of its range'' independent meaning. Specifically, we have not set the threshold as high as it was under the interpretation presented by FWS in the *Defenders (Lizard)* litigation (termed the ''clarification interpretation'' in the M-Opinion). As discussed in the draft policy (76 FR 76987, p. 76989), under that interpretation, the portion of the range must be so important that current imperilment there would mean that the species would be currently imperiled everywhere. Under this final policy, the portion of the range need not rise to such an exceptionally high level of biological significance. (Note that if the species is imperiled in a portion that rises to the high level of biological significance required under the clarification interpretation, then we should conclude that the species is in fact imperiled throughout all of its range—and we need not conduct an SPR analysis.) Rather, under this final policy we ask whether the species would be in danger of extinction or likely to become so in the foreseeable future without that portion, *i.e.,* if the members of that portion were not just currently imperiled, but already completely extirpated.

Unlike the clarification interpretation at issue in *Defenders* (*Lizard*), this final policy does not, by definition, limit the SPR phrase to situations in which it is

unnecessary. The clarification interpretation defined ''significant'' in such a way that a portion of a species' range could be significant only if the current status of the species throughout its range were endangered or threatened (in particular, as a result of the endangered or threatened status of the species throughout that portion of its range). But if the current status of the species throughout its range is endangered or threatened, then the species could be listed even without the SPR phrase. Thus, that definition of ''significant'' inherently made the statutory SPR phrase unnecessary and redundant. In contrast, the definition in this policy does not render the statutory phrase redundant. In fact, this policy's definition of ''significant'' itself makes it clear that a portion can only be significant if the species is not currently endangered or threatened throughout all of its range. Moreover, a portion of a species' range is significant when the species would be in danger of extinction or likely to become so in the foreseeable future rangewide if the species were extirpated in that portion, but that will not be the case at the time of the analysis because, by definition, an SPR is a portion of the current range of the species, and therefore the species cannot yet be extirpated there. In other words, this policy's definition leaves room for listing a species that is not currently imperiled throughout all of its range.

Two examples illustrate the difference between the policy's definition and the clarification interpretation. First, a species might face severe threats only in the portions of the range it uses in one part of its life cycle (Portion A). Because the species cannot complete its life cycle without Portion A, threats in Portion A affect all individuals of the species even if other portions of the species' range are free of direct threats. In other words, if the species is endangered in Portion A, it is in fact endangered throughout all of its range. Portion A would be an SPR under the clarification interpretation. Under this policy's interpretation, we would still list this species, but its listing would be based on its status throughout all of its range rather than its status throughout a significant portion of its range. We would not go further to consider the status in any potentially significant portion of its range.

In contrast, another species may have two main populations. The first of those populations (found in Portion Y) currently faces only moderate threats, but that population occurs in an area that is so small or homogeneous that a stochastic (*i.e.,* random, unpredictable, due to chance) event could devastate that entire area and the population inhabiting it. Therefore, if it were the only population, the species would be so vulnerable to stochastic events that it would be in danger of extinction. (With two main populations, it is unlikely that both would be affected by the same stochastic event. The severity of the threats posed by the stochastic event would therefore be smaller because there could be exchange between the populations following the stochastic event—and this exchange could help to stabilize the population that has suffered declines.) Thus, without the portion of the range currently occupied by the second population (Portion X), the species would be in danger of extinction. But, as long as Portion X contained an extant population, the resiliency and redundancy of the two portions combined would be sufficient that the species would not be in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range, even in the face of severe threats to Portion X. Under these facts, Portion X would not be an SPR according to the clarification interpretation. Under this final policy, we first determine whether the species is endangered or threatened throughout all of its range and, if so, list the species accordingly. If the species is not endangered or threatened throughout all of its range, then we look further to determine whether it is endangered or threatened throughout a significant portion of its range. Under these facts, and in contrast to the clarification interpretation, Portion X would be an SPR under this policy because the species would not currently be endangered or threatened throughout all of its range, but the hypothetical loss of Portion X would cause the species to become endangered. Therefore, we would need to consider whether the species was endangered or threatened in Portion X, and, if so, we would list the species.

More broadly, and as a logical corollary to the reasoning of *Defenders (Lizard),* any interpretation of the definitions of ''endangered species'' and ''threatened species'' must afford practical meaning to each part of the statutory language. Thus, an interpretation must not render irrelevant any of the four discrete bases, or categories, for listing set forth in the plain language of the statute (that a species is: endangered throughout all of its range; threatened throughout all of its range; endangered throughout a significant portion of its range; or threatened throughout a significant portion of its range). This policy's threshold for determining biological significance will give meaning to all four discrete bases for listing. Under our interpretation, there is at least one set of facts that falls uniquely within each of the four bases (without simultaneously fitting the standard of another basis).

Lower Threshold Is Still High Enough to Be Compatible with Listing the Species Throughout its Range: Given that the consequence of finding a species to be endangered or threatened throughout an SPR is listing the species throughout its entire range, it is important not to use a threshold for ''significant'' that is too low (*e.g.,* the threshold described by the definition of significance in the DPS policy, or that a portion of the range is ''significant'' if its loss would result in any increase in the species' extinction risk, even a negligible one). Although we recognize that most portions of a species' range contribute at least incrementally to a species' viability, use of such a low threshold would require us to impose restrictions and expend conservation resources disproportionately to conservation benefit; listing would be rangewide, even if a portion of only minor conservation importance to the species is imperiled. In such a situation, a proportion of limited conservation resources would be diverted away from the conservation of species most vulnerable to extinction and used for species that might arguably better fit a lesser standard if viewed solely across their ranges. The threshold defined in this policy strikes a balance between being high enough to avoid these negative consequences, and low enough to give the SPR phrase independent meaning.

Application of the Threshold: Under this policy, after having determined that the species is neither endangered nor threatened throughout all of its range, we will determine if a portion of a species' range is significant. To do so, we will ask whether, without that portion, the three Rs of the species—or the four viability characteristics used more commonly by NMFS—would be so impaired that the species would have an increased vulnerability to threats to the point that the overall species would be in danger of extinction (*i.e.,* would be ''endangered'') or likely to become so in the foreseeable future (*i.e.,* would be ''threatened''). If so, then the portion in question is significant, and we will undertake an analysis of the threats to the species in that portion to determine if the species is endangered or threatened there. That analysis evaluates current and anticipated threats facing the species in that portion

now and into the foreseeable future, the impacts these threats are expected to have, and the species' anticipated responses to those impacts. If, on the other hand, the answer is negative, that is the end of the inquiry—the portion in question is not significant and the species does not qualify for listing.

There are a number of circumstances in which we might determine that a portion of the range of a species is ''significant.'' For example, the population in the remainder of the species' range without the population in the SPR might not be large enough to be resilient to environmental catastrophes or random variations in environmental conditions. Or, if the viability of the species depends on the productivity of the population in the SPR, the population in the remainder of the range might not be able to maintain a high-enough growth rate to persist in the face of threats without that portion. Further, without the population in the SPR, the spatial structure of the entire species could be disrupted, resulting in fragmentation that could preclude individuals from moving from degraded habitat to better habitat. If habitat loss is extensive, especially in core areas, remaining populations become isolated and fragmented, and demographic and population-dynamic processes within the species can be disrupted to the extent that the entire species is at higher risk of extinction (*e.g.,* Waples *et al.* 2007), such that those remaining populations might then warrant listing. Finally, if the population in the SPR contains important elements of genetic diversity, without that population the remaining population may not be genetically diverse enough to allow for adaptations to changing environmental conditions. Diversity is generally thought to buffer a species against environmental fluctuations in the short term and to provide evolutionary resilience to meet future environmental changes (*e.g.,* Hilborn *et al.* 2003).

D. Range and Historical Range

When considering an interpretation of the SPR phrase, we must also consider the meaning of the term ''range.'' The term is not defined in the Act. Indeed, it is used only six times, two of which are in the SPR phrases of the definitions of ''endangered species'' and ''threatened species.'' None of these uses sheds much light on precisely what Congress meant by the term ''range.'' The context in which Congress used the term is, however, instructive. In the Act, ''range'' is used as a conceptual and analytical tool related to (1) identifying endangered and threatened species under section 4, and (2) identifying areas appropriate for the establishment of experimental populations. In contrast, the concept of ''range'' plays no direct role in implementation of the key operative provisions of the Act that protect species that we determine are endangered or threatened. (We note that it would be possible to interpret the use of ''range'' in section 4(c)(1) of the Act in isolation to control the scope of the operative protections under the Act. However, as discussed in our draft policy (76 FR 76987, pp. 76991–76992, section II.B.), the interpretation of section 4(c)(1) that best harmonizes the various parts of the Act and relevant case law is to treat section 4(c)(1) as an informational rather than a substantive provision.)

Once we determine that a species is an ''endangered species'' or ''threatened species,'' the protections of the Act are applied to the species itself, not the ''range'' in which it is found.[1] For example, sections 7 and 9 of the Act contain no reference to ''range'' and their provisions are applied to the species or individuals of the species, rather than a specified ''range.'' In other words, as explicitly acknowledged in the regulations governing the Lists of Endangered and Threatened Wildlife and Plants, the protections of the Act are applied ''to all individuals of the species, wherever found'' (50 CFR 17.11(e), 17.12(e)). As long as a species is listed, these protections apply to all populations and individuals of the species regardless of how that species' range changes over time (whether the range contracts due to continuing threats or expands as a result of recovery efforts). The protections can be modified only through rules promulgated under sections 4(d) and 10(j) of the Act, or completely removed through delisting and removal of the species from the List of Endangered and Threatened Wildlife or the List of Endangered and Threatened Plants.

Thus, the term ''range'' is relevant to whether the Act protects a species, but not how that species is protected. Having concluded that the term ''range'' is used primarily in determining whether a species qualifies as an endangered species or threatened species, we must still consider its meaning in that context. The Services interpret the term ''range'' to be the general geographical area within which the species is currently found, including those areas used throughout all or part of the species' life cycle, even if not used on a regular basis. We consider the ''current'' range of the species to be the range occupied by the species at the time the Services make a determination under section 4 of the Act.

We reach this conclusion based on the text of the Act. As defined in the Act, a species is endangered only if it ''is in danger of extinction'' throughout all or a significant portion of its range. The phrase ''is in danger'' denotes a present-tense condition of being at risk of a current or future undesired event. Hence, to say a species ''is in danger'' in an area where it no longer exists—*i.e.,* in its historical range where it has been extirpated—is inconsistent with common usage. Thus, ''range'' must mean ''current range,'' not ''historical range.''

Some have questioned whether lost historical range may constitute a significant portion of the range of a species, such that the Services must list the species rangewide because of the extirpation in that portion of the historical range. We already take into account in our determinations the effects that loss of historical range may have on the current and future viability of the species. We conclude that this consideration is sufficient to account for the effects of loss of historical range when evaluating the current status of the species, and a specific consideration of whether lost historical range constitutes a significant portion of the range is not necessary. In other words, we do not base a determination to list a species on the status (extirpated) of the species in lost historical range. We base this conclusion on the present tense language of the Act and on the fact that considering the status of the species in its current range is in fact applying

[1] We note that for species listed as DPSs, because individuals in a distinct population segment are most often not morphologically or visually distinct from other members of their taxonomic species or subspecies, the population (''species'' as defined by the Act) is often defined geographically. This geographic description (except in the case of international boundaries) is intended to define the ''species'' by indicating the area within which it is highly likely that individuals are members of the listed DPS rather than members of other populations of the same taxonomic species or subspecies. It may include areas that are generally not occupied by the species but where an individual of the species, if found, is most likely a member of the DPS. Geographic descriptions are meant to aid in identification of individuals of the listed entity rather than limit protections. In other words, the geographic description can define the species. It is often true that individuals of the taxonomic species or subspecies found outside the geographic area defining the listed DPS are considered to belong to other populations of the species (unless identity can be established by other means) and are thus not protected. Within the area defining the species, all members are assumed to belong to the DPS and protections of the Act apply to ''all individuals of the species.'' It is important to note that, while the geographic description of some listed DPSs (e.g., Pacific salmon) do not explicitly state that the boundaries of the DPS include the marine range of the DPS, individuals of these DPSs are protected wherever they go (to the extent that they can be identified).

the test required by our SPR definition as explained below.

Given our definition of SPR, we will arrive at the appropriate status conclusion by considering the effects of loss of historical range on the current status of the species even though we do not explicitly consider whether lost historical range is itself an SPR. In other words, considering the status of the species in its current range is in fact applying exactly the test envisioned by our definition of SPR, with the difference that the scenario is actual rather than hypothetical. Under this policy's definition, we consider whether, under a hypothetical scenario, a species would be endangered or threatened without the portion in question. When we consider the status of a species in its current range, we are considering whether, without that portion (*i.e.,* lost historical range) the species is endangered or threatened. If lost historical range had indeed been an SPR prior to its loss, then, with the loss having occurred, the species should currently be endangered or threatened in its remaining current range. When considering the status of a species that has lost historical range, the scenario is no longer hypothetical but actual, and the status of the remaining portion is no longer hypothetical but is determined by examining the species in its current range. Thus, we conclude that the appropriate focus of our analysis is the status of the species in its current range.

While we conclude that it is not necessary to separately consider whether lost historical range is an SPR, evaluating the effects of lost historical range on the viability of the species is an important component of evaluating the current status of the species. Past range reduction can stem from habitat destruction or degradation, or from factors that cause displacement of the species from an area they once occupied. Range reduction may result in reduced numbers of individuals and populations, changes in available resources and carrying capacity, changes in demographic characteristics (survival, reproductive rate, metapopulation structure, etc.), and changes in genetic diversity and gene flow, which in turn can increase a species' vulnerability to a wide variety of threats, including habitat loss. In other words, past range reduction can reduce the redundancy, resiliency, and representation of a species in its remaining range. Additionally, factors other than habitat loss may become important as a species loses its range, and these factors that result from past range reduction are evaluated as current or future threats. For example, a species with a reduced range is at greater risk of all or most of its populations being affected by a catastrophic event such as a hurricane or fire. We collectively evaluate all the current and potential threats to a species, including those that result from past loss of historical range. For example, the loss of historical range may have resulted in a species for which distribution and abundance is restricted, gene flow is inhibited, or population redundancy is reduced to such a level that the entity is now vulnerable to extinction or likely to become so within the foreseeable future throughout all or a significant portion of its current range. The effect of loss of historical range on the viability of the species could prompt us to list a species because the loss of historical range has contributed to its present status as endangered or threatened throughout all or a significant portion of its range. In such a case, we do not list a species because it is endangered or threatened in its lost historical range, but rather because it is endangered or threatened throughout all or a significant portion of its current range because that loss of historical range is so substantial that it undermines the viability of the species as it exists today. Conversely, a species suffering a similar loss of historical range would not be listed if viability of the remaining individuals was not compromised to the point of endangering or threatening the species. (We also note that a species that has not experienced any loss of historical range may still be vulnerable to a wide variety of threats and in fact meet the definition of an ''endangered species'' or a ''threatened species.'' Thus, loss of historical range is not necessarily determinative of a species' status, but must be considered in the context of all factors affecting a species.)

In addition to considering the effects that loss of historical range has had on the current and future viability of the species, we must also consider the causes of that loss of historical range. If the causes of the loss are still continuing, then that loss is also relevant as evidence of the effects of an ongoing threat. Loss of historical range for which causes are not known or well understood may be evidence of the existence of threats to the remaining range.

In implementing listing determinations (including reclassifications and delistings), the Services use the best scientific and commercial data available, including data on the species' current range, regardless of the point in time at which we examine the status of the species (12-month listing finding, reclassification, proposed listing or delisting rule, 5-year review, and so forth). For example, if we are petitioned to reclassify an already listed species, we examine the status of the species in the range it currently occupies, not the range it occupied at the time of listing. As explained above, examining the current status of the species in its current range in no way constrains or limits use and application of the tools of the Act to only the species' current range. Protections of the Act (except as modified through sections 10(j) and 4(d) of the Act) apply ''to all individuals of the species, wherever found'' (50 CFR 17.11(e) and 50 CFR 17.12(e)), even if the range of the species changes over time. In fact, reducing a species' vulnerability to threats and ultimately to extinction often requires recovering the species in some or all of its lost historical range. Indeed, the Act's definitions of ''conserve'' and ''critical habitat,'' and the provisions of section 10(j) of the Act, all indicate that Congress specifically contemplated that recovering species in lost historical range may be needed to bring a species to the point that it no longer needs the protections of the Act. Thus, examining a species' status in its current range does not set the bar for recovery; rather, it is simply the approach that the Act requires us to apply when we examine a species' current and future vulnerability to extinction.

We acknowledge that the Ninth Circuit Court of Appeals has held that FWS must consider whether lost historical range is a significant portion of a species' range (*Defenders (Lizard),* 258 F.3d at 1145) (''where . . . it is on the record apparent that the area in which the lizard is expected to survive is much smaller than its historical range, the Secretary must at least explain her conclusion that the area in which the species can no longer live is not a 'significant portion of its range'''). This appears to have been based at least in part on a misunderstanding of FWS's position, which the Ninth Circuit Court interpreted as a denial of the relevance of lost historical range (see *Tucson Herpetological Society* v. *Salazar,* 566 F.3d 870, 876 (9th Cir. 2009) (''On appeal, the Secretary clings to his argument that lost historical habitat is largely irrelevant to the recovery of the species, and thus the [Act] does not require him to consider it.'')). As explained above, the fact that historical range has been lost can be highly relevant to the conservation status of the species in its current range. The Services also consider historical range during recovery planning. For the

reasons described above, however, we respectfully disagree with this holding of the Ninth Circuit, and conclude that the status of lost historical range should not be separately evaluated; ultimately, it is the conservation status of the then-current range at the time of the listing determination in question that must be evaluated (see *Ctr. for Biological Diversity* v. *Norton,* 411 F. Supp. 2d 1271 (D.N.M. 2005), *vacated by* No. 06–2049 (10th Cir. May 14, 2007); *Ctr. for Biological Diversity* v. *U.S. Fish & Wildlife Serv.,* 2007 U.S. Dist. LEXIS 16175 (D. Colo. Mar. 7, 2007), *vacated by* No. 07–1203 (10th Cir, Oct. 22, 2007)). Thus, if a species ''is expected to survive [in an area] much smaller than its historical range,'' we undertake an analysis different from that apparently contemplated by the Ninth Circuit. In fact, two different analyses may be required. First, if the species has already been extirpated in some areas, the Services must determine whether the loss of those areas makes the species endangered or threatened throughout all of its current range. Second, if the species is not endangered or threatened throughout its current range, but there are areas in its current range in which the species has *not* been extirpated, but is in danger of extirpation (or is likely to become so in the foreseeable future), the Services must determine whether those areas constitute a significant portion of its range, and, if so, list the species in its entirety.

E. Relationship of SPR to the Act's Distinct Population Segment (DPS) Authority

As we explained in our draft policy (76 FR 76987, p. 76998), the definition of ''significant'' for the purpose of SPR analysis differs from the definition of ''significant'' found in our DPS policy and used for DPS analysis. We expect, based on our experience in applying the DPS policy, that the differences between the two standards, the specific circumstance described by the definition of ''significant portion of its range,'' and the high bar this policy sets will seldom result in situations in which the population within an SPR for a taxonomic species or subspecies might also constitute a DPS. In those rare circumstances, under this policy we will consider the DPS to be the proper entity for listing. Please refer to our draft policy for a discussion of various issues we considered in choosing an appropriate relationship between the SPR language and the Act's DPS authority, including: (1) The differing definitions of ''significant'' in each context; (2) the overlap between SPR and DPS analyses; and (3) the portions of the species to protect when a DPS also constitutes an SPR. This final policy includes what we conclude is the most reasonable approach.

