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Presidential Documents

Title 3—

The President

Presidential Determination No. 2014–12 of August 7, 2014

Continuation of U.S. Drug Interdiction Assistance to the Government of Colombia

Memorandum for the Secretary of State [and] the Secretary of Defense

By the authority vested in me as President by section 1012 of the National Defense Authorization Act for Fiscal Year 1995, as amended (22 U.S.C. 2291–4), I hereby certify, with respect to Colombia, that: (1) interdiction of aircraft reasonably suspected to be primarily engaged in illicit drug trafficking in that country's airspace is necessary, because of the extraordinary threat posed by illicit drug trafficking to the national security of that country; and (2) Colombia has appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with such interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force is directed against the aircraft.

The Secretary of State is authorized and directed to publish this determination in the *Federal Register* and to notify the Congress of this determination.

THE WHITE HOUSE,
Washington, August 7, 2014

[FR Doc. 2014–19866
Filed 8–19–14; 8:45 am]
Billing code 4710–10

Presidential Documents

Presidential Determination No. 2014–13 of August 11, 2014

Drawdown Under Section 506(a)(1) of the Foreign Assistance Act of 1961 for France To Support Its Counterterrorism Efforts in Mali, Niger, and Chad

Memorandum for the Secretary of State [and] the Secretary of Defense

Pursuant to the authority vested in me by section 506(a)(1) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2318(a)(1) (the ''Act''), I hereby determine that an unforeseen emergency exists that requires immediate military assistance to France in its efforts to secure Mali, Niger, and Chad from terrorists and violent extremists. I further determine that these requirements cannot be met under the authority of the Arms Export Control Act or any other provision of law.

I, therefore, direct the drawdown of up to $10 million in defense services of the Department of Defense for these purposes and under the authorities of section 506(a)(1) of the Act.

The Secretary of State is authorized and directed to report this determination to the Congress, arrange for its publication in the *Federal Register*, and coordinate the implementation of this drawdown.

THE WHITE HOUSE,
Washington, August 11, 2014

[FR Doc. 2014–19868
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Rules and Regulations

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

5 CFR Part 6901

[Docket Number—2014–0001]

RIN 2700–AE03

Supplemental Standards of Ethical Conduct for Employees of the National Aeronautics and Space Administration

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: NASA, with the concurrence of the Office of Government Ethics (OGE), has adopted as final, without change, an interim rule amending the Supplement Standards of Ethical Conduct for Employees of the National Aeronautics and Space Administration.

DATES: *Effective Date:* August 20, 2014.

FOR FURTHER INFORMATION CONTACT: Adam F. Greenstone, Alternate Designated Agency Ethics Official, NASA Office of the General Counsel, 300 E. St. SW., Washington, DC 20546, 202.358.1775, *adam.f.greenstone@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

NASA published an interim rule in the **Federal Register** at 79 FR 7565 on February 10, 2014, to amend the Supplemental Standards of Ethical Conduct for Employees of the National Aeronautics and Space Administration. The rule permitted student interns to seek prior approval to engage in outside employment with a NASA contractor, subcontractor, grantee, or party to a NASA agreement in connection with work performed by that entity or under that agreement. The amendments clarified the types of outside employment activities that require approval; streamlined the process for approval; eliminated obsolete position titles; and extended the permissible time period of approval. The interim rule became effective on February 10, 2014. One respondent submitted a comment on the interim rule.

II. Discussion and Analysis

The NASA Office of General Counsel reviewed the comment and considered it in development of the final rule.

A. Summary of Significant Changes

No changes were made as a result of the public comments.

B. Analysis of Public Comments

Comment: The respondent commented that this was a positive regulatory change that would fix the predicament of student interns at NASA being too broadly restricted from engaging in outside employment, and increase interest in NASA's internships.

Response: The comment supports NASA's regulatory amendments in the interim rule. Previously, student interns generally were barred from employment with an entity performing work under a NASA contract, grant, or Space Act agreement in connection with that work. In making this regulatory change, NASA concluded that the previous prohibition was unnecessarily broad, and that the integrity of NASA's operations will not be diminished by liberalizing the current prohibition to permit student interns to seek approval to engage in outside activities with these entities. Student interns typically perform basic research functions without substantial involvement in NASA decisions that affect outside entities, and often spend extended periods in leave without pay status during semesters when they carry a full-time academic workload. It is also vital that students in STEM (science, technology, engineering, math) disciplines have full access to NASA development opportunities to maintain U.S. leadership in these fields. For these reasons, NASA, with OGE's concurrence, retained but liberalized this provision in a revised paragraph (c) of § 6901.103 to permit management to approve such activities of student interns when NASA ethics officials determine that the activity would comply with Federal ethics laws and OGE regulations, to which employed student interns remain subject.

III. Regulatory Analysis Section

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule would not have a significant economic impact on a substantial number of small entities because this rule only pertains to NASA employees.

Executive Order 12866 and Executive Order 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if the regulation is necessary, to select the regulatory approach that maximizes net benefits. This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, because this rule relates solely to the internal operations of NASA. Therefore, the Office of Management and Budget did not review this rule.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply to this rule because it does not contain any information collection requirement that requires approval of the Office of Management and Budget.

Small Business Regulatory Enforcement Fairness Act

This rule relates to agency management or personnel, and therefore the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) does not cover the rule.