F. Procedure for Implementing the Policy

This policy will be applied to all status determinations, including analyses for the purposes of making listing, delisting, and reclassification determinations. The procedure for conducting analyses of whether any portion is an SPR is similar, regardless of the type of status determination we are making. The first step in our analysis of the status of a species is to determine its status throughout all of its range. If we determine that the species is in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range, we will list the species as endangered (or threatened) and no SPR analysis will be required. If the species is neither endangered nor threatened throughout all of its range, we will determine whether the species is endangered or threatened throughout a significant portion of its range. If it is, we will list the species as endangered or threatened, respectively; if it is not, we will conclude that listing the species is not warranted. (Figure 1)

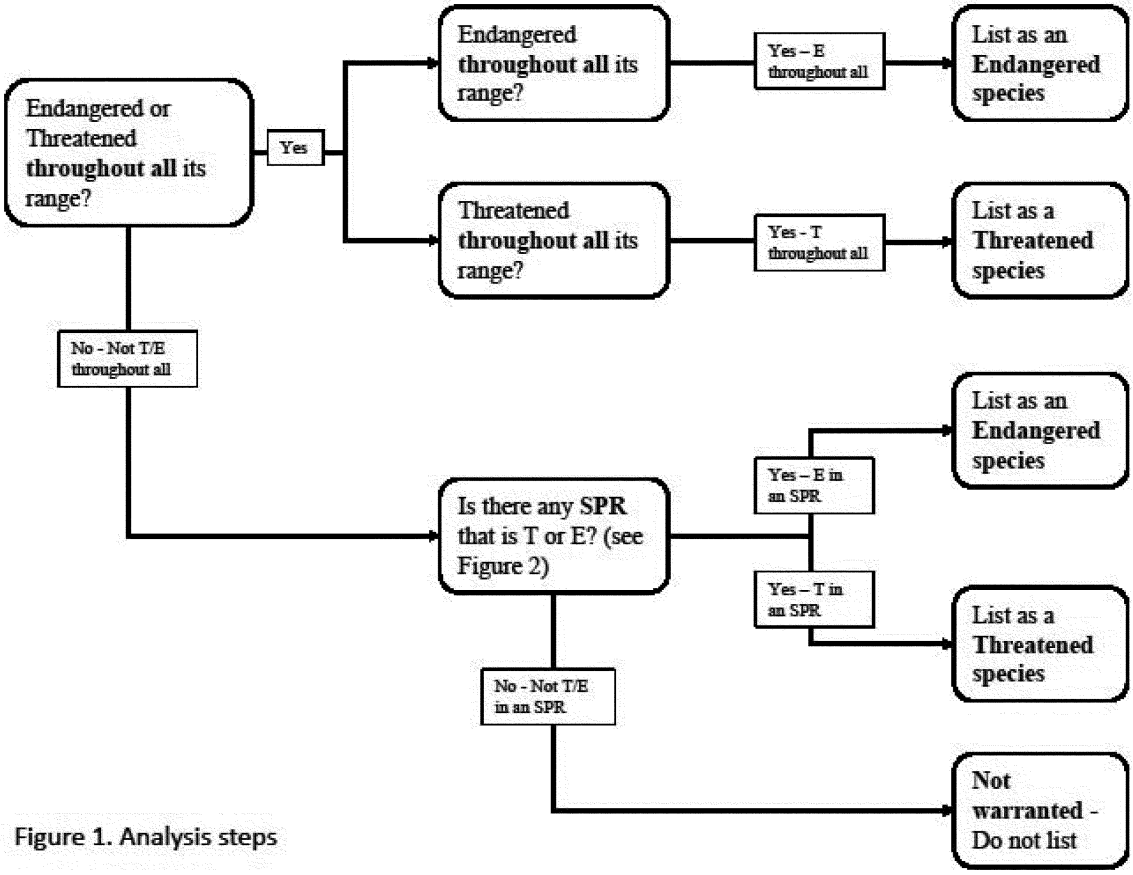
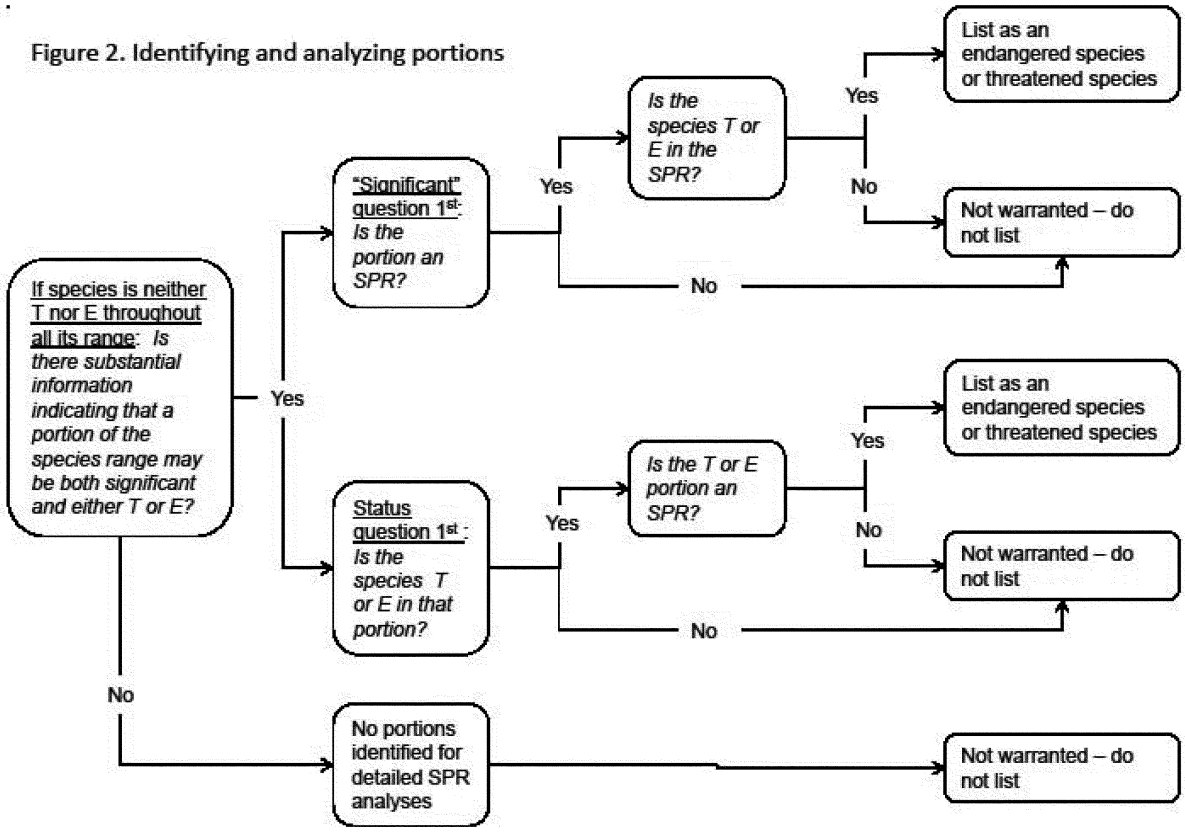


Figure 1. Analysis steps

If we conclude a species is neither endangered nor threatened throughout all of its range, we must examine whether it is endangered or threatened throughout a portion of its range. When we conduct an SPR analysis, we will first identify any portions of the species' range that warrant further consideration. The range of a species can theoretically be divided into portions in an infinite number of ways. However, there is no purpose to analyzing portions of the range that are not reasonably likely to be significant and endangered or threatened. To identify only those portions that warrant further consideration, we will determine whether there is substantial information indicating that (1) the portions may be significant and (2) the species may be in danger of extinction in those portions or likely to become so within the foreseeable future. We emphasize that answering these questions in the affirmative is not a determination that the species is endangered or threatened throughout a significant portion of its range—rather, it is a step in determining whether a more detailed analysis of the issue is required. In practice, a key part of this analysis will be whether the threats are geographically concentrated in some way. If the threats to the species are affecting it uniformly throughout its range, no portion is likely to warrant further consideration. Moreover, if any concentration of threats apply only to portions of the range that clearly do not meet the biologically based definition of ''significant'' (*i.e.,* the loss of that portion clearly would not be expected to increase the vulnerability to extinction of the entire species), those portions will not warrant further consideration. (Figure 2)



If we have identified any portions that may be both (1) significant and (2) endangered or threatened, we will engage in a more detailed analysis to determine whether these standards are indeed met. As discussed above, to determine whether a portion of the range of a species is significant, we consider whether, under a hypothetical scenario, the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction or likely to become so in the foreseeable future throughout all of its range. This analysis will consider the contribution of that portion to the viability of the species based on principles of conservation biology. Contribution would be evaluated using the concepts of redundancy, resiliency, and representation. (These concepts can similarly be expressed in terms of abundance, spatial distribution, productivity, and diversity.)

To determine whether a species is endangered or threatened throughout a portion of its range, we will use the same standards and methodology that we use to determine if a species is endangered or threatened. The identification of an SPR does not create a presumption, prejudgment, or other determination as to whether the species in that identified SPR is endangered or threatened. We must go through a separate analysis to determine whether the species is endangered or threatened in the SPR. Depending on the biology of the species, its range, and the threats it faces, it may be more efficient to address the ''significant'' question first, or the status question first. Thus, if we determine that a portion of the range is not ''significant,'' we will not need to determine whether the species is endangered or threatened there; if we determine that the species is not endangered or threatened in a portion of its range, we will not need to determine if that portion was ''significant.''

IV. Summary of Comments and Responses

The notice announcing our draft policy (76 FR 76987) requested written comments and information from the public. That notice established a 60-day comment period ending February 7, 2012. We received several requests to extend the public comment period and subsequently published a notice (77 FR 6138) that extended the comment period an additional 30 days, from February 7, 2012, through March 8, 2012.

During the public comment period, we received approximately 42,000 comments, of which approximately 41,500 were form letters and approximately 100 were duplicate submissions. We received comments from State and local governments, tribes, commercial and trade organizations, conservation organizations, nongovernmental organizations, private citizens, and others. The range of comments varied from those that provided statements of support or opposition to the draft policy with no additional explanatory information, to those that provided extensive comments and information (supporting or opposing the draft policy or specific aspects of the policy) and suggestions for revisions. Some comments were strictly editorial and included suggested specific line edits or word usage, which we addressed as appropriate in this document.

All substantive information provided during the comment period has been considered in this final policy and, where appropriate, has been incorporated directly into this final policy or is addressed below. Comments received were grouped into general issues specifically relating to the draft policy, and are presented below along with our responses to these comments.

A. The Policy Is Not Needed, Needs Additional Process, or Legislation Is Required

Comment (1): The Services should amend the Act to exclude the phrase ''throughout a significant portion of its range.''

Response: Amendments to the Act are outside the scope of this policy. Only Congress has the authority to amend the Act.

Comment (2): One commenter stated that the internal review process did not involve enough pragmatic review.

Response: We disagree. A team of experienced, informed staff within both Services spent many hours reviewing the statutory language, legislative history, and case law relating to SPR. The team looked at every practical option of how to address SPR before developing the draft policy, including detailed discussion of pragmatic considerations. The team's recommendations were reviewed more broadly by practitioners and officials at both agencies. These reviews took pragmatic considerations into account. Nonetheless, the Services' ultimate decision is also constrained by legal considerations, as detailed above and in the draft policy—implementation of the statutory language that is ''pragmatic'' but likely to be rejected by the courts as inconsistent with the statute is not truly pragmatic.

Comment (3): Several commenters, including the Association of Fish and Wildlife Agencies (AFWA), stated that the draft policy needs significant work and that it is neither necessary nor timely for finalizing at this time. They urged it be given no further consideration until a determination of need and timeliness is concluded. Another commenter stated there is no compelling need to advance a revised definition at this time because the Services have acknowledged that the SPR definition would be only sparingly used.

Response: The SPR phrase is integral to the Act's definitions of ''endangered species'' and ''threatened species,'' terms that are relevant to all listing determinations. We have not previously provided a joint interpretation of the phrase. In part as a result, we have faced an increasing amount of litigation related to our application of the phrase. Therefore, we have determined that we need to promulgate a binding interpretation of the SPR phrase. This policy will allow us to more efficiently and consistently carry out our responsibilities under section 4 of the Act and reduce litigation. Although we anticipate that the policy will affect the outcome of only relatively few determinations, the policy itself will be relevant to numerous determinations.

Comment (4): Several commenters recommended that we refer the draft SPR policy to a panel comprised of representatives nominated by scientific, professional, and conservation societies as the Act advises the Services to do in section 4(b)(5)(C) with regard to listing decisions.

Response: As the commenters acknowledge, section 4(b)(5)(C) of the Act applies only to particular determinations under section 4(a); it does not apply to generic policies and rules promulgated by the Services to guide implementation of the Act. In any case, section 4(b)(5)(C) simply states that we should give notice of a proposed regulation to such professional scientific organizations as the Secretary deems appropriate. We notified professional scientific organizations of our draft policy and accepted public comments from those organizations, as well as all other interested parties, during the public comment period.

Comment (5): AFWA, the Hawaii Department of Land and Natural Resources, the Florida Fish and Wildlife Conservation Commission, and the Washington Department of Fish and Wildlife recommended that the draft policy be referred to the Joint Federal/State Task Force on Endangered Species Act Policy (JTF) for review.

Response: The Services acknowledged the special and unique relationship between the States, FWS, and NMFS through the formation of the JTF in 2011. However, we had substantially formulated the draft SPR policy (the culmination of a multi-year effort on the parts of the Services, DOI, and DOC) prior to the formation of the JTF. While formulating the draft policy predated the JTF, we nevertheless briefed the JTF on development of the draft SPR policy prior to its publication, and through the JTF and AFWA, we hosted webinars in 2011 and 2012 with State fish and wildlife agencies during the public comment period to inform the States and provide opportunities for feedback. The open comment period provided an additional opportunity for the States to comment. We have considered and addressed comments we received from the States in the development of this final policy. In light of our ongoing need to have established guidance on this important policy matter to guide our listing determinations, and in the absence of discrete concerns raised by the States that have not already been thoroughly considered, we have determined that the most appropriate course of action is to proceed with finalizing this policy. We will continue to coordinate with the States on application of this policy as needed.

Comment (6): The Arizona Game and Fish Department questioned whether this policy is necessary in the absence of ''thorough development and review of alternatives conducted by the affected parties.'' They further suggested that a task force should develop and analyze alternatives and present them to the public for comment.

Response: The draft policy presented a detailed discussion of alternatives. The notice-and-comment opportunity provided on the draft policy allowed for adequate development and review of alternatives by affected parties.

B. The SPR Language Provides an Independent Basis for Listing

Comment (7): Most commenters who addressed this topic agreed that the SPR language provides an independent basis for listing. One commenter asserted that this interpretation is more consistent with both the statutory language and the spirit of the Act, and will help facilitate resource adaptation and provide the protections of the Act to more species that need it.

Response: We appreciate the commenters' feedback.

Comment (8): The Wisconsin Department of Natural Resources stated that interpreting the SPR language as providing an independent basis for listing may not be appropriate, and suggested (without further explanation) that other alternatives, such as equating the SPR language with the ''distinct population segment'' language, may be more appropriate, understandable, and simpler to implement and defend.

Response: As indicated in the draft policy (76 FR 76987, pp. 76997–76999), we considered a number of other alternatives, including equating the SPR language with the DPS language. For the reasons described there and elsewhere in this final policy, we have determined that interpreting the SPR language to provide an independent basis for listing is the most appropriate interpretation; the Wisconsin Department of Natural Resources comments presented no analysis that rebutted this conclusion.

Comment (9): One commenter thought that separate analyses with respect to significant portions of the range would create an arbitrary process that is difficult to understand and explain. The commenter recommended that the Services return to a simpler definition and stated that Congress intended species should be listed when threats reach a large-enough portion of the range to affect the entire species.

Response: This appears to be an argument in favor of the clarification interpretation, which FWS had unsuccessfully advanced in the litigation that culminated in the Ninth Circuit's *Defenders (Lizard)* decision. As discussed in the draft policy (76 FR 76987, pp. 76989–76990) and elsewhere in this final policy, that interpretation

has been rejected by most courts, and we have accepted those judicial determinations as correctly interpreting the statute's language.

C. Apply Protections to Entire Species if Listed Because It Is Endangered or Threatened Throughout an SPR

Comments on the topic of whether to list the whole species or instead apply protections only to a portion of the range were split almost entirely by group affiliation: Environmental groups asserted that this result was required by the Act and will increase the likelihood that the species will be conserved and restored; the regulated community and States asserted that either the Act requires the opposite result, or that it is unwise policy to interpret the Act in this way. Responses to more specific comments follow.

Comment (10): One commenter, while admitting that the Act and relevant case law prohibits listing distinctions below the subspecies or DPS level, argued that the definition of ''species'' governs only the taxonomic level of what can be listed, not *where* a ''species'' can be listed.

Response: We disagree. The Act's limitation of listing solely ''species'' would have no meaning if we interpreted the Act to allow ''species'' to be listed or protected only in certain places.

Comment (11): Numerous commenters opposed to this interpretation pointed to section 4(c)(1) of the Act for support, with at least one arguing that we have misinterpreted the district court's decision in *Defenders of Wildlife* v. *Salazar.* They argued that the language about specifying ''with respect to each species over what portion of its range it is threatened or endangered'' means that a species can be listed and protected in only a portion of its range. They further argued that the interpretation in the draft policy writes this language out of the statute. One commenter claims that the Services' treatment of section 4(c)(1) is ''without authority or even reasoning.''

Response: As we indicated in the draft policy, it is a challenge to harmonize the various relevant provisions of the Act. However, we have concluded that section 4(c)(1) of the Act is a bookkeeping provision, and should not be interpreted to change the otherwise plain meaning of the operative and definitional provisions of the Act. The type of information to be conveyed may include, for example, whether the species was listed on the basis that it is endangered or threatened in a portion of its range, and if so, which portion. This does not render the ''portion of its range'' language in section 4(c)(1) meaningless, as such information can, for example, help focus recovery efforts. Moreover, even if it would have been reasonable to interpret the 1972 bill as using the SPR language to authorize listings of significant portions of the ranges of species (as opposed to entire ''species''), the final language of the 1973 Act moved the SPR language to the definitions of ''endangered species'' and ''threatened species,'' and added the precursor to the DPS language to address the issue of listings of less than a species or subspecies. This revised structure simply cannot support the interpretation preferred by these commenters, notwithstanding the fact that the 1973 Act carried over the language in section 4(c)(1) referring to ''portion of its range.'' Finally, despite the claim about lack of authority and reasoning, the draft policy cited relevant case law and provided the Services' reasoning (see 76 FR 76991–76992). No commenter advanced a clear or persuasive explanation of their view that our interpretation of any of these sources or case law is in error.

Comment (12): One commenter asserted that the draft policy was inconsistent with the requirement of section 4(b)(1) that listing determinations take into account State and local governmental efforts to protect species.

Response: We disagree. Under this policy, those protection efforts still will be considered. Those efforts are, of course, relevant to the rangewide analysis, but they are also highly relevant to both the questions of significance of a portion of a range, and the status of the species throughout that portion. For example, the Services would consider whether local governmental protections in the portion at issue prevented the species from being endangered or threatened throughout that portion, and whether local governmental protections in the remainder of the range would make the population throughout the remainder sufficiently robust that the portion of the range at issue cannot meet the standard for being a ''significant portion.''

Comment (13): One commenter asserted that our interpretation rendered meaningless the ''all'' language in the definitions of ''endangered species'' and ''threatened species.''

Response: We directly addressed this argument in the draft policy, noting that (1) the argument fails to take into account the fact that the Services as a practical matter consider a species' status throughout its range first, and (2) the relevant cases have rejected it (76 FR 76987, p. 76992). Also, as discussed above, the revised definition of ''significant'' in this final policy accords particular weight to the ''all'' language because it prescribes that the rangewide analysis be done first.

Comment (14): Several commenters agreed with the Services' conclusion that the SPR language provides an independent basis for listing, but asserted that adherence to that principle required listing something other than the entire species when the species is endangered or threatened throughout an SPR. They did not explain the basis for this assertion.

Response: We disagree. There is nothing inherently inconsistent with the SPR language providing an independent basis for listing and the result being listing the entire species. In other words, the SPR language provides an independent basis for listing the entire species; there are some circumstances covered by each basis that are not covered by the other. We discussed our reasons for choosing this interpretation in detail in the draft policy (76 FR 76987, pp. 76991–76993 and 76999–77000).

Comment (15): Several commenters argued that it is contradictory for us to determine that a species does not warrant listing rangewide, and then to list it rangewide because it is endangered or threatened throughout an SPR.

Response: Determining that a species is not in danger of extinction throughout all of its range is not the same thing as determining that there is an absence of risk to the species. The species still may face a sufficient level of risk in portions of its range to warrant listing rangewide. This policy concludes that, under the properly construed definitions of the Act, a species that is in danger of extinction throughout an SPR does warrant listing rangewide, because it meets the definition of an ''endangered species.''

Comment (16): Two commenters sought to analogize to the Act's provisions for designation of critical habitat as a basis for urging the Services not to apply protections throughout a species' range. Specifically, they pointed to the Act's provisions dividing potential critical habitat into areas occupied at the time of listing and areas not occupied, and requiring that unoccupied areas be included only if the areas themselves are found ''essential for the conservation of the species,'' as well as the proclamation that critical habitat generally shall not include the entire geographical area which can be occupied by the species

(see 16 U.S.C. 1532(5)). These provisions, they suggested, evince congressional recognition that it is possible and sometimes necessary to limit protections for listed species to only certain areas throughout their ranges. They urge the Services to conclude from this structure that Congress would similarly intend for the Services to have the ability to tailor the effect of a listing.