Executive Order 13132, Federalism

This rule 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, Federalism, NASA has determined that the rule does not have sufficient federalism implications to warrant the

preparation of a federalism summary impact statement.

Unfunded Mandates Reform Act

For the purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this rule would not significantly or uniquely affect small governments and would not result in increased expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more (as adjusted for inflation) in any one year.

List of Subjects in 5 CFR Part 6901

Ethical conduct.

Interim Rule Adopted as Final Without Change

■ Accordingly, the interim rule amending 5 CFR part 6901, which was published in the **Federal Register** at 79 FR 7565 on February 10, 2014, is adopted as a final rule without change.

Dated: August 13, 2014.

Charles F. Bolden Jr.,

Administrator, National Aeronautics and Space Administration.

Walter M. Shaub, Jr.,

Director, United States Office of Government Ethics.

[FR Doc. 2014–19735 Filed 8–19–14; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 50 and 58

[Docket No. FR–5616–F–02]

RIN 2506–AC34

Environmental Compliance Recordkeeping Requirements

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This final rule revises the regulations governing the format used for conducting the required environmental reviews for HUD program and policy actions. HUD's current regulations require that HUD staff document environmental review compliance using form HUD–4128. Recipients receiving HUD assistance and other entities responsible for conducting environmental reviews (responsible entities) are currently allowed to either use HUD-recommended formats or develop equivalent formats for documenting environmental review compliance.

The reference to a specific form number in part 50 restricts HUD's ability to adopt alternative form designations and forms, while authorizing the use of alternate forms makes it difficult for HUD to assess, compare, and collect data on responsible entities' environmental review records. Despite being applicable to different parties, environmental review responsibilities under parts 50 and 58 are substantively similar. In light of that, the final rule gives the Departmental Environmental Clearance Officer (DECO) the authority to create one standardized format for use in reviews and authorize exceptions, thereby eliminating unnecessary distinctions between reviews completed by HUD employees and responsible entities.

This final rule also makes a technical amendment by making the steps required to prepare an environmental assessment in HUD's regulations consistent with the ''Environmental Assessment'' definition provided in the Council on Environmental Quality (CEQ) regulations implementing the National Environmental Policy Act (NEPA).

DATES: *Effective Date:* September 19, 2014.

FOR FURTHER INFORMATION CONTACT: Danielle Schopp, Director, Office of Environment and Energy, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Room 7250, Washington, DC 20410; telephone number 202–402–4442 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On February 27, 2014, at 79 FR 11045, HUD published for public comment a proposed rule that would address the formats used for preparing and documenting the required environmental reviews under both 24 CFR parts 50 and 58. Additionally, the rule proposed to make a technical amendment to part 58 to align it with CEQ regulations implementing NEPA's environmental assessment requirements.

NEPA and related authorities [1] require review of the potential environmental impacts of, and the preparation of environmental reviews for, Federal policy and program actions. HUD's regulations at 24 CFR part 50 and part 58 implement these environmental requirements. HUD's regulations at 24 CFR part 50, entitled ''Protection and Enhancement of Environmental Quality,'' govern the environmental reviews performed by HUD for its policies and programs. The regulations at 24 CFR part 58, entitled ''Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities,'' prescribe the requirements governing environmental reviews performed by recipients of HUD assistance and other responsible entities that assume HUD's environmental responsibilities in applicable HUD programs. Both 24 CFR part 50 and part 58 address the formats used for preparing and documenting the required environmental reviews.

The reference to a single form number in part 50 at § 50.20(a) and § 50.31(a) restricts HUD's ability to issue a new form with a different designation or other forms. The part 58 regulations at § 58.38 and § 58.40 allow entities assuming HUD environmental review responsibilities to develop an equivalent format for preparing and documenting an environmental review, which results in entities using a variety of formats. This sometimes makes it difficult for HUD and interested members of the public to assess compliance and prevents HUD from collecting reliable data. To resolve both concerns, HUD issued the February 27, 2014, proposed rule to remove the reference to a single form in part 50 and give the Departmental Environmental Clearance Officer (DECO) the authority to create one standardized format for use in both part 50 and part 58 reviews and authorize exceptions. In addition to resolving the above concerns, HUD proposed to make a technical amendment to part 58.

II. This Final Rule

This final rule follows publication of the February 27, 2014, proposed rule and takes into consideration the public comments received on the proposed rule. The public comment period on the proposed rule closed on April 28, 2014. HUD received public comments from three commenters. Section III of this preamble discusses the comments received on the final rule. HUD has decided to adopt the final rule as final with no substantive changes.

This final rule amends 24 CFR part 50 by removing the reference to the form HUD–4128. The revised regulation will require that HUD staff use a format approved by the DECO to prepare and document the required environmental

[1] See 24 CFR 50.4 and 24 CFR 58.5–6 for a listing of these Federal laws and authorities.

reviews. The rule will give the DECO the authority to establish alternative formats as necessary to meet specific program needs. However, this rule does not change or replace HUD–4128.

This rule will also amend 24 CFR part 58 by requiring entities assuming HUD's environmental review responsibilities to use a format prescribed by the DECO. As with environmental reviews conducted under part 50, the DECO will have the authority to establish alternative formats as necessary to meet specific program needs. However, again, this rule does not prescribe the format to be used.