Response: While it is true that Congress specifically provided that critical habitat need not be coextensive with the entire geographical area where a species can exist (except in circumstances where the Secretary determines that it should), 16 U.S.C. 1532(5)(C), Congress did not include such specific direction in the provisions governing listings. Nor does Congress' recognition that critical habitat need not cover the full range of a species imply that the geographic parameters of a listing also should be flexible; listing provides the fundamental level of protection to the species, whereas critical habitat's direct legal effect is limited to application of the destruction or adverse modification standard to Federal agency actions through section 7 of the Act. It is also important to note that the SPR analysis is not based on the physical and biological features of the area and is not designed to protect the area. Rather, it is based on an assessment of the biological importance of the members of the species in an area to the overall listed entity.

Comment (17): One commenter asserted that the import of the 1978 and 1979 amendments to the Act and the wolf and Gunnison's prairie dog district court opinions was that the Act does not allow listing of something ''smaller'' than a DPS—doing so would render the DPS language superfluous. The commenter suggested, however, that the Services could still limit a listing to an SPR if that SPR was ''larger'' than the range occupied by a DPS.

Response: The SPR and DPS authorities are distinct: DPSs do not have to be a particular size, and therefore we cannot mathematically compare the size of an SPR to that of a DPS. As discussed elsewhere, however, if the population within the SPR qualifies as a valid DPS, we will list the DPS, rather than the entire ''species'' of which the SPR is a part.

Comment (18): Several commenters, including the Idaho Office of Species Conservation, questioned the propriety of the Services relying on two district court opinions (*Defenders of Wildlife* v. *Salazar,* 729 F. Supp. 2d 1207 (D. Mont. 2010), *vacated,* 2012 U.S. App. Lexis 26769 (9th Cir. Nov. 7, 2012), and *WildEarth Guardians* v. *Salazar,* 2010 U.S. Dist. Lexis 105253 (D. Ariz. Sept. 30, 2010)), rather than two circuit court opinions (*Defenders of Wildlife* v. *Norton,* 258 F.3d 1136 (9th Cir. 2001), and *Roosevelt Campobello Intl. Park Comm'n* v. *U.S. Envt'l Protection Agency,* 684 F.2d 1041 (1st Cir. 1982)). Idaho specifically asserted that, although the Services referred to *Defenders of Wildlife* v. *Norton* as the seminal case, we did not discuss that case's analysis of the legislative history, which Idaho further asserted supports protecting species only in portions of their ranges. Commenters also criticized the reasoning of the district court decisions. Several commenters, including Idaho, suggested reinstating the M-Opinion at least until an appeals court has directly addressed the issue.

Response: As discussed in the draft policy (76 FR 76987, p. 76990) the district court opinions represent the most recent and detailed judicial analyses of the precise point at issue. We find the reasoning of these cases to be persuasive. In contrast, the language in the circuit court opinions that lends some support to the commenters' position (that the Secretaries have the authority to list or protect species in only a portion of their range) is dicta and appears to be based in part on a misunderstanding of the basis for some of FWS' earlier listings. We conclude that both the First and Ninth Circuits would likely adopt conclusions consistent with the district court opinions, were the issue now directly presented to them. The Department of the Interior has withdrawn and no longer supports the reasoning of the M-Opinion. For this reason, we think it would be wasteful, inefficient, and unwise to pursue further litigation in support of this aspect of the M-Opinion.

Comment (19): One commenter suggested that two additional district court cases support this aspect of the draft policy: *In re Polar Bear Endangered Species Act Listing and § 4(d) Rule Litigation,* 794 F. Supp. 2d 65, 96 n.38 (D.D.C. 2011), and *Center for Native Ecosystems* v. *Salazar,* 795 F. Supp. 2d 1236, 1240 (D. Colo. 2011).

Response: We agree, but because these cases cite the cases we discussed without additional analysis, we focused on the other cases.

Comment (20): Several commenters argued that the legislative history clearly supports interpreting the Act to allow the Services to list just a portion of the range of a species. Other commenters pointed to legislative history that supports the contrary position. The Idaho Office of Species Conservation criticized the draft policy for not sufficiently analyzing the legislative history.

Response: As discussed in the draft policy (76 FR 76987, p. 76989) and FWS (2011), aspects of the legislative history support different conclusions. And although there is some legislative history that suggests that Congress intended to give the Secretaries discretion to list less than full biological species, it is unclear how that intention relates to the various statutory provisions (*e.g.,* the definition of ''species'' versus the definitions of ''endangered species'' and ''threatened species'') and to the restructuring of the operative provisions and definitions between the 1972 Nixon Administration bill and the 1973 Act as passed. Ultimately, we concluded that it would not be necessary or particularly helpful to the public to include in the draft policy itself a detailed written analysis of the legislative history, but we have made the summary available for public review.

Comment (21): Several commenters asserted that FWS has a historical practice of protecting only portions of the range of species, citing the examples listed in *Defenders of Wildlife* v. *Norton,* 258 F.3d 1136 (9th Cir. 2001); the Idaho Office of Species Conservation asserted that the draft policy completely ignored this history. One commenter further stated that if the authority for these listings was not section 4(c)(1) (with respect to SPRs) of the Act, the Services must explain what statutory basis other than section 4(c)(1) of the Act authorized the partial protections provided in those examples.

Response: Contrary to Idaho's assertion, we directly referred to the examples listed in *Defenders* in explaining that the draft policy did not conflict with established agency practice. The draft policy concluded that those listings could also be explained as relying on the authority of the DPS language in the definition of ''species'' or the precursor to that language (76 FR 76987, pp. 76992–76993). The draft policy (76 FR 76987, p. 76988) also explained that prior to and in the years following the issuance of the DPS Policy (61 FR 4722, February 7, 1996) the Services had generally understood (although not expressly articulated) that, given the Act's definition of ''species,'' the only way to list less than a taxonomic species or subspecies was as a DPS. For example, on April 28, 1976, FWS listed the U.S. population of a subspecies of the Bahama swallowtail butterfly (41 FR 17736). When the Act was amended in 1978 to limit population listings only to vertebrates, the Service removed the

population because it did not qualify as a ''species'' under the revised definition (49 FR 34501, August 31, 1984). Thus, past practice indicates FWS did not believe the Act allowed listing units below taxonomic species or subspecies, except (after 1978) in the case of vertebrate DPSs.

Comment (22): Several commenters, including several States, argued against a one-size-fits-all approach, noting that various provisions of the Act provide the Services with flexibility. They noted that the flexibility provided by allowing the listing of a species in a portion of its range (with the remainder unlisted) would also recognize the States' role in managing fish and wildlife populations within their borders, and would provide an incentive for States to conserve imperiled species. In contrast, the approach in the draft policy was described by one commenter as ''heavy handed'' and likely to generate increased animosity towards the Act. Another commenter suggested that being endangered or threatened throughout an SPR should result in a rangewide listing only if protective actions anywhere in the range would reduce the threat of extinction in the SPR, an assumption that may not be valid in all cases.

Response: Although we agree that in a number of areas Congress provided the Services with administrative flexibility, that flexibility derives from particular statutory language. As discussed in the draft policy, here the better reading of the relevant statutory language (and the only one permissible under prevailing case law, as discussed previously) is that Congress did not intend to allow partial listing of ''species.'' Regarding providing an incentive to States to conserve imperiled species, we recognize that in some circumstances allowing protection only in certain portions of the range would provide a stronger incentive to States. However, under this policy States will have an incentive to conserve species, as State conservation efforts are relevant to both listing and delisting determinations under section 4(b)(1) of the Act.

Comment (23): One commenter suggested that, taken to its logical conclusion, the draft policy would mean that any time a species is endangered or threatened ''in some isolated area,'' it could be listed throughout its current range. The Florida Fish and Wildlife Conservation Commission expressed concern that listing would be required even if a species is ''thriving and well managed in some portion of its range.'' Other States expressed similar concerns, particularly the Alaska Department of Fish and Game given its isolation from the contiguous 48 States.

Response: A species would only be listed because of its status throughout an ''isolated area'' if that area was ''significant'' (*i.e.,* the contribution of the members of the species in that portion of its range to the viability of the species was so important that, without that portion, the species would be in danger of extinction or likely to become so within the foreseeable future). In that unlikely circumstance, listing the species throughout its range is appropriate and consistent with the statutory language. Similarly, if a species is ''thriving and well managed'' in some portion of its range, in most circumstances the other parts of its range would not be ''significant'' as defined in this policy, and would be listed, if at all, only under our authority to list DPSs.

Comment (24): Several commenters, including the Hawaii Department of Land and Natural Resources, suggested that listing only the endangered or threatened portions of the range of a species would allow the Services to focus their limited resources where they can be most effective in furthering the purposes of the Act, and that listing rangewide would be inequitable to stakeholders in the remainder of the range.

Response: Although we acknowledge that focusing conservation efforts on the most imperiled portions of a species range is one of the benefits of interpreting the Act to allow for listings of portions of ranges, there are also benefits of the contrary interpretation (76 FR 76987, pp. 76991–76993). Moreover, as discussed elsewhere (76 FR 76987, p. 76992), we have concluded that requiring rangewide listings is the best way of harmonizing the various provisions of the Act. And, as also discussed elsewhere (76 FR 76987, p. 77004), we will use what discretion is available to us to focus conservation efforts on the areas where those efforts are most likely to lead to recovery of the species.

Comment (25): One commenter stated that interpreting the Act to tie the hands of the Secretary to impose protections that apply no additional benefit is indefensible.

Response: We disagree that rangewide listing will provide no additional benefit. We recognize that, in most cases, the key to recovery of a species listed because it is endangered or threatened throughout a significant portion of its range will be to reduce the threats in that portion, so that it is no longer endangered or threatened there. But, in some cases, protections throughout all of the range may lead to recovery. This may occur if the conservation status of the members in the remainder of the range is improved such that the endangered or threatened portion of the range loses its significance. For instance, the resiliency and redundancy of the remainder of the range may be increased through conservation actions to the point that the endangered or threatened portion of the range's relative contribution to the viability of the species is reduced, and the status of the species in the remainder of the range is not dependent on the portion of the range in which the species is endangered or threatened. In other words, the remainder of the range may become secure enough that it would not qualify as endangered (or threatened) even in the absence of the portion of the range that was endangered or threatened at the time of listing.

Comment (26): One commenter agreed that the issue is a difficult one, and expressed no opinion as to the right interpretation. The commenter did suggest that listing the species rangewide would be consistent with the ''precautionary principle'' and scientific principles of conservation biology, but recognized that rangewide listing ''will likely result in unintended consequences that may be contrary to congressional intent . . . and may result in the [Act] being applied to protect populations where those protections are not needed.'' The commenter, however, expressed the opinion that the Services should not even attempt to answer this question in a policy defining ''significant,'' as doing so injects considerations of economic and regulatory consequences in conflict with the mandate of section 4(b) of the Act that listing decisions be based solely on the best scientific and commercial data available. Therefore, the commenter suggested removing this section of the draft policy.

Response: Section 4(b)(1) of the Act requires the Services to ''make determinations required by subsection (a)(1) solely on the basis of the best scientific and commercial data available.'' Section 4(a)(1) governs individual listing determinations. The commenter failed to recognize that defining ''significant'' is not itself a listing decision; rather, it is an interpretive exercise with legal, policy, and biological components. In other words, the policy is not a ''determination[] required by subsection (a)(1),'' and therefore section 4(b)(1) does not by its own terms apply to the policy. In resolving ambiguities in the Act and providing guidance for its

implementation, it is lawful and completely appropriate for the Services to consider a wide variety of factors.

Comment (27): One commenter suggested that if the final policy also concluded that an entire species must be listed if endangered or threatened throughout an SPR, then that authority should be used sparingly.

Response: We agree that rangewide listings should not be made lightly, and as discussed in the draft policy (76 FR 76987, p. 76995) and above in the II. Changes from the Draft Policy section, part of our reasoning for adopting the relatively high standard of this final policy for the definition of ''significant'' is to avoid unnecessary regulatory burdens. However, we have a duty to apply the Act's definitions in the context of the best available scientific and commercial information in each case and must not hesitate to use the authority where appropriate.

Comment (28): One commenter suggested that when a species is endangered or threatened throughout an SPR outside of the United States, that the U.S. population should not be included in the listing.

Response: As the commenter pointed out, the draft policy is silent as to the effect of jurisdictional boundaries on the operation of the SPR language. There is, however, a good reason for this: Section 4 of the Act makes no reference to any different treatment of species found outside of the United States. Rather, it only specifies notification requirements to foreign governments, and clarifies that the conservation efforts of those governments should be considered in making listing determinations. That said, as indicated in the draft policy (76 FR 76987, p. 77003) and elsewhere here, if an SPR that warrants listing also qualifies as a DPS, we will list the DPS, including those with boundaries that correspond with international boundaries.

Comment (29): One group of commenters opposed application of the policy to foreign species. The commenters asserted that the conservation considerations for foreign species are very different than those for domestic species. The commenters were particularly concerned that rangewide listing resulting from application of the draft policy would interfere with sport-hunting programs in countries that manage a species well, and provided several existing examples of FWS providing a species with different listing statuses in different countries. The commenters also asserted that the DPS concept is not an adequate safeguard to prevent that interference. One commenter stated that the Services should issue a separate policy for foreign species to take into account foreign programs and practices and congressional language not to list areas that do not themselves warrant being listed.

Response: We disagree. The standards for listing are the same for domestic and foreign species, although the nature of the data to be analyzed can differ. Moreover, as discussed in the draft policy, our policy stipulates that if an endangered or threatened SPR of a species also qualifies as a DPS, we will list the DPS rather than the entire taxonomic species or subspecies. This treatment is consistent with the commenters' examples and maintains the full flexibility of the DPS authority to apply differing statuses across the range of a vertebrate taxon comprising multiple DPSs, including those that qualify as DPSs based on different management across international boundaries. Thus, our SPR policy honors congressional intent that suggests we should apply differing statuses for species across international boundaries if there are differences in management.

Comment (30): Colorado Parks and Wildlife commented that it would be unreasonable to list the Gunnison's prairie dog rangewide if the prairie portion of its range does not warrant listing itself, and if adequate mechanisms do not exist for the recovery of the montane population, which is subject to much greater threats.

Response: On November 14, 2013, FWS published (78 FR 68660) a not-warranted finding for Gunnison's prairie dog consistent with application of the principles laid out in this policy.

D. The Biological Basis for ''Significant''

Comment (31): Most commenters, including the Wisconsin Department of Natural Resources and Idaho Office of Species Conservation, supported the biological basis for the definition of ''significant.'' One noted that a percentage-of-range test departs from the biological conservation of listed species and the ''best science'' features of the Act, and moves away from the areas of expertise of Service biologists. Another thought size of the portion would be most straightforward, but acknowledged that size will not always be directly related to biological/conservation importance, which matters most when trying to conserve endangered and threatened species.

Response: We appreciate the commenters' constructive feedback.

Comment (32): Several commenters supported the biological basis for the definition of ''significant,'' but questioned how the Services will make these determinations. For example, the Nevada Department of Wildlife questioned whether decisions based on an analysis of biological significance (based on the principles of conservation biology using the concepts of representation, resiliency, and redundancy (the three Rs)) can be articulated and supported in a manner that will be able to withstand challenges. The Idaho Department of Fish and Game found it difficult to imagine the multitude of potential analyses of different geographically based configurations of how much of the taxonomic species' range is required to meet the threshold of ''significance.'' The Hawaii Department of Land and Natural Resources was concerned that the biological basis may be too subjective. It was unclear to another commenter how a species with a metapopulation structure throughout all of its extant range would be affected by the proposed interpretation.

Response: Although these determinations are necessarily subjective to some degree, we will make them based on the best available scientific and commercial data. Our expertise and experience uniquely qualify us to make these sorts of determinations. The biologically based definition of ''significant'' requires the same types of analyses that we already conduct, and we are confident that we can apply this standard in a manner that will be able to withstand challenges. With regard to the concern about the multitude of potential analyses that would be required, we acknowledged this in the draft policy, and explained how our process for considering SPRs would address that concern (76 FR 76987, p. 77002). The process we outlined is appropriate for species with a metapopulation structure throughout all of its extant range, since a metapopulation is a group of spatially separated populations of the same species that interact at some level. One or more of these populations can constitute an SPR.

Comment (33): Several commenters supported the biological basis of the definition of ''significant,'' but asked how we will determine that the threats in a portion are so ''significant'' as to warrant a listing determination based on an SPR.

Response: The commenters' question goes to the second step of the SPR analysis, which asks whether a species is endangered or threatened throughout an SPR. We will make these determinations in the same way we determine whether any species is endangered or threatened. The only

difference in these determinations is that they will be made with reference to the members in a smaller portion of the species' range. We do not ask whether the threats acting on the portion are ''significant,'' but whether they cause the species to be either in danger of extinction or likely to become so within the foreseeable future throughout that portion.

Comment (34): One commenter suggested that we include the more detailed language about the three Rs and four viability criteria (abundance, spatial distribution, productivity, and diversity) in the definition itself, instead of only in the preamble, to ensure that the definition is more specific and less open to interpretation and debate. Otherwise, ''in danger of extinction'' will be difficult to apply consistently.

Response: We disagree. A succinct policy statement is beneficial both to the Services and the public, and additional guidance is available by referring to the preamble. If we determine that it would be helpful to do so in the future, the Services may develop internal guidance that would include such details to help their biologists implement the policy.

Comment (35): One commenter was concerned about the emphasis placed on the term ''viability'' because this term is not defined.

Response: We use the term to describe conservation biology principles, as it is a common term in the field of conservation biology. ''Viability'' is the ability of a population to persist and avoid extinction. The viability of a population will increase or decrease in response to changes in the rates of birth (or germination), death, immigration, and emigration of individuals.

Comment (36): One commenter wondered how the Services will determine what will constitute a significant portion of the range for plants with disjunct distributions. What criteria will we use (genetic data, population viability analysis (PVA), population modeling, or other methods)? The commenter was concerned that genetic diversity may be lost if the ''significance'' of a portion of a plant species' range or genetic diversity or both across its range is not adequately investigated and understood. The commenter also opined that climate change (changing precipitation patterns and temperature regimes) may increase the significance of populations located at the extremes of a species' range because those populations may make disproportionately high contributions to the total adaptive capacity of species.

Response: All of these considerations are subsumed within our evaluation of the three Rs and four viability criteria. In evaluating the status of species, the Services encounter species with a wide range of life histories, circumstances, and varying levels of data quality and quantity. Because of this, it is not possible to lay out a single set of specific criteria in this policy. Analyses will necessarily be species-specific and will rely on the best scientific and commercial data available for that species. However, as explained in the draft policy (76 FR 76987, p. 76994), the framework of the three Rs and four viability criteria include considerations such as spatial distribution, abundance, and genetic diversity. Where we have quantitative data, we may be able to use PVAs or population modeling. In less data-rich situations, we will use qualitative methods. In the response to *Comment 84* below, we provide an example of the application of this framework to the Queen Charlotte goshawk. In that analysis, we specifically considered geographic barriers and genetic diversity in our evaluation of whether portions of the species' range could be ''significant.''

Comment (37): A few commenters, including the Alaska Department of Fish and Game, recommended changing the definition of significant to read, ''A portion is 'significant' in the context of the Act's 'significant portion of its range' phrase if its contribution to the viability of the species is so important that, without the individuals in that portion, the species would be in danger of extinction.'' The commenters suggested that this would eliminate confusion that could arise from the fact that ''range'' usually refers to a geographic area rather than the individuals in that area.

Response: The commenters are correct that our determinations are made with reference to the biological organisms, not the geographic area. Therefore, we changed the definition of ''significance'' to clarify that ''that portion'' refers to members of the species in the portion of the range.

Comment (38): Two commenters suggested the following modification to our definition of ''significant'': ''In implementing the assessment of a portion of a range's contribution to the viability of a species, the Services shall identify and explain those physical attributes and biological elements that are present in the species' occupied range and are so integral to the life cycle of the species that they make a unique and irreplaceable contribution to the species' ability to survive.''

Response: The biologically based definition in our draft policy refers to the biological organisms, not the geographic area. Regardless, the biological principles that we will consider when evaluating whether a portion's contribution to the viability of a species is so important that, without the members in that portion, the species would be in danger of extinction or likely to become so within the foreseeable future already incorporate the concepts suggested by these commenters because it is impossible to separate these habitat concepts from the species' needs. These concepts will be reflected in the viability of the species.

Comment (39): A number of commenters argued in favor of using other factors (*e.g.,* size, esthetic, ecological, educational, recreational, cultural, U.S. presence) to define ''significant'' instead of applying a purely biological/conservation approach. For example, South Dakota Game, Fish and Parks suggested that we include both the options of conservation value and size for defining ''significant,'' and another commenter stated that percentage of range and percentage of population should be required components of a science-based SPR analysis throughout all ecotypes within the species' current and historical range. Other commenters preferred that we base our approach on the ''Values of the Act'' so that we can retain broad discretion to determine that a particular portion of a species' range should be deemed significant based on the specific national ''values'' set forth in the Act itself.

Response: We considered these factors as well as other factors when we were developing the draft policy (76 FR 76987, pp. 77000–77002). However, we concluded that a biological/conservation importance approach would result in us applying protections and resources to portions that are biologically important and in need of conservation, consistent with the purposes of the Act. An approach that is based on biological importance necessarily includes consideration of factors such as size of the population, spatial distribution across ecotypes, etc. Such a biological approach is most appropriate because the Act focuses on protecting species, and to protect species requires that we assess whether they are biologically viable. The commenters did not present a clear explanation or rationale for why or how non-biologically based factors would be better than a biological/conservation approach.

Comment (40): The Kalispel Tribe of Indians suggested a hybrid approach, incorporating both the biological/conservation importance and the values identified in section 2 of the Act. Under this approach, if a portion is

''significant'' for biological or conservation reasons, the portion would be a ''significant portion of [the species'] range''; if not, the Services would, in consultation with the affected Tribe, look to whether that portion is ''significant'' because of the values articulated by the Act (*e.g.,* cultural, historical, educational). If the portion is important because of any of these values, it would then be ''significant.''

Response: All of the reasons we gave in the draft policy (and in response to *Comment (39),* above) for not applying a values approach (76 FR 76987, p. 77001) apply as well to the hybrid approach suggested by the Kalispel Tribe. Therefore, we concluded that the biological/conservation approach should be used alone in determining whether a portion of the range of a species is significant.

Comment (41): One commenter suggested that a variety of factors should be used to determine the significance of a portion of the range of a species, including whether that portion supports unique habitats or adaptations for the species, and whether its loss would result in a significant gap in the species' range.

Response: Unique adaptations are incorporated in the three Rs or four viability criteria. Since the Act is a species-focused law (rather than ecosystem-focused), incorporating the concept of ''unique habitats'' is not appropriate unless the species' presence in that habitat contributes to its resilience. Evaluating whether the loss of the portion would result in the species being endangered or threatened already captures the commenter's suggestion of evaluating whether its loss would result in a significant gap in the species' range. We deliberately chose not to use the phrase, ''significant gap in the species' range'' because that is a factor in the DPS Policy, and ''significant'' in the SPR phrase is not the same as ''significant'' in the DPS Policy.

Comment (42): Several commenters recommended that we incorporate ecosystem principles into our definition of ''significant.'' For example, one commenter recommended rewording the definition of ''significant'' so that when the loss of a portion of a species' range would result in the extirpation of that species from a defined ecoregion or ecosystem unit, then that portion is significant to the species and the species must be protected under the Act. The commenter further argues that an ecosystem-unit assessment provides for a meaningful distinction between the concept of endangered throughout an SPR and threatened throughout an SPR. Another commenter recommended that we revise the draft policy by defining the word ''significant'' in a way that recognizes the ecological significance of various parts of a species' range to the species and the ecosystem, does not diminish the species' resilience or potential to adapt in response to rapidly changing environmental conditions, and does not rule out the possibility that areas that do not now constitute good habitat might become so as a consequence of the same processes that are causing the loss or degradation of presently occupied areas. As an example, this commenter suggested that the loss of a large whale population from an ecosystem (*i.e.,* Gulf of Alaska, Bering Sea, or Sea of Okhotsk) would be significant at the species and ecosystem level, and therefore, this loss could be considered a loss from an SPR. Similarly, this commenter argued that portions of a species' range that are important for supporting vital functions such as reproduction, feeding, and refuge from predators could reasonably be considered SPRs. This commenter emphasized the importance of preserving the populations' capacity to adapt to changing environmental conditions by not allowing a population to decline as a result of human impacts throughout an SPR.

Response: We explained our rationale for choosing a biologically based definition of ''significant'' in detail in the draft policy (76 FR 76987, pp. 76993–76994 and 77001). A biologically based definition best conforms to the purposes of the Act, is consistent with judicial interpretations, and best ensures species' conservation. While one of the purposes of the Act is to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, the Act provides for protecting listed species and their critical habitat, not ecosystems. Therefore, we declined to reword our draft policy to incorporate ecoregions or ecosystem units, although we note that extirpation of a species from an ecoregion or ecosystem unit can be a relevant consideration under the policy, even if not dispositive. With regard to the comment that an ecosystem-unit assessment provides for a meaningful distinction between the concept of endangered throughout an SPR and threatened throughout an SPR, the commenter did not explain how this would be provided, and therefore, we cannot offer a response. When determining whether a species is endangered or threatened, we recognize the ecological significance of various parts of its range to the species and the ecosystem, and consider its resilience or potential to adapt in response to rapidly changing environmental conditions; there is no need to revise the draft policy to recognize this. In response to this commenter's recommendation that we consider the possibility for low-quality areas to become good habitat, nothing in our policy precludes us from considering the dynamic ecological and evolutionary processes that lead to these changes in habitat quality when determining whether a portion of the range of a species is significant.

Comment (43): One commenter stated that the draft policy equates ''significant'' only with ''biological viability'' when it should be focusing on viability and geographic representation. Another commenter stated that ''significant'' should be defined to include a geographic component that is related to but not subsumed by viability, citing Congressional Report No. 93–412, historical application of the Act, and peer-reviewed assessments (Vucetich *et al.* 2006 and Carroll *et al.* 2010) to support its claim. Another commenter notes that species cannot be effectively protected without protecting the habitats and ecosystems on which they depend and without considering the species' integral ecological processes; this commenter supported the use of the conservation-biology principles of resilience, representation, and redundancy, but believed that our focus on species viability as the sole criterion for listing contradicts these three principles. As an example, this commenter argued that misinformed and harmful ''mitigation'' for a proposed groundwater-pumping-and-exportation project would be allowed under the species-viability focus in our proposed approach.

Response: As we discussed in the draft policy, we consider the conservation-biology principles (three Rs or four viability criteria) when evaluating whether a portion is significant (76 FR 76987, p. 76994). Consideration of these principles necessitates an evaluation of geographic representation as all of the three Rs (resilience, representation, and redundancy) and the spatial distribution criterion (one of the four viability criteria) include geographic components. While one of the Act's purposes is to provide a means whereby the ecosystems upon which endangered and threatened species depend may be conserved, the actual, operational provisions of the Act are explicitly species-focused and do not specifically provide for protection of ecosystems (though critical habitat designation

offers some protection). However, the species' integral ecological processes are considered in any evaluation of the status of a species. With regard to the comment expressing concern about harmful ''mitigation'' resulting from our draft policy, the commenter did not explain the connection between this concern and our draft policy. However, we disagree that there would be any harmful mitigation as a result of implementing the policy

E. The Threshold for ''Significant''

Comment (44): A number of commenters supported a lower bar that would include ''threatened.'' Arguments offered in favor of this include: (1) A recommendation to apply the precautionary principle and protect species before they become endangered (when it is too late) and species recovery becomes more costly; and (2) concern that the draft definition does not provide a meaningful distinction between when a species is endangered throughout an SPR and when a species is endangered throughout all its range (citing *Defenders (Lizard)*).

Response: Although we disagree with the assertion that the precautionary principle should be applied to listing determinations under section 4 of the Act (*see CBD* v. *Lubchenco,* 758 F. Supp. 2d 945, 955 (N.D. Cal. 2010)), as discussed above, this final policy adopts the standard suggested by these commenters. See section II. Changes from the Draft Policy, above.

Comment (45): Two commenters stated that the threshold in the draft policy was too high and would result in decreased protections for species with important populations that are facing significant threats. They expressed concern that many populations important to the redundancy, resiliency, and representation within the species will not warrant protection. The commenters proposed that a population be considered ''significant'' if its loss would ''meaningfully compromise'' redundancy, resiliency, or representation for the species as a whole. They suggested that this would ensure that all species are represented by multiple viable populations distributed across the range of variation of that species including geographic, ecological, and genetic variation. Another commenter agreed that the threshold was too high, and asserted that the Services are giving economic impacts of listing species too much emphasis and not giving conservation success enough emphasis.

Response: We agree that the threshold should be lower than in the draft policy to ensure that species with important populations that are facing significant threats receive protection under the Act, but we do not believe ''meaningfully compromise the redundancy, resiliency, or representation for the species as a whole'' is an appropriate and clear standard. In addition to its ambiguity, the recommended threshold would appear to set an inappropriately low standard for ''significant'' given the effect of finding that a species is endangered or threatened throughout an SPR, *i.e.,* rangewide listing. For the reasons discussed above, we have lowered the threshold for ''significance,'' but we decline to adopt this recommendation. We do not agree with the commenter who asserted that we are giving economic impacts of listing species too much emphasis and not giving conservation success enough emphasis. We developed our policy by examining the Act, its legislative history, and case law, and the result is a policy that balances the need to give full meaning to both ''throughout all of its range'' and ''throughout a significant portion of its range'' while affording appropriate protections to species.

Comment (46): Many commenters, including the Idaho Department of Fish and Game, Alaska Department of Fish and Game, Wisconsin Department of Natural Resources, and Hawaii Department of Land and Natural Resources supported the high threshold for ''significant'' in the draft policy. A few argued that introducing the consideration of whether a species is ''likely to become endangered'' as part of identifying a ''significant portion'' would confuse the purpose of the identification of an SPR. Another stated that the use of the endangered standard would provide a more straightforward approach for determining if a species' range is ''significant'' because it would avoid adding the temporal element of the threatened standard. The commenter also suggested that use of a higher standard lessens the risk of unnecessary species listings that would result in application of the Act's protections across the species' range.

Response: We do not think introducing the consideration of whether a species would meet or exceed the standard for threatened as part of the threshold for ''significant'' confuses the purpose of the identification of an SPR. Determining whether a portion is ''significant'' is a separate exercise from determining whether the members of the species in that portion meet the status test of ''endangered'' or ''threatened.'' The inquiry assumes that all members in that portion are extirpated, without reference to a particular point in time. Regarding use of the threatened standard in the definition of ''significant,'' in our draft policy we also concluded that the use of the endangered standard was more straight-forward. However, for the reasons discussed in sections II. and III.C.3., above, we now conclude that it is more appropriate to include the threatened standard along with the endangered standard in the definition of ''significant,'' and have done so in this final policy.

F. Quantitative Approaches or Rebuttable Presumptions To Determine Whether a Portion is ''Significant''

Comment (47): One commenter asked us to rescind the draft policy and instead adopt one that considers the plain meaning of significance of the range in terms of the majority of the range as measured in quantitative or numerical terms. However, most commenters, including the Wisconsin Department of Natural Resources, Hawaii Department of Land and Natural Resources, and Alaska Department of Fish and Game, agreed with us that a quantitative approach or rebuttable presumption should not be used for determining whether a portion of a species' range is significant. Many commenters noted that a single metric, percentage, or other quantitative measure should not be used to establish a presumption for identifying an SPR. Instead, they suggested that we must draw upon those myriad factors specific to the species and the portion of the range at issue to determine whether that portion meets the threshold for identification and review under the SPR inquiry.

One commenter added that, based on research indicating variation in habitat quality and productivity at the scale of the species' range, percentage of range or population is an unreliable indicator of biological or conservation significance. Therefore, a rebuttable presumption would be either overly strict in many instances, would somehow result in ''shifting to the public'' an assessment the Services are better equipped to make, or would be generally under-protective. Another thought using percentage of range or habitat as the threshold for ''significant'' is appealing because it is more tangible and objective, but admitted that it is likely to be impossible to develop size-based criteria that will work for all possible scenarios. Another pointed out that a predetermined percentage of the species' overall range should not be used to define ''significant''; significant reduction in a species' range, particularly when coupled with reduced abundance, could be a sufficient basis

for listing even if that portion fails to meet some predetermined percentage of the species' range.

Two other commenters noted that the use of size (either of a population or a range) as a rebuttable presumption would provide a quantitative measure that could be easier to apply as a first cut, but acknowledge that it could ultimately complicate the issue rather than streamline the process because it would not take into account species-specific characteristics, and determining what is necessary to rebut the presumption would be problematic. They concluded that the use of the size approach, and necessary size-threshold determination, would be arbitrary and likely impossible to apply in a consistent or systematic manner. They agreed with us that percentage of range or population as a rebuttable presumption would be inconsistent with case law (the Ninth Circuit has already rejected the argument that a specific percentage loss of habitat should automatically qualify a species for listing (*Defenders (Lizard),* 258 F.3d at 1143–44)).

Response: In view of the comments received and the complications identified in the draft policy, we have concluded that it is not feasible to implement a purely quantitative approach. The Services specifically contemplated the possibility of using a quantitative threshold for ''significant'' when we considered using size as a basis for determining significance. We specifically rejected using size because a single quantitative threshold would be unlikely to be applicable to the widely varying life histories, habitats, and needs of the species for which we conduct status reviews. We also specifically requested comment on the possibility of developing a specific quantitative threshold for significance that could be used as a rebuttable presumption to streamline and simplify our analyses and provide for greater transparency (a rebuttable presumption would provide a standard quantifiable threshold for significance that would be applied unless certain assumptions or conditions are not met). Most commenters who addressed this issue replied that developing quantitative thresholds (even as a rebuttable presumption) would not be feasible or useful or would be unnecessarily complicated given the variety of circumstances, species life histories, and variability in the types of data that would be available to the Services. We agree.

G. Range and Historical Range

Comment (48): Many commenters appeared to believe the policy would limit protections of a species to only the range occupied at the time of listing. Other commenters recommended we explain that ''range'' is not a regulatory concept.

Response: The Services noted in the draft policy that our interpretation of the term ''range'' does not limit application of the tools and protections of the Act (76 FR 76987, pp. 76997 and 77003–77004). However, in this final policy, we have further clarified that the term ''range'' is relevant to whether the Act protects a species, but not how that species is protected. We note that the protections of the Act are applied ''to all individuals of the species, wherever found,'' the phrasing used in 50 CFR 17.11(e) and 17.12(e).

Comment (49): Many commenters believe that the policy would result in the Services giving no consideration of loss of historical range or reasons for its loss in our listing determinations. Several commenters believed that defining range as current range would result in a ''shifting baseline.'' Commenters assumed that we would establish the current range as the baseline for comparison of a species' status without consideration of historical information to provide context to interpret the species' current status.

Response: As explained in the draft policy (76 FR 76987, pp. 76996–77007), loss of historical range, its impact on the current and future viability of the species, and its causes are important considerations in determining a species' status. While the definition of ''range'' establishes that the question of whether a species is endangered or threatened is a forward-looking inquiry, nothing in the policy suggests that current range would be used as the baseline against which to measure whether a species is endangered or threatened. In fact, because asking whether a species is currently in danger of extinction or likely to become so is a forward-looking exercise, there is no specific ''baseline'' of comparison. As we explain above in section III.D., a species' current and future status is informed by past trends and events and the Services agree that information regarding historical range cannot be ignored. We have further clarified the importance and relevance of evaluating the effects of loss of historical range on the current and future viability of the species.

Comment (50): Many commenters supported the Services' interpretation of range as current range and noted additional support in other provisions of the Act and other case law for the policy's interpretation that ''range'' must mean current range.

Response: We appreciate the commenters' supportive feedback.

Comment (51): One commenter suggested the Services more clearly make a distinction between the roles of SPR and consideration of lost historical range. Further, the commenter recommended that the Services explain that SPR concerns the biological significance of a portion of currently occupied range, while loss of historical range is a factor in determining whether a species is currently viable.

Response: We have added further explanation of the roles and relationships of SPR and lost historical range in determining the status of a species.

Comment (52): Many commenters believe that defining ''range'' as the current range accepts that lost historical range is unrecoverable and that it would limit options going forward for recovery. Some have suggested that defining ''range'' as current range would exclude from conservation and protection efforts any areas from which a species has been extirpated.

Response: We explained in the draft policy (76 FR 76987, p. 76997) and in section III.D., above, that examining a species' status in its current range in no way constrains or limits use and application of the tools of the Act to the current range of the species. Such tools include, but are not limited to, designation of critical habitat outside areas occupied by the species at the time it is listed; protection, restoration and management of habitat to allow for natural range expansion; improvement in population growth rates to allow for natural expansion; and translocation and reintroduction to areas outside the current range of the species (*e.g.,* California condor, black-footed ferret, peregrine falcon). We specifically note that recovering a species in some or all of its historical range may be necessary, and that the language of the Act indicates Congress specifically contemplated this necessity. However, we have added further explanation that the term ''range'' is a conceptual and analytical tool related to identifying threatened and endangered species and plays no direct role in implementing the Act to protect and recover species.

Comment (53): Some commenters asked how range would be determined for listing determinations and status reviews. Some commenters requested we explain how the Services would address specific scenarios, such as species with disjunct populations,

recently restored populations, captive populations, or species found only in captivity.

Response: The available information on current and historical ranges varies widely among species. For example, we may have very detailed information for some species and more limited data for others. Similarly, we may have detailed information in some portions of a species' range and very limited data in others. There is no single method for defining a species' range that can be used for all species and all situations. We describe the range, both current and historical, based on the best scientific and commercial data available. We note that range is described in our findings and status reviews for the purposes of conducting analyses of the species' status. As explained in section III.D., above, description of a species' range does not limit where protections of the Act apply, as the protections apply to the species itself. The same would be true for a species with disjunct populations. Similarly, protections of the Act would be extended to newly restored populations, as the protections of the Act are applied to the species itself, not the ''range.'' We note that with regard to considering whether newly restored populations constitute an SPR, we would consider such populations to be part of the range of the species for purposes of any status reviews because ''range'' is defined as the current range of the species at the time of the determination (not the range defined at listing or another previous determination). Whether or not a newly restored population would be considered an SPR would depend on its contribution to the conservation of the species. As for any other portion of a species' range, we would consider its contribution to the resiliency, redundancy, and representation of the species (such considerations could include the size of the newly restored population, its likelihood of persistence, or its contribution to the genetic diversity of the species). With regard to species found in captivity, the Services consider a captive population to have no ''range'' separate from that of the species to which it belongs (captive populations cannot be considered an SPR). Captive members have the same legal status as the species as a whole. In situations where all members of the species in the wild are gone, either because they are extirpated or because, as a last resort, the remaining wild members are captured and moved into captivity, the species remains listed as endangered or threatened until the species can be reintroduced and recovered in the wild. Our reasoning regarding the status of captive populations is further detailed at 78 FR 33790 (June 5, 2013).

H. Relationship With DPS Authority

Comment (54): One commenter asserted that the draft policy conflates the identification of the relevant ''species'' with the determination of whether it is an ''endangered species'' or a ''threatened species.'' According to the commenter, the fact that a population could be protected either because a DPS is endangered or threatened throughout all of its range or because a biological species is endangered or threatened throughout a significant portion of its range does not mean that either provision is superfluous. Moreover, the commenter asserted that Congress's adoption of the DPS concept in 1978 did not alter the SPR phrase or otherwise change its meaning.

Response: We agree that the identification of the ''species'' and the determination of whether it is endangered or threatened are two different steps. Once we determine that a species meets the definition of an ''endangered species'' or a ''threatened species,'' the operative provisions of the Act do not provide that protections only apply with respect to some members of the species (absent, for example, an applicable rule under section 4(d) or section 10(j) of the Act that modifies those protections). As we discussed in the draft policy, a species that is in danger of extinction throughout a significant portion of its range is an ''endangered species.'' Take of an ''endangered species'' (not just of an endangered species where it is endangered) is prohibited by section 9 of the Act. Moreover, we did not assert that interpreting the Act to allow protections solely in an SPR would make the DPS language redundant. We merely asserted that doing so ''creates unnecessary tension between the SPR language and the DPS language'' (76 FR 76987, p. 76991). Also, we did not argue that the addition of the DPS language in the 1978 amendments to the Act changed the meaning of the SPR language. The commenter's preferred interpretation would also have created unnecessary tension with the 1973 definition of ''species.''

Comment (55): Many commenters, including the Florida Fish and Wildlife Conservation Commission, agreed that the draft policy struck a reasonable balance between the DPS policy and the statutory SPR language. The Wisconsin Department of Natural Resources appeared to agree that endangered or threatened DPSs that also qualify as SPRs should not be the basis for listing the entire taxonomic species of which it is a part. Otherwise, the agency suggested, the result could be ''unintended listings of DPSs'' (which we take to mean the portions of the range outside the SPR/DPS); the remainder of the range presumably is one or more DPSs, for which independent listing determinations should be made.

Response: We appreciate the constructive feedback of the commenters.

Comment (56): A number of commenters recommended that the Services reevaluate the DPS policy. In particular, several commenters, including the Wisconsin Department of Natural Resources, suggested that the DPS policy be revised to allow DPS boundaries to be defined by State borders, or by ecoregion or ecosystem unit boundaries, without requiring that DPSs be disjunct from one another. The Alaska Department of Fish and Game suggested that the Services clarify that, for purposes of the DPS policy, Alaska is separated from the contiguous 48 States by international boundaries. One commenter suggested distinguishing DPS analysis from SPR analysis by relaxing or eliminating the significance requirement of the DPS policy. Another commenter suggested adding a fifth criterion for significance to the DPS policy (geographic representation in an ecosystem unit), and another suggested that any reevaluation of the DPS policy should include a notice-and-comment process for formulating a more rational approach to reconciling the SPR and DPS language.