Finally, this rule makes a technical amendment to § 58.40 by incorporating the CEQ's language implementing NEPA's environmental assessment requirements into HUD's regulations.

III. Discussion of Public Comments

The following section presents a summary of the public comments in response to the February 27, 2014, proposed rule, and HUD's responses.

Comment: Opposition to the HEROS system. Commenters wrote in opposition to HUD's new web-based system HEROS.

HUD Response: The public was given a separate opportunity to comment on HUD's new HUD Environmental Review Online System (HEROS) through Paperwork Reduction Act (PRA) notices published in the **Federal Register** on December 27, 2013 and March 31, 2014. The public was also notified of the new system for use in both part 50 and part 58 environmental reviews in HUD's announcement of the Office of Management and Budget (OMB) Approval Number on July 24, 2014 (79 FR 43059).

Comment: General concerns and possible alternatives to the proposed rule. Commenters wrote that HUD's data collection objectives could be easily accomplished by having the states provide the desired data to HUD by other means. Two commenters wrote that HUD should provide further clarification regarding what HUD wants the agencies to assess.

One commenter wrote that changing an entire process that works for states when HUD could clarify the information it requires is overly burdensome. Additionally, the commenter expressed concern that receiving all the data from sub-recipients rather than having states normalize it or provide explanation could become burdensome for HUD.

Commenters also wrote that states want to be considered partners with HUD. One commenter specifically wrote that while it understands that the information being collected from the field helps HUD make decisions regarding future environmental regulatory changes that would streamline the process for everyone involved, HUD must also consider the burden placed on states.

HUD Response: HUD anticipates that instituting standardized formats will allow the Department to collect consistent data on environmental reviews for the first time. In addition, using a single format for collecting information will increase transparency and overall compliance in HUD's environmental reviews. Nevertheless, the proposed rule allows for flexibility as appropriate for the DECO to prescribe alternative formats.

HUD considered and will continue to consider the burden on sub-recipients, states and HUD when implementing any new formats for environmental reviews.

HUD values the commenters' statement that states want to be considered partners with HUD. This partnership is important to HUD and the Department will continue to work closely with states on data collection and analysis.

Comment: The proposed rule limits flexibility for states. Two commenters opposed the rule and wrote that states should continue to have the option of using an equivalent format. The commenters wrote that states should have the flexibility and freedom of choice regarding the means of providing data to HUD. One of the commenters wrote that at a minimum the State Community Development Block Grant (CDBG) program should be exempt from the new requirements. Another commenter requested that state-administered HUD programs, in particular, the CDBG Small Cities Program, be exempted from the new requirements.

Commenters also wrote that under the State CDBG program regulations, 24 CFR 570.480(c), states are to have the maximum feasible deference in the interpretation of the requirements and in the administrations of the CDBG program, and requiring a single format infringes on the states' ability to operate with maximum feasible deference.

One commenter also wrote that the rule violates Executive Orders 12866 and 13563 which require federal agencies to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice.

HUD Response: The purpose of the rule is to eliminate the need for agencies to develop individual formats and to mitigate the redundancies, inaccuracies, and confusion that arise when many forms are used for the same purpose. Having previously allowed multiple formats under part 58, HUD believes that standardized formats are necessary to ensure compliance with all applicable environmental laws and authorities. HUD intends for the new requirements to ease the environmental compliance burden on all HUD recipients by applying a uniform and consistent approach.

Nevertheless, the rule allows for flexibility as appropriate. Under the rule, the DECO may prescribe alternative formats to meet specific program needs where the forms established by HUD cannot achieve the aforementioned goals. This option may be exercised if the DECO determines that the forms established by HUD are not suitable for a program's needs.

Comment: The proposed rule does not address what format HUD will adopt and how it will increase access for the public to the environmental review records (''ERR''). Two commenters wrote that HUD has not described how the proposed rule will increase citizens' access to the ERRs. Additionally, these commenters wrote that a web copy of the record might not provide additional access to the public for small communities. Furthermore, requiring both a paper copy and a web copy would result in additional work for these communities.

HUD Response: This final rule does not address format. The public had an opportunity to comment on HUD's new HUD Environmental Review Online System (HEROS) through Paperwork Reduction Act (PRA) notices published in the **Federal Register** on December 27, 2013 and March 31, 2014, and was notified of the new system for use in both Part 50 and Part 58 environmental reviews in HUD's announcement of the OMB Approval Number on July 24, 2014 (79 FR 43059). Nevertheless, HUD considers transparency in all PRA processes and will continue to seek ways to increase access for the public to the ERRs.

Comment: Request for a regulatory flexibility analysis. One commenter recommended that HUD conduct a regulatory flexibility analysis because the proposed rule would cause a significant economic impact on a substantial number of small entities.

HUD Response: HUD intends for the new requirements to ease the environmental compliance burden on all HUD recipients by eliminating the need for agencies to develop individual formats. HUD will continue to monitor the impact on small entities and exercise the flexibility provided in the rule if appropriate.

IV. Findings and Certifications

Regulatory Review—Executive Orders 12866 and 13563

Under Executive Order 12866 (Regulatory Planning and Review), a determination must be made on whether a regulatory action is significant and, therefore, subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the order. Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are ''outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.'' Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public.