Response: Revision of the DPS policy is outside the scope of the current effort. This policy does, however, describe the relationship between the DPS language and the SPR language in the Act.

Comment (57): One commenter asserted that giving ''significant'' different meaning in the SPR and DPS contexts runs afoul of Supreme Court precedent that statutory terms should normally be given the same meaning throughout a statute.

Response: We disagree. ''Significant'' is *not* a statutory term in the DPS context—''significant'' is used in the DPS policy, not in the statute. The case law cited by the commenter is simply not applicable.

Comment (58): Several commenters asserted that despite our explanation to the contrary, the draft policy defines ''significant'' in the exact same way as the DPS policy because both refer to the concept of importance. They argued that this has the effect of rendering the DPS

language moot and illegally amending the Act.

Response: We disagree. The fact that the concept of significance in the draft policy and the DPS policy both relate to importance (as opposed to, for example, statistical significance) does not mean that the terms are defined identically. As explained in great detail in the draft policy, the draft policy sets a much higher and more specific bar than the DPS policy (76 FR 76987, pp. 76998–76999). In other words, although both relate to importance, under the draft policy a portion of the range must be much *more* important to be ''significant'' than a population must be to be significant to the taxon as a whole under the DPS policy. This remains true under the revised definition of ''significant'' in this final policy.

Comment (59): One commenter suggested that we will not be able to list a DPS rather than the entire species if an endangered or threatened DPS occupies an SPR of the species, because the policy requiring rangewide listing will be binding.

Response: We disagree. The policy expressly provides that where a DPS overlaps with an SPR only the DPS will be listed.

Comment (60): Several commenters suggested that we should list a species rangewide even if there is a valid DPS that could be listed instead. Two of these commenters cited the disparity between the treatment of vertebrates and invertebrates if the draft policy is followed, with the paradoxical result that a similarly situated invertebrate could receive *more* protection than a vertebrate, in contravention of congressional intent. Another suggested that because DPS and SPR inquiries encompass different kinds of characteristics, they should be assessed independently.

Response: As discussed in the draft policy (76 FR 76987, pp. 76988–76989), it is very difficult to harmonize the various provisions of the Act and the goals that Congress intended to pursue. We conclude that the position taken in this policy strikes the best balance and appropriately reconciles these two distinct authorities.

Comment (61): One commenter asserted that the draft policy did not provide an adequate rationale for listing only the DPS where its range is coextensive with an SPR of the taxon to which it belongs. The commenter argued that the rationale given is undermined by the fact that section 4(d) of the Act allows the Service to tailor restrictions for threatened species. Also, the commenter suggested that, for domestic species, DPSs are unlikely to correspond to political boundaries in the absence of international borders.

Response: As we discussed in the draft policy (76 FR 76987, pp. 76998–76999), DPSs will not often correspond to SPRs, but we determined that the policy should explain what happens if they do because the Act does not indicate how these two distinct authorities should interact with one another. Rules promulgated under section 4(d) of the Act are not adequate to address the problem, as section 4(d) does not apply to endangered species.

Comment (62): Several commenters, including the Alaska Department of Fish and Game, stated that the draft policy should be modified to require the Services to determine whether a proposed SPR is encompassed by a DPS.

Response: As discussed in the draft policy, we generally will identify, as a matter of practice, relevant DPSs before considering SPRs, although in some circumstances a different order or scope of analysis may be more appropriate. To preserve flexibility, we find there would be no benefit to expressly requiring this in the policy.

Comment (63): One commenter expressed concern that the draft policy's discussion of DPSs would lead the Services ''to conduct a review that is out of order''—apparently considering the proper order to be to identify the ''species'' first, and then apply the definitions of ''endangered species'' and ''threatened species'' to the species.

Response: As we stated in the draft policy, we agree that we will usually identify the species to be analyzed first. In fact, in our draft policy, our treatment of DPSs that are also SPRs helps justify conducting the analysis in this order, without a need to reexamine endangered or threatened DPSs to determine whether they also constitute SPRs. Under the draft policy, no change in the listing would result from that additional analysis, so there would be no need for the Services to conduct it.

Comment (64): Several commenters asserted that an SPR inquiry should not be used in evaluating whether a DPS warrants listing. In other words, those commenters think that a DPS should not be listed because it is endangered or threatened throughout a significant portion of its range. Another commenter took the opposite position, and suggested that we clarify this fact.

Response: As stated in the draft policy, the same logic applies to DPSs that applies to taxonomic species and subspecies (76 FR 76987, p. 76998). Natural operation of the language of the statute leads to the conclusion that any ''species,'' including a DPS, can be an ''endangered species'' because it is ''in danger of extinction throughout . . . a significant portion of its range.''

Comment (65): The Wisconsin Department of Natural Resources suggested defining SPR and DPS as the same where there is substantial overlap to allow for more effective, efficient, and practical application of listing and delisting efforts.

Response: Although they use the same word, the DPS Policy and the SPR language have different purposes: The DPS policy helps define what counts as a ''species,'' and the SPR language helps determine whether a species is endangered or threatened. Therefore, it is reasonable for ''significant'' to have different meanings in those different contexts. Moreover, as discussed above and in the draft policy (76 FR 76987, p. 76995), given the effect of finding a species to be endangered or threatened in a significant portion of its range, it is appropriate for ''significant'' in that context to be a demanding standard. The definition of ''significant'' used in the DPS Policy, although appropriate in that context, would, applied in the SPR context, be too low a standard, and result in the listing of many species with little long-term risk of extinction, diluting the conservation efforts of the Services, and imposing costs with relatively little conservation benefit. Finally, defining ''significant'' the same way in both contexts would tend to make the DPS language of the Act irrelevant, as DPSs of a species would always constitute SPRs of that species.

Comment (66): Two commenters thought that the discussion of the relationship between DPSs and SPRs was confusing and should include examples or case studies. One commenter specifically suggested the Services need to provide spatial diagrams to explain the relationship of SPR to DPS.

Response: There is no static relationship between these concepts, and not every species will have both an SPR and a DPS. Beyond the general framework that we have laid out, the relationship between DPSs and SPRs is highly fact-specific; we do not see the value of providing additional examples or case studies. Also, as ''significance'' is defined differently for SPR versus DPS, these concepts are not in tension.

Comment (67): One commenter noted that the draft policy's discussion was unclear as to whether the Services would give any consideration to the status of the species as a whole if a DPS warrants listing. The commenter pointed to a number of current examples in which a DPS is listed as endangered, and the species of which it is a part is listed as threatened.

Response: We generally look at taxonomic species and subspecies before considering DPSs, and we will always consider whether a species is in danger of extinction (or likely to become so in the foreseeable future) throughout all of its range before we engage in an SPR analysis (76 FR 76987, p. 77002). In addition, our revised definition of ''significant'' will preclude existence of an SPR if the species is in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range. Nothing in this policy will change how the Services conduct the analysis of ''species'' throughout their ranges. When a taxonomic species or subspecies is endangered in one DPS, and threatened throughout the rest of its range, the Services will continue to make separate listing determinations for the two (or more) populations, and list those populations accordingly.

Comment (68): One commenter suggested that we add a discussion of the relationship of the SPR language and NMFS' evolutionary significant unit (ESU) policy.

Response: ESUs identified under NMFS' ESU policy (56 FR 58612, November 20, 1991) are DPSs, and for the purposes of this policy will be treated as DPSs.

Comment (69): Montana Fish, Wildlife & Parks asserted that the Services already list populations as DPSs even though they do not meet the criteria of the DPS policy, and expressed concern that the Services not use the DPS policy to list populations that are not SPRs.

Response: We disagree with Montana's assertion; the Services rigorously apply the DPS criteria, and list DPSs sparingly, as suggested by Congress (Senate Report 151, 96th Congress, 1st Session). Moreover, the fact that a DPS may be imperiled in a portion of its range that is not significant will not provide a basis for listing the DPS.

I. Whether a Species Can Be Both Threatened Throughout All of Its Range and Endangered Throughout an SPR

Comment (70): Many commenters, including the Wisconsin Department of Natural Resources, South Dakota Game, Fish and Parks, and Idaho Department of Fish and Game, stated that, where the Act would allow either an endangered or a threatened listing, the Services should favor the more flexible threatened listing. They asserted that the part of the draft policy supporting an endangered listing in those circumstances is undesirable over-regulation that would produce needless economic dislocation. They suggested that the Services embrace the flexibility of tailoring ''take'' rules and reducing regulatory burdens with respect to threatened species, in response to a Presidential Order (E.O. 13563 to promote economic growth, innovation, competitiveness, and job creation), a Supreme Court ruling, and congressional intent. The New Mexico Department of Game & Fish was concerned that the many different analyses we would need to do under the draft policy would affect the Services' Act-mandated deadlines for responses to petitions and other potential listing actions.

Response: Although we do not necessarily agree with all of the rationale provided by these commenters, for the reasons described above, we agree with their conclusion, and thus the final policy defines ''significant'' such that a portion cannot be significant if the species already warrants listing throughout all of its range. Therefore, as this policy is applied, there will be no circumstance in which a species is threatened throughout all of its range and endangered throughout an SPR (see section II., above).

Comment (71): A commenter noted that the most efficient use of limited Service resources is to focus first on the entire species, and to use the SPR concept only secondarily and sparingly. Under that approach, once the Services find that a species is threatened throughout its range, the species should be listed as threatened, and an SPR-based endangered listing should not be considered further.

Response: We agree with the commenter and have changed the policy in part in response to this comment.

Comment (72): Some commenters expressed concern about a species being both threatened throughout its range and endangered throughout an SPR because it would be confusing to have two statuses for the same species.

Response: We have changed the definition of ''a significant portion of its range'' to avoid the confusion of a species potentially qualifying both as threatened throughout its range and endangered throughout an SPR.

Comment (73): One commenter suggested that, when a species is found to be endangered throughout an SPR, the species should be listed as endangered only in that portion of its range and threatened in the remainder of its range. This would allow more flexibility to issue a rule under section 4(d) of the Act for the species where it is only threatened. Other commenters, including the Hawaii Department of Land and Natural Resources, suggested that we apply protections according to the degree of threat in different portions of a species' range. Two commenters believed it is fine to protect a species as endangered if it is threatened throughout all of its range but endangered throughout an SPR, but protective efforts should be focused on the portion of the range where threats are greatest.

Response: For reasons set out above and in the preamble of the draft policy (76 FR 76987), we cannot list an entity smaller than a species (*i.e.,* species, subspecies, or DPS). Once a species is listed as endangered, it is listed as endangered wherever found, and all of the Act's section 9 prohibitions apply. We cannot apply different listing statuses to the same species in different portions of its range (except to the extent that those portions of the range correspond to subspecies or DPSs, *i.e.,* are in fact different ''species''). That said, with the revisions incorporated into this final policy, a species that in fact warrants listing as threatened because of its status throughout all of its range will, by definition, not contain any endangered SPRs.

J. Use of Best Available Science, Appropriate Analyses, Correct Conclusions

Comment (74): Several commenters stated that we should revise the draft SPR policy's current heavy and litigation-inviting reliance on the principles and concepts of conservation biology in determining biological significance. Conservation biology is a philosophy and pseudoscience.

Response: The Act requires that we use the best available science in making listing determinations. The principles and concepts of conservation biology are commonly accepted throughout the scientific community, and make up part of the best available science relevant to listing determinations. We always consider relevant and available species-specific evidence as well.

Comment (75): One commenter stated that the basis for the draft policy is flawed in that it fails to consider the full array of scholarly research, economic information, and legal considerations related to the issues and effects of various policy choices legitimately before the Secretary.

Response: We did consider the best scientific information available as well as recent judicial opinions relating to SPR. We considered a wide variety of policy options and the pros and cons of each. This final policy reflects the Services' expert judgment as to the best way to interpret and apply ''significant portion of its range'' as that phrase

appears in the Act. The commenter did not offer any specific constructive suggestions that we have not already considered.

K. Implementation in Listing Determinations

Comment (76): Some commenters requested we clarify when SPR analyses would be required. Several commenters requested we clarify how SPRs will be identified, what criteria will be used to identify SPRs, and whether threats will always be used to identify SPRs.

Response: When making a determination according to section 4(a)(1) of the Act, the Services must always interpret and apply the definitions of ''endangered species'' and ''threatened species,'' including the SPR language. We must always ensure that we are fully considering all the parts of these definitions. We explain how and when an SPR analysis will be conducted under the approach adopted in this policy in section III.F., above. No analysis of SPR is required when we find a species to be either endangered or threatened throughout all of its range. Where the rangewide analysis does not lead to a determination that the species is endangered or threatened, an SPR analysis is required. However, the level of detail of analysis necessary will vary according to the specific species and data under consideration. In general, a more detailed SPR analysis would likely be needed to fully address and consider all parts of the definitions when the kinds and levels of threats vary across a species' range. This is more likely to occur for species with large ranges than for narrow endemics with a very small range. Narrow endemics are likely to experience the same kinds and levels of threats in all parts of their ranges, and thus, no portion would likely have an increased level of threats and thus a different status. Essentially, we would conduct a ''screening'' analysis to determine whether additional analysis is needed. As a matter of definition, the SPR does not always have to be identified according to threats. In practice, a portion is most likely to be identified if there is a concentration of threats that could indicate the individuals in that portion may be endangered or threatened. The Services would then ask whether the portion also may be significant. If we determine that the portion is not significant (*e.g.,* if it were an extremely small area), we would not analyze it further. The Services may also identify a portion for further consideration based on biological characteristics, such as population structure or spatial distribution, that indicate a portion may be of particular biological importance (*i.e.,* it may be significant). However, if we determine that the portion is not endangered or threatened there (*e.g.,* if threats were not acting on the species in that area), we would not analyze it further.

Comment (77): One commenter suggested that we clarify that the identification of an SPR does not create a presumption, prejudgment, or other determination as to whether the species in that identified SPR warrants protection under the Act as either endangered or threatened.

Response: As we stated in the draft policy (76 FR 76987, pp. 76994, 77002), the determination of whether a portion of the range of a species is significant is completely separate from the determination of whether a species is endangered or threatened throughout a significant portion. We have added some language to this document to make this even clearer.

Comment (78): Montana Fish, Wildlife & Parks asked whether certain species will be treated as exceptions to this policy.

Response: We plan to apply this policy consistently to all species, unless we need to do otherwise to comply with a court order.

Comment (79): Some commenters expressed concern that adopting the SPR Policy will require the Services to undertake additional analyses that could affect timelines for completing determinations or otherwise affect the Services' resources. Some commenters asked for clarification of when detailed analysis of SPRs is needed. Some expressed concern that the Services will have to devote scarce resources to ensure consistency in interpretation.

Response: As explained above (section III.F.), the policy outlines a stepwise process to ensure that we engage in the level of analysis that is appropriate for the particular species. This process will not only ensure that the Services are not expending resources on unnecessarily detailed analyses, but also promote a consistent approach to conducting the analyses. We cannot predict every possible scenario we will encounter and must necessarily leave room for best professional judgment based on specific circumstances, but a consistent interpretation and stepwise analytical process will promote a consistent approach.

Comment (80): Several commenters requested we clarify that identifying the species, as defined by the Act, would be the first step in the process of making a listing determination. Some seemed concerned that the Services might instead identify potential SPRs and then broadly ask what entity (species, subspecies, or DPS) of which it may be a part.

Response: We have clarified in the policy explanation that the Services first determine what entity meets the definition of ''species.''

Comment (81): Some commenters suggested that the Services should develop quantitative tools and standards for measuring contribution to the viability of the species to ensure objective and unbiased SPR analysis. (We addressed the similar but distinct issue of whether to incorporate a quantitative threshold or rebuttable presumption as part of the definition of ''significant'' in response to *Comment (47),* above.)

Response: Our policy applies a conceptual framework that identifies the relationship a portion must have to the conservation of the species as a whole rather than a specific quantitative approach such as a numerical threshold. As with any listing determination, analyses applying this framework may use quantitative methods if data are available and allow for applying appropriate methodologies. However, quantitative data and methodologies are not required if the data available do not allow for quantitative analyses. Section 4(b)(1)(A) of the Act requires us to make determinations based on the best scientific and commercial data available. Thus, we must make determinations as to whether species are endangered species, threatened species, or neither, regardless of whether the data allow for quantitative analyses. In other words, we cannot defer making a determination where we lack the ideal kinds and quantity of data. Our policy accommodates the wide variety of situations and types of data available.

Comment (82): Several commenters requested that the Services provide more detail on how the policy will be implemented. Requests included providing more detail on what kinds of data will be used to determine whether a portion is significant (genetic data, PVAs, modeling, etc.), as well as how a variety of specific circumstances will be addressed and evaluated.

Response: The Services must use and base our determinations on the best scientific and commercial data available. We also must interpret and apply the definitions of ''endangered species'' and ''threatened species,'' including the SPR phrase, in all our determinations, regardless of the kind and quality of the data or the specific circumstances. However, the same kinds of information that have always been useful in determining a species' status

may be relevant to evaluating the relative contribution of a portion of its range to the viability of a species. The kinds of data include, but are not limited to, species biology and life history, genetic data, population-viability analyses, species distribution and abundance data, population and metapopulation structure, threats and species response to threats, etc. While particular kinds of data (and especially detailed, up-to-date data and information) may be most useful, we are required to apply the definitions of ''endangered species'' and ''threatened species'' regardless of the kind, quantity, or quality of the data available. We cannot predict every possible circumstance or scenario we will encounter. This policy, therefore, lays out a broad, conceptual framework that will allow the Services to evaluate a wide variety of circumstances. The Services have made numerous determinations prior to this policy as to whether a species meets the definitions of ''endangered species'' or ''threatened species.'' These determinations span a wide variety of species and circumstances, as well as a wide variety in the types, amount, and quality of data and information available. We expect to encounter the same variety in the future and will continue to apply our expertise to base our determinations on the best scientific and commercial data available.

Comment (83): The Arizona Game and Fish Department suggested that the policy, if approved, should ''more thoroughly describe how it would be applied during . . . application of the Policy on the Evaluation of Conservation Efforts (PECE) criteria.''

Response: Nothing in the SPR policy affects application of PECE or related considerations. Of course, the status of a species throughout an SPR can be affected by conservation efforts, as can its status throughout all of its range.

Comment (84): Several commenters requested we provide examples for real species.

Response: The Services have continued to publish numerous determinations in which we apply the definitions of ''endangered species'' and ''threatened species,'' including, as appropriate, the SPR language in those definitions. These include 12-month findings on petitions to list, reclassify, and delist species, as well as proposed and final rules to list, reclassify, and delist species. The Services have been applying an approach that is similar to this policy on a case-by-case basis when circumstances warrant giving some consideration to whether the species is endangered or threatened throughout an SPR. While the definitions applied on a case-by-case basis prior to this final policy may differ slightly from this final policy's definition of SPR, our recent determinations generally illustrate how we would apply the analysis framework laid out in this policy. We provide examples below.

Example 1: FWS was petitioned to list Van Rossem's gull-billed tern (a subspecies of gull-billed tern) and conducted a status review to determine whether listing was warranted. In our 12-month finding (76 FR 58650, September 21, 2011), FWS determined that this species was not endangered or threatened throughout all of its range. We next examined the question of whether the species might be endangered throughout a significant portion of its range. We identified two portions of the species' breeding range that may have a greater concentration of threats because of reductions in water levels that could increase nest predation and make the locations less suitable as nesting habitat. We next examined the question of whether these portions could be SPRs by examining their contribution to the resiliency, redundancy, and representation of the species. We determined that these two nesting locations were not unique or biologically different from other nesting locations. We also concluded that, even if these sites were to be abandoned in the future, it is likely that the Van Rossem's gull-billed tern would move and nest elsewhere because the species displays low nest-site fidelity. Additionally, existing and potential nesting locations are distributed along a 2,250-km (1,400-mi) stretch of the species' range, such that the two locations, either individually or combined, would not constitute a significant portion of the total breeding range. We therefore concluded that these two nesting areas were not SPRs because their contribution to the viability of the species is not so important that the species would be in danger of extinction without those portions. In this example, we identified portions based on a concentration of threats but determined the portions were not SPRs and therefore did not further examine the status of the species in those portions.

Example 2: On November 4, 2013, NMFS published a final rule removing the eastern distinct population segment of the Steller sea lion from the List of Endangered and Threatened Wildlife (78 FR 66139). After considering the status of the DPS throughout all of its range, NMFS next considered whether any portions of the DPS qualified as SPRs. NMFS identified as a potential SPR the southern portion of the range in California because of previously identified concerns over performance of rookeries in this portion. While this portion of the range has poorer performance compared to the rest of the DPS, data indicate that this portion is not in decline, nor does its poorer performance appear to be affecting the recovery of the DPS elsewhere. In other words, it does not appear to be endangered or threatened in that portion, and its contribution to the viability of the DPS is not so important, that without it, the DPS would be in danger of extinction now or in the foreseeable future. NMFS also identified the California Current Ecoregion as a potential SPR. Trend and threat information for this portion indicate that this portion is not in danger of extinction or likely to become so. Because NMFS determined that the California portion was not significant, and neither the California portion nor the California Current Ecoregion portion was endangered or threatened, NMFS did not evaluate them further. NMFS then concluded that the DPS no longer meets the definitions of an endangered species or threatened species. This example illustrates the process of identifying portions. The first portion was identified by considering information that could indicate the species could be endangered or threatened there (poor performance of rookeries). The second portion was identified by considering information that could indicate that the area is important to the conservation of the species (an ecoregion). This example also illustrates that we treat DPSs in the same manner as species and subspecies when applying the SPR language in our status determinations.

Comment (85): Several commenters suggested that visual aids such as charts or diagrams would be helpful in illustrating how the policy will be implemented.

Response: See Figures 1 and 2 in section III.F., above.

Comment (86): One commenter suggested the Services should provide an opportunity for public comment on the potential characterization of any portion of the range as ''significant'' for a particular species prior to the Services making any listing or status-related determination for the SPR. Specifically, the commenter suggested the Services include in their policies and procedures a requirement to publish a notice in the **Federal Register** prior to initiating a status review (*i.e.,* at the 90-day finding stage on a petition or prior to conducting the annual candidate notice of review) and prior to any proposed

listing of a species as endangered or threatened on the basis of an SPR. At a minimum, the commenter further suggested that this advance public notice should include mapping, identification of factors considered, identification of all studies and information to be considered, and an explanation as to any proposed basis for the identification of an SPR.

Response: The commenter's suggestion is not consistent with the requirements of the Act and is not necessary or feasible. The statute does not require the Services to engage in a rulemaking process to arrive at a 90-day or a 12-month finding on a listing petition. The statute generally requires an initial determination on a petition within 90 days of receipt, and a 12-month finding (along with any proposal to list) within one year of receipt, following a status review. Even if the Services were required to conduct rulemaking-style activities as part of the review of a petition, the requirement of relatively quick turnaround and relatively low ''may be warranted'' standard at the 90-day stage would make it wholly infeasible to try to seek public comment on the identification of an SPR prior to the Services completing their analysis and announcing their decision to commence a status review. In any event, an SPR analysis is a part of the overall analysis of whether a species is endangered or threatened under the Act, and no need is served by pre-publishing separate findings prior to our overall finding. Of course, if the Services determine that any portion of the range is both significant and either endangered or threatened and propose to list a species based on this (or to reclassify or delist), we will publish a proposed listing rule upon which the public will have an opportunity to comment. At that time the public can review and respond to the explanation of the basis developed by the agency and submit additional relevant information to be considered in development of a final listing rule.

Comment (87): The commenter further suggested that the Services should revise their regulations governing the petition process to prescribe strict requirements for the petitioner to provide information specifying and documenting an SPR. The commenter also recommended that we modify our petition regulations to specify that the Services will do SPR analyses only when specifically petitioned to do so and that failure to submit the requisite level of information will result in the petition being construed to request listing on a rangewide basis. Other commenters requested we clarify whether petitioners will be required to identify SPRs or whether the Services will identify them.

Response: Modifying our petition regulations is outside of the scope of this policy. However, we agree that, if petitioners intend that the Services should base their analysis on an SPR, the petitioners should include as much information as they have about any potential area of special importance so the Services can determine whether the area may qualify as an SPR. Such petitions should include substantial information to indicate that a particular portion may be both significant and in danger of extinction or likely to become so. We have emphasized that, unless there is evidence to suggest both prongs are met, the Services need not conduct a detailed SPR analysis. However, the Services conclude that it is not necessary to more specifically prescribe the showing that needs to be made in a particular petition, as the Services must evaluate each petition in context to determine if the standard of section 4(b)(3)(A) of the Act (whether the petition ''presents substantial scientific or commercial information indicating that the petitioned action may be warranted'') is met. In any case, we conclude that it is preferable to retain the discretion to address SPR issues in petitions as needed in the context of particular circumstances, rather than create a binding rule. At the initial review stage (*i.e.,* development of a 90-day finding), the standard the Services must apply is whether the petition presents substantial information indicating that the petitioned action may be warranted. At the 12-month finding stage, the Services have a responsibility to interpret and apply the Act's definitions, including (if a species is found to be neither endangered nor threatened rangewide) the SPR language, regardless whether a petition specifically identifies any SPRs. Thus, we will identify any SPRs as necessary and based on the best scientific and commercial data available.

Comment (88): Some commenters suggested that the policy should more clearly articulate that determining whether a species is endangered or threatened in a SPR requires two separate tests and both must be met: that the portion is ''significant,'' and that the species is endangered or threatened throughout that portion.

Response: We have clarified this further in section III.F., above.

Comment (89): Several commenters inquired as to the continuing relevance or functioning of an SPR, such as how a spatial area to be ''designated'' as an SPR will be identified and defined, how SPRs will be defined and mapped, and whether areas that qualify as SPRs would be subject to periodic review.

Response: To the extent commenters believe the Services will map or ''designate'' SPRs as entities or boundaries formalized in regulations, they misunderstand the purpose of our interpretation of the SPR language. Under this policy, the SPR phrase and its interpretation is used solely to determine whether a species is an endangered species or threatened species, pursuant to the definitions in the Act and the requirements of section 4(a)(1) of the Act. Once we determine that a species is an endangered species or threatened species, the SPR language has no direct effect on implementation of the Act. If a species is an endangered species or threatened species because of its status throughout an SPR, the entire species is listed and the Act's protections are applied to the entire species, not just to the SPR. The process of listing a species does not ''designate an SPR'' for the species. Once a species is listed, there is no formal relevance of the SPR. Of course, consistent with current practice, the identification of a concentration of threats in a certain portion of its range may be relevant in a variety of contexts, such as identifying actions needed for recovery, formulating rules under section 4(d) of the Act, and analyzing proposed actions under section 7 of the Act. In other words, the SPR language is an analysis tool, not an entity or a designation, and it does not directly result in regulations or requirements specific to the SPR, but may inform development of other measures as discussed above. In fact, once a species is listed, periodic review of the species' status (through 5-year reviews or petitions, reclassifications, or delistings) will be conducted as for any species, and the SPR interpretation will be applied independent of previous findings. As a species' status changes over time, we expect that what constitutes an SPR for the species may also change (for instance, if new populations are established, portions of the range previously identified as SPRs may contribute relatively less to the viability of the species in the remainder of the range) and therefore will require new analyses as the species progresses toward recovery. Threats may also change over time and alter the basis for listing a species or alter its status. For example, if new threats are identified that affect the species throughout its range, it may warrant listing because it is now threatened or endangered throughout all of its range and no longer just in a significant portion of its range.

Some examples may be useful. Example 1: A species that has few populations may be listed because it was threatened throughout most populations, and those populations constituted an SPR (without those populations, the remaining populations would be endangered or threatened—even though with those populations extant, the species is not threatened or endangered throughout all of its range). Recovery efforts reestablished several populations, and the species recolonized and expanded into unoccupied habitat in additional areas. The populations that were originally considered an SPR now make up a much smaller percentage of the total number of populations and their loss would no longer result in the remaining populations (that are more widespread) being likely to be in danger of extinction in the foreseeable future. Under this scenario, the original SPR is no longer an SPR because of the increased number of populations and expanded species' range. The species might then be proposed for delisting even though the threats in what had been an SPR have not abated.

Example 2: A species is threatened throughout an SPR, and the species is therefore listed as threatened. For this species, threats from development and land-use activities are acting primarily in the SPR. Over time, new threats emerge (a new invasive plant is altering habitat and outcompeting the species' primary host plant) that affect the species throughout its entire range. We determine during a new status review that the species is threatened throughout all of its range. The status throughout the range is determinative, because an SPR is relevant only where a species is neither endangered nor threatened throughout its range. Therefore, it is no longer necessary to examine the original SPR or any other potential SPR. The species remains listed as threatened, but now on a different basis.

Comment (90): Several commenters, including the Arizona Game and Fish Department and Montana Fish, Wildlife & Parks, requested we clarify how the policy would be applied to already-listed species and in delisting species. Some recognized that we said that ''listing'' really meant all determinations under section 4(a)(1) of the Act but still believed more explanation would be useful.

Response: The interpretation of SPR in this policy applies to all future determinations made under section 4(a)(1) of the Act. Section 4(a)(1) requires that we determine whether any species meets the definitions of an ''endangered species'' or ''threatened species.'' This same process applies to all status determinations regardless of whether we are evaluating a potential listing, or a reclassification or delisting of an already-listed species. We will begin with first assessing the status of a species throughout all of its range. If the species is neither endangered nor threatened throughout its range, then we will assess whether any portions require further examination, and if so, ask whether the species is endangered or threatened throughout an SPR. For example, if we are petitioned to delist a species, we would first evaluate the status of the species rangewide. If we determine that the species is neither endangered nor threatened throughout all of its range, we would then examine the question of whether it might remain endangered or threatened throughout any SPRs. This is identical to the process we undertake in considering whether a species should be listed.

Comment (91): Some commenters, including Montana Fish, Wildlife & Parks, suggested that a species listed on the basis of an analysis in an SPR must be considered for delisting once recovered in the SPR that led to listing.

Response: We agree that significant improvement in the species' status in the SPR would be relevant and important to considering the species' listing status, but cannot agree with any suggestion that the species should automatically be delisted in that situation. Once the species is listed, the same standards and processes apply to reviewing the listing regardless of whether the listing was based on status throughout an SPR. Thus, it is not correct to think of a portion of the range as being ''recovered''; the status of the species (and by extension whether the species is ''recovered'') is assessed at the level of the listed entity. While we might generally expect it to be the case that a species would no longer qualify for the protections of the Act once it is no longer facing significant threats in the area analyzed as an SPR at the time of listing, there could be situations where the status of the originally examined portion of the range improves, but where other portions have become less stable (see Example 2 in our response to *Comment (89),* above). Since the result of listing the species after an SPR evaluation is a rangewide listing, we would need to consider whether the best available data at the time indicated that the species had become endangered or threatened throughout any other SPRs or had become endangered or threatened overall prior to proposing to delist.

Comment (92): Several commenters, including Montana Fish, Wildlife & Parks, asked if we could delist a species if it was recovered throughout a significant portion of its range regardless of the basis for the original listing.

Response: As we noted in the response to the previous comment, determining whether a species is ''recovered'' is in reality considering whether the species still meets the definitions of ''endangered species'' or ''threatened species.'' In evaluating whether a species should be delisted due to recovery, we do not ask whether a species is recovered throughout an SPR; the concept of ''recovery'' (like listing itself) is applicable only at the level of the species. We begin by asking whether the species is an ''endangered species'' or ''threatened species'' rangewide using the same process as explained above. We could determine that a species is neither endangered nor threatened throughout all of its range under two circumstances: (1) Threats throughout the range of the species have been sufficiently ameliorated and all populations of the species are secure; or (2) some threats to the species have been ameliorated and the species is secure in a portion of its range. (In other words, a species cannot be endangered or threatened throughout all of its range if it is secure in a portion of its range; however, it still could be endangered or threatened in another portion of its range.) If we examine the status of a listed species rangewide and determine it is neither endangered nor threatened throughout all of its range, we would then ask whether it is endangered or threatened throughout an SPR. Under the first scenario, we would likely not identify any portion for further SPR analysis since no area is likely to be endangered or threatened (*i.e.,* no remaining unaddressed threats). Under the second scenario, we would consider whether the remaining threats cause the species to be endangered or threatened throughout an SPR. We may find that some areas of the species' range still experience threats, but these areas are not SPRs. In that case, we would conclude the species does not meet the definition of an ''endangered species'' or ''threatened species,'' and we would propose to delist the species.

Comment (93): Several commenters suggested that the draft policy would exacerbate the problem of the ''virtually irreversible nature'' of listings, and suggested returning to the position taken in the M-Opinion. The Wisconsin Department of Natural Resources also opined that the draft policy's interpretation may make it more

difficult for species to be delisted and their management turned over to the States.

Response: The Services disagree. As discussed in section VI. Effects of Policy, the Services anticipate there would be relatively few circumstances in which the SPR language would change the outcome of a listing or delisting determination. Furthermore, some delistings have occurred since the Services have begun to apply an analysis consistent with the one adopted here. For example, since the M-Opinion was withdrawn in May of 2011, the Services have delisted, due to recovery, the Tennessee purple coneflower (76 FR 46632, August 3, 2011), Lake Erie watersnake (76 FR 50680, August 16, 2011), Concho watersnake (76 FR 66780, October 27, 2011), Magazine Mountain shagreen (78 FR 28513, May 15, 2013), Morelet's crocodile (77 FR 30820, May 23, 2012), and eastern DPS of Steller sea lion (78 FR 66139, November 4, 2013). A number of other species have been proposed to be delisted.

Comment (94): The Arizona Game and Fish Department suggested the Services should discuss the impact of this policy on the monitoring of species following their removal from the Lists of Endangered and Threatened Wildlife and Plants.

Response: This final policy will affect only future listing determinations (including delistings and reclassifications). We do not anticipate changing existing monitoring plans as a result of this policy. Moreover, the process and standards for future post-delisting monitoring will not change. We will still direct monitoring resources first to those areas where the species had previously experienced significant adverse impacts. Those areas will be identified in the delisting rule. Of course, if monitoring of a delisted species leads us to conclude that a species again warrants listing, including because of threats in an SPR, we may initiate a new listing process for that species.

Comment (95): The Arizona Game and Fish Department suggested that all previous listing determinations made under the now withdrawn M-Opinion must be reexamined. The agency appeared to be concerned that we may convert any existing listings to rangewide listings.

Response: During the time the M-Opinion was in effect (2007–2011), FWS made a number of listing determinations, some of which resulted in listings and some of which ended in negative findings on listing petitions. Most of these listings were based on information about the status of the species throughout its range; only a handful turned on consideration of the species' status throughout an SPR. Only two final listing rules based on consideration of status throughout an SPR resulted from application of the M-Opinion (concerning Northern Rocky Mountain wolves (74 FR 15123, April 2, 2009) and Preble's meadow jumping mouse (73 FR 39790, July 10, 2008)), and both of these have been modified or nullified for different reasons and thus are not subject to revision as the commenter suggests.

We do not intend to reexamine every listing determination that was made while the M-Opinion was in effect. Regulations and policies are generally presumed to have prospective (forward-looking) impact only. Further, consistent with the presumption of regularity of agency decisions, all listing determinations are presumed consistent with the then-existing guidance. Of course, anyone may petition us to reconsider any listing determination if there is a basis to think the result would be different under this final policy. It is unlikely, though, that a species that was found not to qualify for listing during the time in which the M-Opinion was in effect would be found to meet the standards of this policy.

L. Effects on Implementation of Other Portions of the Act

Comment (96): Some commenters urged the Services to ensure that, in applying the policy, we use all available tools to limit application of the statutory protections for ''endangered species'' and ''threatened species'' only to those members of the species in the SPR that is the basis for a listing determination. Montana Fish, Wildlife & Parks, for example, suggested that there needs to be more emphasis on utilizing available tools under the Act in a creative manner to provide regulatory relief and other incentives in areas where a species is doing well and a commitment to work with regulated entities to provide regulatory relief.

Response: The Services are committed to working with stakeholders to develop innovative ways to further species protection consistent with the statute. As we explained in the preamble to the draft policy (76 FR 76987), the Services intend to use the flexibilities of the statute to tailor protections to those members of the species most at risk whenever possible. Where the statute permits flexibility, the Services will use it to promote conservation without causing unnecessary burdens that provide no benefit to the species. However, because the Act requires us to list and manage entire species, subspecies, or DPSs, the Services may not always be free to craft ideal solutions that would satisfy all stakeholders. The purposes of the Act go beyond just recognizing where a species has already become imperiled. The ultimate goal is to bring species to the point where the protections are no longer needed, which means managing the listed entity to bring the health of the entity as a whole to that point. In some cases protecting members outside the SPR may be necessary or important to this overall goal.

Comment (97): Several commenters (including the Florida Fish and Wildlife Conservation Commission and Montana Fish, Wildlife & Parks) requested that the Services revise the text of the draft policy itself to include additional detail from the discussion in the preamble as to the tools and methods that would be used to minimize unintended consequences and avoid over-regulation, with reference to several specific sections of the Act. Other commenters requested we develop additional guidance to explain how the Services plan to use available tools to increase the efficiency of section 7 consultations for species listed on the basis of status throughout an SPR. Some commenters, including the Idaho Office of Species Conservation, suggested that we failed to give adequate consideration to the burdens that will be caused by the policy, particularly in relation to section 7 consultations and permitting under section 10 of the Act.

Response: The role of the language in the actual policy statement is to concisely set out the fundamental principles that constitute the Services' interpretation of the key phrase ''significant portion of its range.'' While we have provided discussion of issues regarding the need for flexibility in applying other portions of the Act above, we find it unnecessary to expand the policy statement itself to discuss these ancillary issues. Further, we have adequately considered any additional regulatory burdens that might result from this policy. We specifically considered this issue in developing this policy and in setting the threshold for SPRs. The Services expect that the policy is unlikely to lead to many new listings on the basis of an SPR, suggesting that it would not be a wise use of agency resources to develop detailed guidance at this time. As explained in section VI. Effects of Policy, where threats vary across the range of a species, we may use methods such as programmatic consultations, low-effect HCPs, or other methods to streamline consultation and permitting

procedures for areas where the species is relatively more secure or the effects of the action are small. We expect these same analyses and procedures to be applicable regardless of whether a species is listed because of its status throughout an SPR or throughout all of its range. It does not appear that developing guidance in detail for species listed on the basis of their status throughout an SPR would be a valuable use of our resources because all consultations are driven by highly fact-specific considerations. If these issues in practice arise more frequently or pose more difficulty than expected at this time, the Services will consider developing further guidance for agency staff.

Comment (98): Some commenters requested that the Services expressly limit designations of critical habitat for species listed on the basis of SPR to avoid undue impacts to projects that would have effects outside the SPR. Some suggested that the Services should adopt a ''high threshold'' or ''rebuttable presumption'' that would limit a designation of critical habitat to the area within the SPR that was the basis for listing the species. Appearing to key off of the distinction in the statutory definition between ''occupied'' and ''unoccupied'' habitat, these commenters suggested that a designation of critical habitat should first focus on the physical and biological features (or primary constituent elements) inside the SPR and should include areas outside the SPR only upon a finding that the area inside the SPR would not satisfy the purposes of critical habitat designation.

Response: All provisions governing designations of critical habitat, including the definition in section 3(5) of the Act, must be applied for species listed on the basis of an SPR analysis in the same manner as for any other listed species. Thus, since a listing based on an SPR analysis is of the entire listed entity, not just the members in the SPR, it would be incorrect to apply the provisions governing habitat occupied at the time of listing to only the areas within the SPR and ignore other areas where members of the listed entity are present. Also, it would not be appropriate to categorically or presumptively foreclose designation of areas outside the SPR, as we discussed in the preamble to the draft policy (76 FR 76987, pp. 77003–77004.). In light of the strong conservation purpose of critical habitat and the definition of ''conservation'' as meaning all tools useful to bring a species to the point where the protections of the Act are no longer needed, we must consider the role all suitable habitat can play in supporting species' recovery. However, while we cannot agree that areas outside the SPR should be disqualified from the scope of areas that may meet the definition of ''critical habitat,'' we note that the impacts analysis and discretionary exclusions process of section 4(b)(2) of the Act are key mechanisms for tailoring designations to the areas where conservation benefits are greatest and not outweighed by other impacts. As we have indicated, we would expect the Secretary to consider using his or her discretion to tailor designations where threats are present in only a portion of the range.

Comment (99): Some commenters suggested that section 4(c)(1) of the Act provides a basis upon which to limit the scope of critical habitat designations to the areas within an SPR. They argued that the text of section 4(c)(1) should be interpreted as a substantive grant of authority to the Services to tailor a critical habitat designation to those areas within the SPR.

Response: Section 4(c)(1) of the Act simply has no substantive bearing on the scope of critical habitat designations. As we have explained, we adopt the view of the courts that have recently held that section 4(c)(1) is meant to serve an informational purpose rather than substantively constraining the scope of either listings or, by extension, critical habitat designations. Further, even if section 4(c)(1) had substantive meaning, the commenters appear to misread the last clause of section 4(c)(1), which does not refer to ''such portion'' but refers to ''such range.''