As discussed above in this preamble, the final rule revises the regulations governing the format used for conducting the required environmental reviews for HUD program and policy actions. The purpose of the rule is to eliminate the need for entities to develop individual formats and to mitigate the redundancies, inaccuracies, and confusion that arise when many forms are used for the same purpose. The use of multiple formats under part 58 was ineffective, insufficient, and for some entities, excessively burdensome. As a result of HUD's previous experience, HUD believes that standardized formats are necessary to ensure compliance with all applicable environmental laws and authorities. HUD intends for the new requirements to ease the environmental compliance burden on all HUD recipients, streamlining the compliance process by applying a uniform and consistent approach.

Consistent with the goals of Executive Order 13563, the final amendments simplify and standardize the format requirements. Changes to the format will now be made through the PRA notice-and-comment process, the more appropriate forum for such changes. In addition, the final rule makes a technical amendment to include in HUD's regulations the procedures a responsible entity must complete when preparing an environmental assessment already required under the Council on Environmental Quality (CEQ) regulations. As a result, this rule was determined to not be a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and therefore was not reviewed by OMB.

Paperwork Reduction Act

The information collection requirements for part 50 and part 58 contained in this final rule have been approved by OMB under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520) and assigned OMB control number 2506–0202. In accordance with the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 605(b)) generally requires an agency to conduct regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The final rule would not have a significant economic impact on a substantial number of small entities. The final rule does not add any new substantive regulatory obligations on participants in HUD programs. The current regulations already require that entities maintain ERRs in accordance with HUD-recommended formats or equivalent formats, and HUD is merely standardizing the recording format. HUD intends for the new requirements to ease the environmental compliance burden on all HUD recipients by eliminating the need for agencies to develop individual formats. Nevertheless, the proposed rule allows for flexibility as appropriate as the DECO may prescribe alternative formats to meet specific program needs where the forms established by HUD cannot achieve the aforementioned goals.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule imposes substantial direct compliance costs on state and local governments and is not required by statute or if the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule will not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Environmental Review

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this final rule is categorically excluded from environmental review under the NEPA.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and the private sector. This final rule does not impose any Federal mandates on any state, local, or tribal government, or the private sector within the meaning of UMRA.

List of Subjects

24 CFR Part 50

Environmental quality, Environmental protection, Environmental review policy and procedures, Environmental assessment, Environmental impact statement, Compliance record.

24 CFR Part 58

Environmental protection, Community Development Block Grants, Environmental impact statements, Grant programs—housing and community development, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, HUD amends 24 CFR parts 50 and 58, to read as follows:

PART 50—PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY

■ 1. The authority citation for part 50 is revised to read as follows:

Authority: 42 U.S.C. 3535(d) and 4321–4335; and Executive Order 11991, 3 CFR, 1977 Comp., p. 123.

■ 2. In § 50.18, designate the undesignated paragraph as paragraph (b) and add new paragraph (a) to read as follow:

§ 50.18 General.

(a) The Departmental Environmental Clearance Officer (DECO) shall establish a prescribed format to be used to document compliance with NEPA and the Federal laws and authorities cited in

§ 50.4. The DECO may prescribe alternative formats as necessary to meet specific program needs.

* * * * *

■ 3. In § 50.20, revise the introductory text of paragraph (a) to read as follows:

§ 50.20 Categorical exclusions subject to the Federal laws and authorities cited in § 50.4.

(a) The following actions, activities, and programs are categorically excluded from the NEPA requirements for further review in an Environmental Assessment or an Environmental Impact Statement as set forth in this part. They are not excluded from individual compliance requirements of other environmental statutes, Executive orders, and HUD standards cited in § 50.4, where appropriate. Where the responsible official determines that any proposed action identified below may have an environmental effect because of extraordinary circumstances (40 CFR 1508.4), the requirements for further review under NEPA shall apply (see paragraph (b) of this section).

* * * * *

■ 4. Revise § 50.31(a) to read as follows:

§ 50.31 The EA.

(a) The Departmental Environmental Clearance Officer (DECO) shall establish a prescribed format used for the environmental analysis and documentation of projects and activities under subpart E. The DECO may prescribe alternative formats as necessary to meet specific program needs.

* * * * *

PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES

■ 5. The authority citation for part 58 is revised to read as follows:

Authority: 12 U.S.C. 1707 note, 1715z–13a(k); 25 U.S.C. 4115 and 4226; 42 U.S.C. 1437x, 3535(d), 3547, 4321–4335, 4852, 5304(g), 12838, and 12905(h); title II of Pub. L. 105–276; E.O. 11514 as amended by E.O. 11991, 3 CFR, 1977 Comp., p. 123.

■ 6. In § 58.38, revise the introductory text to read as follows:

§ 58.38 Environmental review record.

The responsible entity must maintain a written record of the environmental review undertaken under this part for each project. This document will be designated the ''Environmental Review Record'' (ERR) and shall be available for public review. The Departmental Environmental Clearance Officer (DECO) shall establish a prescribed format that the responsible entity shall use to prepare the ERR. The DECO may prescribe alternative formats as necessary to meet specific program needs.

* * * * *

■ 7. In § 58.40, revise the introductory text and paragraph (e) to read as follows:

§ 58.40 Preparing the environmental assessment.

The DECO shall establish a prescribed format that the responsible entity shall use to prepare the EA. The DECO may prescribe alternative formats as necessary to meet specific program needs. In preparing an EA for a particular proposed project or other action, the responsible entity must:

* * * * *

(e) Discuss the need for the proposal, appropriate alternatives where the proposal involves unresolved conflicts concerning alternative uses of available resources, the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

* * * * *

Dated: August 5, 2014.