Comment (100): One commenter asked that the Services confirm they will exclude under section 4(b)(2) of the Act those areas where benefits of exclusion outweigh benefits of inclusion, except where exclusion would result in extinction of the species. (Another commenter acknowledged that section 4(b)(2) ''enables'' the Services to exclude areas rather than requires them.) Another suggested that there could never be a circumstance where failure to include an area could result in extinction of the species (which is the only circumstance in which section 4(b)(2) prohibits excluding a specific area) and that the net benefits analysis will likely always lean in favor of exclusion.

Response: We agree, as we have indicated in our draft policy (76 FR 76987, p. 77003) and in our response to *Comment (98),* above, that our authority to exclude areas from critical habitat designations may be an important tool in tailoring protections for a species listed because of its status throughout an SPR. However, it is important to understand that the application of the authority to exclude areas under section 4(b)(2) of the Act is discretionary rather than mandatory. While the Secretary must ''consider'' economic and other relevant impacts prior to designating, he or she is not required to undertake a particular method of analysis and is not required to weigh benefits of exclusion against benefits of inclusion. Exclusions under section 4(b)(2) are always discretionary (see *Building Industry Association (BIA)* v. *DOC,* No. C 11–4118 PJH, 2012 WL 6002511, *5–7 (N.D. Cal. Nov. 30, 2012) (green sturgeon)).

Comment (101): One commenter suggested that the Services should include a statement of intent to limit critical habitat designations to areas within the SPR in any new policy regarding application of section 4(b)(2) and perhaps in the handbook.

Response: We clarified above (*e.g.,* response to *Comment (100)*) the role of section 4(b)(2) of the Act in appropriately tailoring critical habitat designations. At this time we do not see a need to separately address these issues through other policies or documents not within the scope of the policy being adopted. If in practice there are more listings on the basis of SPR than we currently expect, such that these issues arise frequently or otherwise need further clarification, we may consider promulgating additional guidance.

Comment (102): One commenter suggested that a February 28, 2012, Presidential Memorandum addressing FWS' designation of critical habitat for the northern spotted owl directed the Services to exclude private lands from all critical habitat designations.

Response: The commenter misconstrues the scope and effect of the cited memorandum. In any event, these issues are beyond the scope of the present policy, which is focused on the interpretation of the ''significant portion of its range'' language in the definitions of ''endangered species'' and ''threatened species.'' We have separately amended the regulations governing the designation of critical habitat (50 CFR 424.19) to respond to the memorandum (78 FR 53058, August 28, 2013).

Comment (103): Several commenters (including the Alaska Department of Fish and Game and Southern Nevada Water Authority) expressed concerns about how this policy was intended to influence the conduct of interagency consultation under section 7(a)(2) of the Act. Some appear to believe that the Services intend to categorically consider any action that would have an adverse

effect on members in an SPR to be likely to jeopardize the listed species' continued existence. For example, the Alaska Department of Fish and Game suggested the Services need to explain, ''whether a jeopardy determination would differ if the proposed project affected species outside the SPR as opposed to within the SPR. It also does not address whether the Services would be more likely to make a 'no jeopardy' finding if a project is conducted outside of the SPR with no direct impact on the individuals within the SPR.''

Response: We must make determinations under section 7(a)(2) of the Act based on a review of the best available scientific and commercial data assessed at the level of the entire listed entity (species/subspecies/DPS). It has always been the case that impacts to particularly sensitive or critical members of the listed entity may be found to appreciably reduce the likelihood of survival or recovery of the entire species, such as if those members are a critical breeding population. This is very fact-specific. This policy does not establish a presumption that a proposed Federal action that would adversely affect the members in an SPR will automatically result in a jeopardy determination under section 7(a)(2). Nor does this policy suggest that impacts to members that are not located within the SPR will automatically be found not likely to jeopardize the species. We will analyze each situation on its own facts.

Comment (104): The Alaska Department of Fish and Game suggested that one of the methods available to the Services to streamline consultation would be to use section 4(d) rules at the listing stage to tailor protections, and requested the Services to explain how the draft policy would influence issuance of section 4(d) rules.

Response: As discussed further in the section of this document discussing rules issued under section 4(d) of the Act (see section VI.B., below), we agree that the ability to issue section 4(d) rules to tailor protections for threatened species may be particularly important for species listed on the basis of an SPR analysis. Thus, where appropriate, we will consider whether certain activities in certain areas can be exempted from the take prohibition of section 9 of the Act even where those prohibitions are generally being applied for that species. However, section 7(a)(2) creates independent obligations on Federal agencies to avoid authorizing, funding, or carrying out actions that would be likely to appreciably reduce the likelihood of survival or recovery of listed species or to destroy or adversely modify their critical habitat. Thus, even where the Services have tailored take protections for threatened species, this would not relieve Federal agencies of their consultation obligations.

Comment (105): One commenter seemed to question whether NMFS or FWS would engage in ''consultation'' with foreign countries in the event that a species is listed rangewide even though only a portion of its range (and perhaps only insignificant portions) falls within the United States, its territories, or its Exclusive Economic Zone (EEZ). The commenter further suggested that the lack of ability to apply protections outside the United States should influence how the Services apply this policy in reaching listing determinations.

Response: Section 7(a)(2) of the Act does not apply to foreign governments, so we do not engage in ''consultations'' with foreign nations in the sense that that term is used in connection with section 7. However, we inform affected countries of potential listings and seek information in return. We also provide some technical assistance after listing when requested and feasible. In any event, our limited ability to regulate the species outside of the United States does not factor into either the development of this policy or individual listing determinations. Listing determinations must be based solely on the best available scientific and commercial data after taking into account certain factors as specified in section 4 of the Act. Our authority to list species worldwide has been an acknowledged feature of the Act and its precursors, without regard to our limited ability to apply the protections of the Act outside of the United States, its territories, its EEZ, and on the high seas. This final SPR policy will in no way affect the current framework.

Comment (106): Some commenters (including the Governor of Wyoming and Alaska Department of Fish and Game) suggest that the Services should choose to list species as threatened whenever possible, instead of basing a listing on an endangered status inside an SPR, so that the Services may take advantage of the ability to promulgate rules under section 4(d) of the Act.

Response: We have revised the definition of ''significant'' in this final policy. Under the new definition, it will not be possible for a species to be simultaneously classified as threatened throughout its range and endangered throughout an SPR. Thus, the commenters' suggestion is no longer relevant. Of course, where a species is listed as threatened, each agency will continue its practice of considering whether a rule promulgated under section 4(d) of the Act would be appropriate.

Comment (107): At least one commenter suggested that the Services should clarify in the final policy that section 4(d) has two distinct provisions, and that rules under the first requires a ''necessary and advisable'' finding, while rules under the second (determining whether to apply the take prohibitions) do not.

Response: While we acknowledge that this has been recognized by courts as a permissible reading of section 4(d) of the Act, most recently in the polar bear litigation, it is beyond the scope of the SPR policy to construe section 4(d) at this level of detail (see *In Re Polar Bear Endangered Species Act Listing And § 4(D) Rule Litigation,* 818 F.Supp.2d 214, 228 (D.D.C. 2011)).

Comment (108): The Governor of Wyoming stated that the Act's ''policy reform needs to address implementing laws particularly prone to litigation.''

Response: This policy is an attempt to address an issue that has frequently led to litigation. It is beyond the scope of the current effort to comprehensively address other areas of the Act that could benefit from reform.

Comment (109): The Arizona Game and Fish Department suggests that the policy, if approved, should ''more thoroughly describe how it would be applied during development of Recovery Plans.''

Response: As discussed in section III.F., above, we reiterate that we anticipate recovery planning to focus first on ameliorating threats in the SPR. This is consistent with current practice—our traditional and reasonable approach, even for species not listed on the basis of an SPR, has been to focus on the areas where members face greatest peril. However, members of the species outside the SPR should not be ignored in planning for overall species conservation and recovery.

Comment (110): One commenter suggested the agencies need to explain how implementation of the SPR policy can be harmonized with the candidate-review process and the process to implement FWS' settlements with WildEarth Guardians and the Center for Biological Diversity.

Response: In reviewing whether a species is a candidate (or should be removed from the candidate list), FWS considers the same definitions of ''endangered species'' and ''threatened species,'' including the SPR phrase, as we would for a proposed listing determination or any other status review. As candidate species are reviewed for either proposed listing or for removal from the candidate list as a

result of conservation actions or changed status, FWS will apply the definitions of ''endangered species'' and ''threatened species'' using the same process we have outlined in section III.F., above. If FWS determines a candidate species is not currently endangered or threatened throughout all of its range, we will consider whether there are any portions that may be both (1) significant and (2) endangered or threatened. If the species is endangered or threatened throughout an SPR, it would remain a candidate or be proposed for listing. If it is not currently endangered or threatened throughout all of its range and it is also not endangered or threatened throughout any SPR, then FWS would remove the species from the candidate list. This process will apply to all FWS determinations, regardless of any settlement agreements to complete such determinations—settlement agreements require that we make a determination by a date certain, but do not alter the standards the Services must apply to those determinations.

Comment (111): One commenter suggested that FWS should give SPR candidates a low priority under its listing priority guidelines, and that the Services should make greater use of their authority to make warranted-but-precluded findings.

Response: FWS follows the current listing priority guidance (48 FR 43098, September 21, 1983) for assigning priorities to listing actions in order to make the most appropriate use of the limited resources available to implement the Act. The priority of a species depends on the magnitude of threats, the imminence of threats, and the taxonomic distinctness of the species (monotypic genus, species, or subspecies or DPS). Under this system, FWS assigns a ranking to a candidate species at the level of the entity considered for listing (species, subspecies, or DPS). FWS will apply this system to any species that is a candidate because of its endangered or threatened status throughout an SPR. Because the entity that would be listed is the entire species (not just the SPR), FWS will determine the ranking with respect to the species as a whole. In other words, FWS will consider the magnitude and imminence of threats to the entire species, not just the SPR. It is likely that a species that is a candidate because it is endangered or threatened throughout an SPR will not be experiencing the same level of threats throughout its range, or will not be experiencing threats that are currently acting on the entire range of the species. Thus, such a candidate may be ranked relatively lowly based on magnitude and imminence of threats. In other words, the current system, while not explicitly addressing ranking of a species that is a candidate because it is endangered or threatened throughout an SPR, allows for considering differences in the magnitude and imminence of threats that are likely to occur between species that are endangered or threatened throughout all their range and species that are endangered or threatened throughout an SPR.

We noted that NMFS' definition of ''candidate species'' differs from that of FWS, and therefore the language above applies only to FWS. NMFS' candidate species are those petitioned species that are actively being considered for listing as endangered or threatened under the Act, as well as those species for which NMFS has initiated a status review that it has announced in the **Federal Register** (69 FR 19975, April 15, 2004; 71 FR 61022, October 17, 2006).

With regard to our authority to make warranted-but-precluded findings, the Services can only make those findings to the extent that prioritization of proposals and available resources allow, and expeditious progress on adding to and removing species from the Lists of Endangered and Threatened Wildlife and Plants can be demonstrated. To the extent that a species that is a FWS candidate because it is endangered or threatened throughout an SPR will tend to have lower priority rankings than other species, it may be more likely that FWS would make a warranted-but-precluding finding for it.

M. Procedural Requirements and Compliance With Laws

Comment (112): Several commenters stated that the SPR policy is a major Federal action and, as such, the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) requires the preparation of an environmental impact statement.

Response: We conducted an environment assessment, which concluded with a finding of no significant impact (FONSI). Under NEPA, an environmental impact statement is not required. See the discussion of NEPA under VII. Required Determinations, below, and in the FONSI.

Comment (113): Several commenters stated that the required determinations (explaining compliance with various procedural requirements imposed by statutes and executive orders) in the **Federal Register** notice announcing the draft policy were inadequate.

Response: We disagree. Specific criticisms are addressed individually below.

Comment (114): One commenter suggested that the policy was contrary to Executive Order 13563.

Response: We disagree. This is not a circumstance in which the Secretaries have complete discretion delegated by Congress as to the scope or substance of regulation. Here, we have determined that the most defensible legal interpretation of the Act is the one set forth in this policy. Nothing in the Executive Order suggests that agencies should take legally unsound positions to reduce regulation.

Comment (115): One commenter stated that we misrepresented the effect of the policy on small entities. The commenter asserted that the policy will expand listings and require small businesses to get incidental take permits. The commenter further argued that the Services have no basis for asserting that they are the only entities affected by the draft policy. Similar comments were made with respect to State and Tribal governments, and local governments bear the burden of section 7 consultation on public works projects that may affect listed species. Another commenter stated that the draft policy would have resulted in gray wolves remaining listed in Montana and Wyoming, which would have placed unreasonable burdens on small businesses.

Response: The discussion of small-business impacts in the draft policy did not assert that no small businesses would be affected; rather, it concluded that no small businesses would be directly regulated. The draft policy went on to explain that we predict that few small entities, including governments, will even be affected because the policy is likely to result in only a small number of additional listings (even when compared to no implementation of the SPR language at all, which is not a legally sound option). As discussed below in section VII.B., a regulatory flexibility analysis is only required if a Federal action directly regulates small entities. The Services' current understanding is that this position is supported by existing case law regarding the certification requirements under the Regulatory Flexibility Act (RFA), the Small Business Regulatory Enforcement Fairness Act (SBREFA), and SBA's handbook, ''A guide for Government Agencies: How To Comply With the Regulatory Flexibility Act (2003). However, it is the current practice of the Services to assess, to the extent practicable, these potential impacts if sufficient data are available, whether or not this analysis is believed by the Services to be strictly required by the RFA. In addition, we noted

elsewhere in the draft policy that where a species is listed as threatened, the take prohibitions may be tailored under section 4(d) of the Act so as not to apply throughout its range. Finally, contrary to the assertion of one commenter, if the draft policy had been applied to the Northern Rocky Mountain DPS of gray wolves in 2009, it is not clear what the result would have been. In any case, that point is moot due to subsequent congressional action.

Comment (116): One commenter asserted our conclusion that the draft policy would not have significant takings implications is incorrect. According to the commenter, the examples of delta smelt, northern spotted owl, and others demonstrate that the policy would present a barrier to all reasonable and beneficial use of private property affected by listings that result from the policy.

Response: We stand by our analysis in the draft policy. We are unaware of any court having found that a listing under the Act imposes a taking under the Fifth Amendment of the Constitution. Therefore, even to the extent that this policy leads to the listing of a species that would not otherwise be listed, this policy will not cause a taking under the Fifth Amendment. See our statement below under section VII.D.

Comment (117): One commenter asserted that we misstated the draft policy's federalism implications and that the policy would turn the Act into a massive land-use and zoning program administered by the Federal Government, obviating State authority. Another commenter asserted that our federalism conclusions are incorrect because listing determinations have great impacts on States and local communities, and the policy will create a disincentive on proactive State conservation.

Response: We disagree. In some circumstances, listing determinations can have impacts on States and local communities, but, as discussed elsewhere, we predict that relatively few listing decisions will turn on application of this policy, so this policy is likely only in rare circumstances to have impacts on States and local communities. In any case, as we stated in the draft policy, any impacts would not be ''substantial, direct effects,'' the threshold under Executive Order 13132 (Federalism). Moreover, in no case does the Act, with or without this policy, supplant State authority to regulate land use or zoning.

Comment (118): One commenter asserted that we misstate the policy's effect on energy supplies, distribution, or use, and cited the example of proposed energy regulations adopted by Bureau of Land Management in anticipation of protection of the greater sage-grouse.

Response: We disagree. Although listing species under the Act can indirectly affect energy, as discussed elsewhere, we predict that relatively few listing decisions will turn on application of this policy. See our statement below under section VII.J.

Comment (119): One commenter suggested that we add a discussion of how we will incorporate the Information Quality Act (IQA; Pub. L. 106–554) and presidential directives into the process for evaluating species under the SPR policy.

Response: The Services, in accordance with our July 1, 1994, peer review policy (59 FR 34270) and the Office of Management and Budget's December 16, 2004, Final Information Quality Bulletin for Peer Review, solicit independent scientific review of the information and analyses contained in our proposed listing determinations under the Act. This review usually occurs concurrently with the public comment period for the proposed action. Peer review would include consideration of the adequacy of the data relied on, the analyses, and the conclusions drawn, including any analyses of potential SPRs. In addition to conducting peer review where appropriate, the Services conduct pre-dissemination review of information to ensure compliance with applicable Information Quality Act guidelines. The Services will follow the same procedures and policies for peer review of influential scientific documents and other supporting information for all listing determinations, including those that may be based on a species' status throughout an SPR. This SPR policy does not alter those procedures and the Services are committed to conducting peer review and pre-dissemination review for all determinations as part of the process of ensuring our decisions are based on the best scientific and commercial data available.

Comment (120): Colorado Parks and Wildlife asserted that the draft policy is inconsistent with the 1994 Interagency Cooperative Policy Regarding the Role of State Agencies in Endangered Species Act Activities (59 FR 34274, July 1, 1994).

Response: The 1994 policy referred to by the commenter provides guidance on how we will involve the States in prelisting, listing, section 7 consultation, habitat conservation planning, and recovery. The 1994 policy requires us to utilize the expertise and solicit information from the States, and to provide notification to the States regarding particular prelisting and listing actions. This final SPR policy is not a particular prelisting or listing action. Nonetheless, the SPR policy will apply to those actions, and we will continue to implement the 1994 policy by notifying the States of those actions. Additionally, as noted in our response to *Comment (5),* we have been in close contact with the Joint Task Force concerning this issue.

Comment (121): One commenter asserted that we must complete a comprehensive evaluation of the costs that will be caused by the draft policy, including consideration of small businesses.

Response: We completed all required analyses; see section VII. Required Determinations, below.

Comment (122): Several commenters asserted that we should be engaged in Administrative Procedure Act (APA; 5 U.S.C. chapter 5, subchapter II) legislative rulemaking (or ''full notice and comment rulemaking''), not adopting a ''policy.'' They further commented that the policy will have the effect of modifying the existing regulations, and requires a revision of the Code of Federal Regulations.

Response: Labeling a document a ''policy'' or choosing not to include it in the Code of Federal Regulations is not inconsistent with APA rulemaking. In fact, in promulgating this policy, the Services have purposefully used the processes required for APA rules, including public notice of and opportunity for comment on the draft policy, even if they may not have been required, in order to ensure full compliance with the APA. Moreover, the Services have indicated that we intend to be bound by the policy. Thus, the Services are effectively treating this policy as an APA rulemaking. We note that several of these comments recommended ''formal'' APA rulemaking. As ''formal rulemaking'' is a technical term for a rare, trial-like proceeding required by statutes that require rules to be made ''on the record after opportunity for an agency hearing,'' 5 U.S.C. 553(c), we assume that these were references to ''informal rulemaking'' under 5 U.S.C. 553 (commonly referred to as notice-and-comment rulemaking).

Comment (123): One commenter asserted that the draft policy is inconsistent with 50 CFR 424.10, which states that the Secretary may list species ''only in accordance with the procedures of [part 424]'' and stated that listing a species like the western snowy plover (currently listed as a threatened species) as an endangered species if

FWS determines that it is endangered throughout a significant portion of its range would violate the express provisions of 50 CFR 424.10.

Response: Nothing in the policy is inconsistent with the current regulations, as the current regulations do not elaborate on the statutory definitions of ''endangered species'' and threatened species,'' and, in particular, are silent as to the meaning or application of ''significant portion of its range.'' The policy merely clarifies how we will implement the statute under the current regulations. Therefore, no revision to the regulations is necessary. In any case, under the final policy, we could not determine that a species that is threatened throughout all of its range, like the western snowy plover, is endangered throughout an SPR.

V. Policy

Consequences of a species being endangered or threatened throughout a significant portion of its range:

The phrase ''significant portion of its range'' in the Act's definitions of ''endangered species'' and ''threatened species'' provides an independent basis for listing. Thus, there are two situations (or factual bases) under which a species would qualify for listing: a species may be endangered or threatened throughout all of its range or a species may be endangered or threatened throughout only a significant portion of its range.

If a species is found to be endangered or threatened throughout only a significant portion of its range, the entire species is listed as endangered or threatened, respectively, and the Act's protections apply to all individuals of the species wherever found.

Significant: A portion of the range of a species is ''significant'' if the species is not currently endangered or threatened throughout its range, but the portion's contribution to the viability of the species is so important that, without the members in that portion, the species would be in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range.

Range: The range of a species is considered to be the general geographical area within which that species can be found at the time FWS or NMFS makes any particular status determination. This range includes those areas used throughout all or part of the species' life cycle, even if they are not used regularly (*e.g.,* seasonal habitats). Lost historical range is relevant to the analysis of the status of the species, but it cannot constitute a significant portion of a species' range.

Reconciling SPR with DPS authority: If the species is endangered or threatened throughout a significant portion of its range, and the population in that significant portion is a valid DPS, we will list the DPS rather than the entire taxonomic species or subspecies.

VI. Effects of Policy

This policy's interpretation of the ''significant portion of its range'' language in the Act's definitions of ''endangered species'' and ''threatened species'' provides a standard for determining whether a species meets the definitions of ''endangered species'' or ''threatened species.'' The only direct effect of the policy will be to classify as ''significant'' (or not) portions of the range of a species under consideration for listing, delisting, or reclassification. More uniform application of the Act's definitions of ''endangered species'' and ''threatened species'' will allow the Services, various other government agencies, private individuals and organizations, and other interested or concerned parties to better judge and concentrate their efforts toward the conservation of biological resources vulnerable to extinction.

Application of the policy may result in the Services listing and protecting, throughout their ranges, species that previously we either would not have listed or would have listed in only portions of their ranges. However, this result will occur only under a limited set of circumstances. Under most circumstances, we anticipate that the outcomes of our status determinations with or without the policy will be the same. This comparison is true for both the period prior to the M-Opinion, and the period during which FWS implemented the M-Opinion. The primary difference when compared to the M-Opinion is that a species will be listed throughout all of its range under this policy. Another key difference is that, in implementing the M-Opinion on a case-by-case basis, FWS generally interpreted ''significant'' as having a relatively lower threshold (a portion only had to meaningfully contribute to the viability of the whole species). FWS's experience with implementing the M-Opinion suggests that listings based on application of this policy will be relatively uncommon. During the time that the M-Opinion was in effect, between March 2007 and May 2011, FWS determined that a species should be listed based on its status throughout a significant portion of its range only five times. Under this policy, in those instances where we list a species because of its status throughout a significant portion of its range, protections will be applied throughout the species' range, rather than just in the portion. This outcome is a permissible interpretation of the statute, and it reflects the policy views of the Departments of the Interior and Commerce.

Listing a species when it is endangered or threatened throughout a ''significant portion of its range'' before it is endangered or threatened throughout all its range may allow the Services to protect and conserve species and the ecosystems upon which they depend before large-scale decline occurs throughout the entire range of the species. This may allow protection and recovery of declining organisms in a more timely and less costly manner, and on a smaller scale than the more costly and extensive efforts that might be needed to recover a species that has reached a point that it has become endangered or threatened throughout all its range.

Once we determine that a species is endangered or threatened, the provisions of the Act are applied in a straightforward manner, regardless of whether the species was listed because it is endangered or threatened throughout all its range or only throughout a significant portion of its range.

A. Designation of Critical Habitat

If a species is listed because it is endangered or threatened throughout a significant portion of its range, the Services will designate critical habitat for the species (within areas under the jurisdiction of the United States) to the maximum extent prudent and determinable. We will use the same process for designating critical habitat for species regardless of whether they are listed because they are endangered or threatened throughout a significant portion of their range or because they are endangered or threatened throughout all of their range. In either circumstance, we will designate all areas that meet the definition of ''critical habitat'' (unless excluded pursuant to section 4(b)(2) of the Act). ''Critical habitat'' includes certain ''specific areas within the geographical area occupied by the species, at the time it is listed'' and certain ''specific areas outside the geographic area occupied by the species at the time it is listed'' (16 U.S.C. 1532(5)(A)). Thus, critical habitat designations may include areas within the SPR, areas outside the SPR occupied by the species, and areas that are both outside the SPR and outside the area occupied by the species at the time of listing, as appropriate. If a species is listed, however, as a result of threats throughout a significant portion of its range, the designation of critical habitat

may tend to focus on that portion of its range. For example, with respect to portions of the range of the species not facing relevant threats, the Secretary may find that the benefits of excluding an area from designation outweigh the benefits of specifying the area as critical habitat, which may lead to an exclusion under section 4(b)(2) of the Act.

B. Rules Promulgated Under Section 4(d) of the Act

Determining that a species is threatened throughout a significant portion of its range will result in the threatened status being applied to the entire range of the species. When a species is listed as threatened, section 4(d) of the Act allows us to issue regulations ''necessary and advisable to provide for the conservation'' of the species. This provision allows us to tailor regulations to the needs of the species. When a species is listed as threatened because of its status throughout an SPR, we will consider the development of a section 4(d) rule to provide regulatory flexibility and to ensure that we apply the prohibitions of the Act where appropriate.

C. Recovery Planning and Implementation

Regardless of whether a species is listed because it is endangered or threatened throughout all of its range, or because it is endangered or threatened throughout only a significant portion of its range, the goal of recovery planning and implementation is to bring the species to the point at which it no longer needs the protections of the Act. Recovery plans must, to the maximum extent practicable, include site-specific management actions and measurable, objective criteria for determining the point at which the species no longer meets the definition of an ''endangered species'' or a ''threatened species'' (see 16 U.S.C. 1533(f)(1)(B). In other words, the recovery plan predicts that when those measurable, objective criteria are met, the species would not be likely to become an endangered species in the foreseeable future either throughout all of its range or throughout a significant portion of its range. As with recovery planning and implementation for species that are endangered or threatened throughout all of their ranges, a variety of actions may be necessary to recover species that are endangered or threatened throughout an SPR. Recovery actions should focus on removing threats to the species, and are thus likely to be focused on those areas where threats have been identified. However, recovery efforts are not constrained to just the significant portion of the range throughout which the species was originally determined to be endangered or threatened, and may include recovery actions outside the SPR, or even outside the current range of the species. For example, reintroducing a species to parts of its historical range outside the SPR may increase the species' redundancy and resiliency such that the SPR no longer meets the policy's standard for ''significant'' (*i.e.,* loss of the species in the SPR would no longer cause the remainder to become endangered or threatened).

D. Sections 7, 9, and 10 of the Act

Regardless of whether a species is listed because it is endangered or threatened throughout all of its range, or because it is endangered or threatened throughout only a significant portion of its range, the provisions of the Act apply to the entire species. A Federal agency is required to consult with FWS or NMFS under the jeopardy standard of section 7 of the Act if its actions may affect an endangered or threatened species anywhere in its range. Jeopardy analyses will be conducted at the scale of the species as a whole. Where threats vary across the range of a species, we may streamline consultation processes in areas where the species is more secure. We note that threats, population trends, and relative importance to recovery commonly vary across the range for many species, especially as recovery efforts progress. The Services routinely account for this variation in our consultations. We expect to apply the same approach for species listed because they are endangered or threatened throughout only significant portions of their ranges. Similarly, analyses for issuing permits and exemptions under section 10 of the Act will apply throughout the species' range, and we will use our expertise to streamline the processes and apply the appropriate level of protection for the areas under consideration. In the same way, even if a species is listed because it is endangered or threatened throughout a significant portion of its range, the prohibitions under section 9 of the Act will apply throughout the species' range for endangered species, and as established by rules promulgated pursuant to section 4(d) of the Act for species listed as threatened.

VII. Required Determinations

A. Regulatory Planning and Review (E.O.s 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant regulations. OIRA has determined that this policy is significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this policy in a manner consistent with these requirements.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare, and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We are certifying that this policy will not have a significant economic effect on a substantial number of small entities. The following discussion explains our rationale.

This policy establishes binding requirements for NMFS and FWS in making listing determinations under the Endangered Species Act. NMFS and FWS will apply this policy in determining whether a species meets the Act's definitions of ''endangered species'' or ''threatened species.'' However, based on agency experience, we predict application of this policy will affect our determinations in only a limited number of circumstances,

resulting in only a small number of additional species listed under the Act and application of the Act's protective regulations. Moreover, a regulatory flexibility analysis is only required if a Federal action directly regulates small entities; it is not sufficient that the action merely affects a small entity in some indirect manner. The Services' current understanding is that this position is supported by existing case law regarding the certification requirements under the Regulatory Flexibility Act (RFA), the Small Business Regulatory Enforcement Fairness Act (SBREFA), and SBA's handbook, ''A guide for Government Agencies: How To Comply With the Regulatory Flexibility Act (2003). However, it is the current practice of the Services to assess, to the extent practicable, these potential impacts if sufficient data are available, whether or not this analysis is believed by the Services to be strictly required by the RFA.

We cannot reasonably predict those species for which we will receive petitions to list, delist, or reclassify, or whether a species' specific circumstances would result in us listing a species based on its status throughout an SPR. We, therefore, cannot predict which entities (other than the Services) could even potentially be affected, much less directly regulated, by listing a species as endangered or threatened based on its status throughout an SPR or the extent of those potential impacts. Nonetheless, and given the reasons discussed in this document under section VI. Effects of Policy and our experience implementing the Act, we expect that few, if any, entities would be indirectly affected in any way, and none would be directly regulated.

Moreover, NMFS and FWS are the only entities that are bound, and therefore directly regulated, by this policy, and they are not small entities under the Regulatory Flexibility Act. As discussed above, no other entities are directly regulated by this policy. Therefore, this policy will not have a significant economic effect on a substantial number of small entities.

C. Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

On the basis of information contained in the *B. Regulatory Flexibility Act* section, above, this policy will not ''significantly or uniquely'' affect small governments. We have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502, that this policy will not impose a cost of $100 million or more in any given year on local or State governments or private entities. A Small Government Agency Plan is not required. As explained above, small governments will not be affected because the policy would not place additional requirements on any city, county, or other local municipalities.

This policy will not produce a Federal mandate on State, local, or tribal governments or the private sector of $100 million or greater in any year; that is, it is not a ''significant regulatory action''' under the Unfunded Mandates Reform Act. This policy imposes no obligations on State, local, or tribal governments.

D. Takings (E.O. 12630)

In accordance with Executive Order 12630, this policy will not have significant takings implications. This policy will not pertain to ''taking'' of private property interests, nor does it directly affect private property. A takings implication assessment is not required because this policy (1) will not effectively compel a property owner to suffer a physical invasion of property and (2) will not deny all economically beneficial or productive use of the land or aquatic resources. This policy will substantially advance a legitimate government interest (conservation and recovery of endangered and threatened species) and will not present a barrier to all reasonable and expected beneficial use of private property.

E. Federalism (E.O. 13132)

In accordance with Executive Order 13132, we have considered whether this policy will have significant Federalism effects and have determined that a federalism summary impact statement is not required. This policy pertains only to determinations to list, delist, or reclassify species under section 4 of the Act, and will not 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.

F. Civil Justice Reform (E.O. 12988)

This policy does not unduly burden the judicial system and meets the applicable standards provided in sections 3(a) and 3(b)(2) of the Executive Order 12988. This policy clarifies how the Services will make determinations to list, delist, and reclassify species under section 4 of the Act.

G. Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951, May 4, 1994), Executive Order 13175, the Department of the Interior Manual Chapter 512 DM 2, and the Department of Commerce *American Indian and Alaska Native Policy* (March 30, 1995), we have considered possible effects on federally recognized Indian tribes and have determined that there are no potential adverse effects of issuing this policy. As noted above, we cannot reasonably predict those species for which we will receive petitions to list, delist, or reclassify, or whether a species' specific circumstances would result in us listing a species based on its status throughout an SPR. We, therefore, cannot predict which entities, including federally recognized Indian tribes, will be affected by listing a species as endangered or threatened based on its status throughout an SPR or the extent of those impacts. Given our experience implementing the Act, we predict that few if any entities, including tribes, will be affected. However, the Act requires that we give notice of and seek comment on any proposal to list, delist, or reclassify any species prior to making a final decision. Our proposed rules to list, delist, or reclassify species indicate the types of activities that may be affected by resulting regulatory requirements of the Act. Any potentially affected federally recognized Indian tribes would be notified of a proposed determination and given the opportunity to review and comment on the proposed rules.

H. Paperwork Reduction Act

This policy does not contain any new collections of information that require approval by Office of Management and Budget (OMB) under the Paperwork Reduction Act. This policy will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

I. National Environmental Policy Act

We have analyzed this policy in accordance with the criteria of the National Environmental Policy Act (NEPA), the Department of the Interior Manual (318 DM 2.2(g) and 6.3(D)), and National Oceanic and Atmospheric

Administration (NOAA) Administrative Order 216–6, and prepared an environmental assessment documenting our analysis. The environmental assessment presents the purpose of and need for this SPR policy, the proposed action and alternatives, and an evaluation of the effects of the alternatives under the requirements of NEPA, as implemented by the Council on Environmental Quality regulations (40 CFR 1500 *et seq.*) and according to the Department of the Interior's NEPA procedures. In our analysis of the probable environmental impacts of this SPR policy on the human environment, we have determined that there will be no significant impacts or effects caused by this SPR policy. The environmental assessment, as well as the finding of no significant impact (FONSI), is available for public inspection at *http://www.regulations.gov* at Docket No. FWS–R9–ES–2011–0031.

J. Energy Supply, Distribution or Use (E.O. 13211)

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking actions that significantly affect energy supply, distribution, and use. This policy is not expected to affect energy supplies, distribution, and use. Therefore, this action is a not a significant energy action, and no Statement of Energy Effects is required.

References Cited

A complete list of all references cited in this document is available on the Internet at *http://www.regulations.gov* under Docket Number FWS–R9–ES–2011–0031 or upon request from the Ecological Services Program, U.S. Fish and Wildlife Service (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this policy are the staff members of the Ecological Services Program, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Arlington, VA 22203, and the National Marine Fisheries Service's Endangered Species Division, 1335 East-West Highway, Silver Spring, MD 20910.

Authority

We are taking this action under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: June 18, 2014.

Dan Ashe,

Director, U.S. Fish and Wildlife Service.

Dated: June 19, 2014.

Samuel D. Rauch III,

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

[FR Doc. 2014–15216 Filed 6–27–14; 11:15 am]

BILLING CODE 4310–55–P

FEDERAL REGISTER

Vol. 79 Tuesday,

No. 126 July 1, 2014

Part IX

The President

Proclamation 9145—To Take Certain Actions Under the African Growth and Opportunity Act and for Other Purposes

Federal Register
Vol. 79, No. 126
Tuesday, July 1, 2014

Presidential Documents

Title 3—

The President

Proclamation 9145 of June 26, 2014

To Take Certain Actions Under the African Growth and Opportunity Act and for Other Purposes

By the President of the United States of America

A Proclamation

1. In Proclamation 8468 of December 23, 2009, I determined that the Republic of Madagascar (Madagascar) was not making continual progress in meeting the requirements described in section 506A(a)(1) of the Trade Act of 1974 (the ''1974 Act'') (19 U.S.C. 2466a(a)), as added by section 111(a) of the African Growth and Opportunity Act (title I of Public Law 106–200) (AGOA). Thus, pursuant to section 506A(a)(3) of the 1974 Act (19 U.S.C. 2466a(a)(3)), I terminated the designation of Madagascar as a beneficiary sub-Saharan African country for purposes of section 506A of the 1974 Act.

2. Section 506A(a)(1) of the 1974 Act authorizes the President to designate a country listed in section 107 of the AGOA (19 U.S.C. 3706) as a beneficiary sub-Saharan African country if the President determines that the country meets the eligibility requirements set forth in section 104 of the AGOA (19 U.S.C. 3703), as well as the eligibility criteria set forth in section 502 of the 1974 Act (19 U.S.C. 2462).

3. Pursuant to section 506A(a)(1) of the 1974 Act, based on actions that the Government of Madagascar has taken, I have determined that Madagascar meets the eligibility requirements set forth in section 104 of the AGOA and section 502 of the 1974 Act, and I have decided to designate Madagascar as a beneficiary sub-Saharan African country.

4. Section 506A(a)(3) of the 1974 Act (19 U.S.C. 2466a(a)(3)) authorizes the President to terminate the designation of a country as a beneficiary sub-Saharan African country for purposes of section 506A if he determines that the country is not making continual progress in meeting the requirements described in section 506A(a)(1) of the 1974 Act.

5. Pursuant to section 506A(a)(3) of the 1974 Act, I have determined that the Kingdom of Swaziland is not making continual progress in meeting the requirements described in section 506A(a)(1) of the 1974 Act. Accordingly, I have decided to terminate the designation of the Kingdom of Swaziland as a beneficiary sub-Saharan African country for purposes of section 506A of the 1974 Act, effective on January 1, 2015.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to title V and section 604 of the 1974 Act (19 U.S.C. 2461–67, 2483), and section 104 of the AGOA (19 U.S.C. 3703), do proclaim that:

(1) Madagascar is designated as a beneficiary sub-Saharan African country.

(2) In order to reflect this designation in the Harmonized Tariff Schedule of the United States (HTS), general note 16(a) to the HTS is modified by inserting in alphabetical sequence in the list of beneficiary sub-Saharan African countries ''Republic of Madagascar (Madagascar).'' Further, note 2(d) to subchapter XIX of chapter 98 is modified by inserting in alphabetical sequence in the list of lesser developed beneficiary sub-Saharan African countries ''Republic of Madagascar.''

(3) The designation of the Kingdom of Swaziland as a beneficiary sub-Saharan African country for purposes of section 506A of the 1974 Act is terminated, effective on January 1, 2015.

(4) In order to reflect in the HTS that beginning on January 1, 2015, the Kingdom of Swaziland shall no longer be designated as a beneficiary sub-Saharan African country, general note 16(a) to the HTS is modified by deleting ''Kingdom of Swaziland'' from the list of beneficiary sub-Saharan African countries. Note 7(a) to subchapter II and note 1 to subchapter XIX of chapter 98 of the HTS are modified to delete ''Swaziland,'' from the list of beneficiary countries. Further, note 2(d) to subchapter XIX of chapter 98 of the HTS is modified by deleting ''Swaziland'' from the list of lesser developed beneficiary sub-Saharan African countries.

(5) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of June, in the year of our Lord two thousand fourteen, and of the Independence of the United States of America the two hundred and thirty-eighth.

[FR Doc. 2014–15619
Filed 6–30–14; 11:15 am]
Billing code 3295–F4

Reader Aids

Federal Register

Vol. 79, No. 126

Tuesday, July 1, 2014

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and Code of Federal Regulations are located at: **www.ofr.gov.**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

Reminders. Effective January 1, 2009, the Reminders, including Rules Going Into Effect and Comments Due Next Week, no longer appear in the Reader Aids section of the Federal Register. This information can be found online at **http://www.regulations.gov.**

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, JULY

37155–37616..... 1

CFR PARTS AFFECTED DURING JULY

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List June 12, 2014

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JULY 2014

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

Date of FR publication	15 days after publication	21 days after publication	30 days after publication	35 days after publication	45 days after publication	60 days after publication	90 days after publication
July 1	Jul 16	Jul 22	Jul 31	Aug 5	Aug 15	Sep 2	Sep 29
July 2	Jul 17	Jul 23	Aug 1	Aug 6	Aug 18	Sep 2	Sep 30
July 3	Jul 18	Jul 24	Aug 4	Aug 7	Aug 18	Sep 2	Oct 1
July 7	Jul 22	Jul 28	Aug 6	Aug 11	Aug 21	Sep 5	Oct 6
July 8	Jul 23	Jul 29	Aug 7	Aug 12	Aug 22	Sep 8	Oct 6
July 9	Jul 24	Jul 30	Aug 8	Aug 13	Aug 25	Sep 8	Oct 7
July 10	Jul 25	Jul 31	Aug 11	Aug 14	Aug 25	Sep 8	Oct 8
July 11	Jul 28	Aug 1	Aug 11	Aug 15	Aug 25	Sep 9	Oct 9
July 14	Jul 29	Aug 4	Aug 13	Aug 18	Aug 28	Sep 12	Oct 14
July 15	Jul 30	Aug 5	Aug 14	Aug 19	Aug 29	Sep 15	Oct 14
July 16	Jul 31	Aug 6	Aug 15	Aug 20	Sep 2	Sep 15	Oct 14
July 17	Aug 1	Aug 7	Aug 18	Aug 21	Sep 2	Sep 15	Oct 15
July 18	Aug 4	Aug 8	Aug 18	Aug 22	Sep 2	Sep 16	Oct 16
July 21	Aug 5	Aug 11	Aug 20	Aug 25	Sep 4	Sep 19	Oct 20
July 22	Aug 6	Aug 12	Aug 21	Aug 26	Sep 5	Sep 22	Oct 20
July 23	Aug 7	Aug 13	Aug 22	Aug 27	Sep 8	Sep 22	Oct 21
July 24	Aug 8	Aug 14	Aug 25	Aug 28	Sep 8	Sep 22	Oct 22
July 25	Aug 11	Aug 15	Aug 25	Aug 29	Sep 8	Sep 23	Oct 23
July 28	Aug 12	Aug 18	Aug 27	Sep 2	Sep 11	Sep 26	Oct 27
July 29	Aug 13	Aug 19	Aug 28	Sep 2	Sep 12	Sep 29	Oct 27
July 30	Aug 14	Aug 20	Aug 29	Sep 3	Sep 15	Sep 29	Oct 28
July 31	Aug 15	Aug 21	Sep 2	Sep 4	Sep 15	Sep 29	Oct 29