Clifford Taffet,

Assistant Secretary for Community Planning and Development (Acting).

[FR Doc. 2014–19652 Filed 8–19–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2014–0643]

RIN 1625–AA08

Special Local Regulation, U.S. Hydro-Drag Nationals, Lake Dora; Tavares, FL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the waters of Lake Dora in Tavares, Florida, during the Hydro-Drag Nationals, a series of high-speed personal watercraft races. The event is scheduled for August 30 and 31, 2014. Approximately 65 vessels are anticipated to participate in the races. This special local regulation is necessary to ensure the safety of life during the races.

DATES: This rule is effective and will be enforced from 9:00 a.m. until 4 p.m. on August 30 and 31, 2014.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG–2014–0643. 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 Allan Storm, Sector Jacksonville Office of Waterways Management, U.S. Coast Guard; telephone (904) 564–7500, extension 7721, email *Allan.H.Storm@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR Federal Register
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard did not receive the necessary information about the event until July 3, 2014. As a result, the Coast Guard did not have sufficient time to publish a NPRM and to receive public comments prior to the event. Any delay in the effective date of this rule would be contrary to the public interest because immediate action is needed to minimize potential danger to the race participants, participant vessels, spectators, and the general public.

Under 5 U.S.C. 553(d)(3), and for the same reasons stated in the preceding paragraph, 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

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to ensure safety of life on navigable waters of the United States during the Hydro-Drag Nationals.

C. Discussion of the Final Rule

On August 30 and 31, 2014, H2X Racing Promotions will host the U.S. Hydro-Drag Nationals, a series of high-speed personal watercraft races. The U.S. Hydro-Drag Nationals will be held on Lake Dora in Tavares, Florida. Approximately 65 vessels are anticipated to participate in the races. No spectator vessels are expected to attend the Hydro-Drag Tour.

The rule will establish a special local regulation that encompasses certain waters of Lake Dora in Tavares, Florida. The special local regulation will be enforced from 9 a.m. until 4 p.m. on August 30 and 31, 2014. This special local regulation is necessary to ensure the safety of life on navigable waters of the United States during the races. The special local regulation will consist of the following two areas: (1) A race area, where all persons and vessels, except those persons and vessels participating in the high-speed personal watercraft races, are prohibited from entering, transiting, anchoring, or remaining; and (2) a buffer zone around the race area, where all persons and vessels, except those persons and vessels enforcing the buffer zone, or authorized participants transiting to and from the race area, are prohibited from entering, transiting, anchoring, or remaining unless authorized by the Captain of the Port Jacksonville or a designated representative.

Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the race area or buffer zone by contacting the Captain of the Port Jacksonville by telephone at (904) 564–7513, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the race area or buffer zone is granted by the Captain of the Port Jacksonville or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Jacksonville or a designated representative. The Coast Guard will provide notice of the special local regulations by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

D. Regulatory Analyses

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

1. Regulatory Planning and Review

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

The economic impact of this rule is not significant for the following reasons: (1) The special local regulation will be enforced for only 14 hours; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the race area or buffer zone without being an authorized participant or enforcing the buffer zone, or receiving authorization from the Captain of the Port Jacksonville or a designated representative, they may operate in the surrounding area during the enforcement periods; (3) nonparticipant persons and vessels may still enter, transit through, anchor in, or remain within the race area or buffer zone if authorized by the Captain of the Port Jacksonville or a designated representative; and (4) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of Lake Dora encompassed within the special local regulation from 9 a.m. until 4 p.m. on August 30 and 31, 2014. For the reasons discussed in the Executive Order 12866 and Executive Order 13563 section above, this rule will not have a significant economic impact on a substantial number of small entities.

3. Assistance for Small Entities

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

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

4. Collection of Information

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

5. Federalism

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

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters.

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

7. Unfunded Mandates Reform Act

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

8. Taking of Private Property

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

9. Civil Justice Reform

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

10. Protection of Children

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

11. Indian Tribal Governments

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

12. Energy Effects

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

13. Technical Standards

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

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction. This rule involves establishing a temporary special local regulation to ensure the safety of life during the Hydro-Drag Nationals, which will be held over a two day period for 8 hours each day. An environmental analysis was performed during the marine event permit process for the event and a checklist and a categorical exclusion determination are not required for this special local regulation.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary § 100.35T07–0643 to read as follows:

§ 100.35T07–0643 Special Local Regulations; Hydro-Drag Tour, Lake Dora; Tavares, FL.

(a) *Regulated Areas.* The following regulated areas are established as a special local regulation. All coordinates are North American Datum 1983.

(1) *Race Area.* All waters of Lake Dora encompassed within the following points: Starting at Point 1 in position 28°47′57″ N, 81°43′39″ W; thence south to Point 2 in position 28°47′55″ N, 81°43′39″ W; thence east to Point 3 in position 28°47′55″ N, 81°43′22″ W; thence north to Point 4 in position 28°47′58″ N, 81°43′22″ W; thence west back to origin. All persons and vessels, except those persons and vessels participating in the high-speed personal watercraft races, are prohibited from entering, transiting through, anchoring in, or remaining within the race area.

(2) *Buffer Zone.* All waters of Lake Dora, excluding the race area, encompassed within the following points: Starting at Point 1 in position 28°47′59″ N, 81°43′40″ W; thence south to Point 2 in position 28°47′53″ N, 81°43′41″ W; thence east to Point 3 in position 28°47′53″ N, 81°43′19″ W; thence north to Point 4 in position 28°47′59″ N, 81°43′19″ W; thence west back to origin. All persons and vessels except those persons and vessels enforcing the buffer zone, or authorized participants transiting to or from the race area, are prohibited from entering, transiting through, anchoring in, or remaining within the buffer zone.

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

(c) *Regulations.* (1) Non-participant persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the race area and/or buffer zone unless authorized by Captain of the Port Jacksonville or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated areas may contact the Captain of the Port Jacksonville by telephone at (904) 564–7513, or a designated representative via VHF radio on channel 16, to request authorization. If authorization is granted by the Captain of the Port Jacksonville or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Jacksonville or a designated representative.

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

(d) *Enforcement Period.* This rule will be enforced daily from 9 a.m. until 4 p.m. on August 30 and 31, 2014.

Dated: July 29, 2014.

T.G. Allan, Jr.,

Captain, U.S. Coast Guard, Captain of the Port Jacksonville.

[FR Doc. 2014–19795 Filed 8–19–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

[NPS–WRST–15781; PPAKWRSTPO, PPMPSAS1Z.YP0000]

RIN 1024–AE14

Special Regulations, Areas of the National Park System, Wrangell-St. Elias National Park and Preserve; Off-Road Vehicles

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service is amending its special regulations for Wrangell-St. Elias National Park and Preserve to designate trails in the portion of the Nabesna District located within the National Preserve where motor vehicles may be used off roads for recreational purposes. The rule prohibits the use of certain types of vehicles based upon size and weight, and closes certain areas in designated wilderness within the Nabesna District that are located outside of established trails and trail corridors to the use of motor vehicles for subsistence.

DATES: This rule is effective September 19, 2014.

FOR FURTHER INFORMATION CONTACT: Rick Obernesser, Superintendent, Wrangell-St. Elias National Park and Preserve, P.O. Box 439, Copper Center, Alaska 99573. Phone (907) 822–7202. Email: *AKR_Regulations@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

The approximately 13.2-million-acre Wrangell-St. Elias National Park and Preserve (Wrangell-St. Elias) was established in 1980 by the Alaska National Interest Lands Conservation Act (ANILCA) (Pub. L. 96–487, Dec. 2 1980; 16 U.S.C. 410hh–410hh5; 3101–3233). Wrangell-St. Elias consists of approximately 8.3 million acres of land designated as a National Park and approximately 4.8 million acres of land designated as a National Preserve. Section 201(9) of ANILCA (16 U.S.C. 410hh(9)) directed that Wrangell-St. Elias be managed for the following purposes:

- To maintain unimpaired the scenic beauty and quality of high mountain peaks, foothills, glacial systems, lakes and streams, valleys, and coastal landscapes in their natural state.
- To protect habitat for, and populations of, fish and wildlife including but not limited to caribou, brown/grizzly bears, Dall's sheep, moose, wolves, trumpeter swans and other waterfowl, and marine mammals.
- To provide continued opportunities, including reasonable access for mountain climbing, mountaineering, and other wilderness recreational activities.

That provision of ANILCA also directed that subsistence uses by local residents be permitted in the park, where such uses are traditional, in accordance with the provisions of Title VIII of ANILCA.

Section 203 of ANILCA (16 U.S.C. 410hh–2) directed the Secretary of the Interior, acting through the National Park Service (NPS), to administer Wrangell-St. Elias as a new area of the National Park System, pursuant to the provisions of the National Park Service Organic Act of 1916 (Organic Act) (16 U.S.C. 1 *et seq.*). In the Organic Act, Congress granted the NPS broad authority to regulate the use of areas under its jurisdiction provided that the associated impacts will leave the ''scenery and the natural and historic objects and the wild life [in these areas] unimpaired for the enjoyment of future generations.'' Section 3 of the Organic Act authorizes the Secretary of the Interior, acting through NPS, to ''make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks.''

Wilderness

Section 701 of ANILCA designated approximately 9.6 million acres within Wrangell-St. Elias as wilderness, a portion of which is located within the Nabesna District. Section 707 of ANILCA provides that, ''[e]xcept as otherwise expressly provided for in this Act . . . ,'' wilderness designated by ANILCA shall be administered in accordance with the Wilderness Act. According to the Wilderness Act (16 U.S.C. 1131–1136), these lands are to be ''administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, [and] the preservation of their wilderness character . . . .''

Access for Subsistence Uses

ANILCA authorizes certain methods of access for subsistence purposes that would otherwise be prohibited under Federal law or general NPS regulations. Section 811(a) of ANILCA (16 U.S.C. 3121(a)) provides that ''rural residents engaged in subsistence uses shall have reasonable access to subsistence resources on the public lands.'' Section 811(b) of ANILCA (16 U.S.C. 3121(b)) provides that ''[n]otwithstanding any other provision of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purpose by local residents, subject to reasonable regulation.''

NPS implemented Section 811 of ANILCA (16 U.S.C. 3121) in 36 CFR 13.460(a), which states ''[n]otwithstanding any other provision of this chapter, the use of . . . other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses is permitted within park areas except at those times and in those areas restricted or closed by the Superintendent.'' The 1986 General Management Plan for Wrangell-St. Elias determined off-road vehicles (ORVs) were a means of surface transportation traditionally employed by local rural residents for subsistence purposes. Title 36, Code of Federal Regulations, section 13.460(b)–(c) authorizes the Superintendent to restrict or close routes or areas to a certain use after notice and a public hearing ''if the Superintendent determines that such use is causing or is likely to cause an adverse impact on public health and safety, resource protection, protection of historic or scientific values, subsistence uses, conservation of endangered or threatened species, or the purposes for which the park was established.''

Off-Road Vehicles

The subsistence use of motor vehicles off roads in Wrangell-St. Elias is governed by Section 811(b) of ANILCA (16 U.S.C. 3121(b)) and 36 CFR 13.460. Separate legal authorities govern other uses of motor vehicles off roads in Wrangell-St. Elias. Under 43 CFR 36.11(g)(1), non-subsistence use of off-road vehicles is generally prohibited, except on routes designated by NPS in accordance with Executive Order 11644, or pursuant to a valid permit issued under 43 CFR 36.11(g)(2), 43 CFR 36.10, or 43 CFR 36.12.

Executive Order 11644, ''Use of Off-Road Vehicles on the Public Lands,'' issued in 1972 and amended in 1977 by Executive Order 11989, required federal agencies to issue regulations designating specific areas and routes on public lands where the use of ORVs may be

permitted. NPS implemented these Executive Orders in 36 CFR 4.10, which prohibits the use of motor vehicles off established roads unless routes and areas are designated for off-road motor vehicle use by special regulation. Under 36 CFR 4.10(b), such routes and areas ''may be designated only in national recreation areas, national seashores, national lakeshores and national preserves.'' Under 36 CFR 4.10(b), the designation of ORV routes must comply with Executive Order 11644, as amended, which requires that they be located:

- To minimize damage to soil, watershed, vegetation, or other resources of the public lands.
- To minimize harassment of wildlife or significant disruption of wildlife habitat.
- To minimize conflicts between ORV use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.
- In areas of the National Park System only if the respective agency head determines that ORV use in such locations will not adversely affect their natural, aesthetic, or scenic values.

Executive Order 11644 also requires that NPS ensure adequate opportunity for public participation when designating areas and trails for ORV use.

History of ORV Use in the Nabesna District of Wrangell-St. Elias

ORV use in the Nabesna District commenced after World War II when surplus military vehicles were used by hunters, miners, and others for personal use and access to remote areas. In the late 1970s, the all-terrain vehicle (typically three- or four-wheelers) emerged as a new and more affordable mode of cross-country travel in rural Alaska. When Wrangell-St. Elias was created in 1980, there was an established trail network in the Nabesna District. These trails were used by recreational and subsistence users, as well as a means to access private inholdings. The 1986 General Management Plan for Wrangell-St. Elias determined that ORVs are a traditional means of accessing subsistence resources by local residents.

In 1983, Wrangell-St. Elias began issuing permits for recreational ORV use on nine established trails under 43 CFR 36.11(g)(2). This regulation provides superintendents authority to issue permits allowing ORV use on existing trails in areas that are not designated wilderness upon a finding that the ORV use ''would be compatible with the purposes and values for which the area was established.'' The permits require users to stay on existing trails and adhere to certain conditions. The number of permits issued for recreational ORV use rose from 64 in 1985 to 263 in 2010.

Since 1986, Wrangell-St. Elias has conducted two major studies of ORV impacts, and a detailed survey and inventory of physical conditions along the existing trails in the Nabesna District. These studies demonstrated that ORV use over wet areas leads to trail braiding and widening. Vegetation does not recover quickly, soils erode, permafrost depth changes, and impacts to surface hydrology occur. Of the nine trails in the Nabesna District, the Tanada Lake, Copper Lake, Reeves Field, and Suslota trails have substantial sections with degraded conditions.

On June 29, 2006, the National Parks Conservation Association, Alaska Center for the Environment, and the Wilderness Society filed a lawsuit against NPS in the United States District Court for the District of Alaska. The plaintiffs challenged the method used by NPS to issue recreational ORV permits for the nine trails within the Nabesna District. They asserted that when issuing recreational ORV permits, NPS failed to make the compatibility finding required by 43 CFR 36.11(g)(2) and failed to prepare an environmental analysis of recreational ORV use as required by the National Environmental Policy Act of 1969 (NEPA). The plaintiffs did not challenge the use of ORVs for subsistence uses.

In a settlement agreement announced on May 15, 2007, NPS agreed to suspend issuing recreational ORV permits for three specific trails unless the ground is frozen. NPS also agreed to prepare an environmental impact statement under NEPA and issue a record of decision.

Environmental Impact Statement and Selected Action

On December 21, 2007, NPS published a Notice of Intent to prepare an environmental impact statement in the **Federal Register**. The initial planning process included extensive public involvement, public meetings, agency consultation, and tribal consultation. The Nabesna Off-Road Vehicle Management Plan/Draft Environmental Impact Statement (DEIS) was released to the public on August 11, 2010. During the 90-day public comment period, which included public meetings and briefings, NPS received 153 comment letters. NPS responses to public comments were included in the Final Environmental Impact Statement Nabesna Off-Road Vehicle Management Plan (FEIS) published in August 2011. The FEIS describes major impacts to soils, wetlands, and vegetation associated with ORV use on unimproved trails. It also describes moderate to major impacts to wilderness character associated with subsistence ORV use in designated wilderness.

On December 14, 2011, the Regional Director signed a Record of Decision (ROD) which identified Alternative 6 in the FEIS as the selected action. The selected action provides continued opportunities for appropriate and reasonable access to backcountry recreation. The selected action also accommodates subsistence use and access to inholdings, and protects scenic views, fish and wildlife habitat, and other resources and values of Wrangell-St. Elias.

Under the selected action, NPS will improve the most degraded segments of ORV trails in the Nabesna District through trail re-routing or reconstruction to a design-sustainable or maintainable condition (as those terms are defined in the FEIS). A design-sustainable or maintainable condition ensures that ORV users can stay on one trail alignment and that damage to soils, watersheds, vegetation, and other resources are minimized. The FEIS estimates that for the six trails in the National Preserve, trail improvements will result in the recovery of 204.6 acres of wetland habitat and 212.7 acres of vegetation habitat. The FEIS also projects that each of the improved trails in the National Preserve will have between 50 and 180 ORV round trips per year (depending upon the trail and including both recreational and subsistence use), most of these occurring during hunting season.

In accordance with 36 CFR 4.10(b), the rule authorizes recreational ORV use on improved or frozen trails in the portion of the Nabesna District located within the National Preserve, but not in the National Park. In the area of designated wilderness included in the FEIS (FEIS Wilderness Area), subsistence ORV users generally must stay on designated trails; however, off-trail ORV use is authorized in designated trail corridors (i.e., 0.5 miles on either side of the trail) for the sole purpose of game retrieval. All other areas of the FEIS Wilderness Area are closed to subsistence ORV use. The FEIS Wilderness Area is approximately 541,000 acres of designated wilderness, bordered by Drop Creek on the west, the Nabesna Glacier on the east, and Mt. Sanford and Mt. Jarvis on the south. Trails and trail corridors in the FEIS

Wilderness Area, and the boundaries of the FEIS Wilderness Area, are identified on the Upper Copper/Jacksina Wilderness map available at the Slana Ranger Station, the Main Park Visitor Center, the Tanada and Copper Lake trailheads, and on the park's Web site at *http://www.nps.gov/wrst.* In the portion of the Nabesna District located outside of the FEIS Wilderness Area, subsistence ORV use is allowed on or off ORV trails before and after trail improvements. NPS will monitor the use and take management actions as described in the FEIS. The rule precludes the use of certain types of vehicles based upon vehicle size and weight.

The DEIS, FEIS, ROD, and other supporting documents can be found online at *http://www.parkplanning.nps.gov/wrst,* by clicking on the link entitled ''Nabesna ORV Management Plan EIS'' and then clicking on the link entitled ''Document List.''

Final Rule

Summary of Final Rule

The rule amends the special regulations for Wrangell-St. Elias at 36 CFR part 13, subpart V, to implement the selected action in the ROD. Pursuant to 36 CFR 4.10(b), the rule designates six trails in the National Preserve for recreational ORV use. Recreational ORV users are required to obtain a permit to use the designated trails. Permits will be issued only for frozen trails or trails in a design-sustainable or maintainable condition, as determined by the Superintendent. The rule requires that subsistence ORV users stay on trails or within trail corridors in the FEIS Wilderness Area. The rule also establishes vehicle weight and size limits to protect park resources. Through implementation of the selected action in the ROD, Wrangell-St. Elias will continue to protect and preserve natural and cultural resources and natural processes, and provide a variety of safe visitor experiences while minimizing conflicts among users.

Recreational ORV Use

The following trails in the National Preserve are designated for recreational ORV use: Suslota, Caribou Creek, Trail Creek, Lost Creek, Soda Lake, and Reeve Field. Recreational ORV users are required to obtain a permit to use the designated trails. Prior to trail improvements, permits will be issued only for trails in fair or better condition (Lost Creek, Soda Lake, and Trail Creek), except that permits may be issued for any of the six designated trails in the National Preserve when the Superintendent determines they are frozen. Frozen is defined as frost depth of 6 inches as measured with a soil probe. NPS will announce the completion of trail improvements and when trails are frozen through a press release and notices posted at the Slana Ranger Station, the Main Park Visitor Center, and on the park's Web site at *http://www.nps.gov/wrst/planyourvisit/orv-trails.htm.* After trail improvements, permits will be issued for the additional trails in the National Preserve (Suslota, Caribou Creek, and Reeve Field) regardless of whether the trails are frozen. Recreational ORV use permits will include the following conditions to protect park resources:

- Travel is only authorized on designated trails listed on the permit.
- ORVs must stay on the designated trails.
- If hunting, gathering, or otherwise walking off the trail, park ORVs off to the side of the trail; vehicles may not be used to retrieve game off of the designated trail alignment.
- Creating new trails is prohibited.
- ORV use is prohibited in designated wilderness areas.

The rule prohibits recreational ORV use in the portion of the Nabesna District located within the National Park. Maps of the trails designated for recreational ORV use will be available at the Slana Ranger Station and the Main Park Visitor Center, and on the park's Web site at *http://www.nps.gov/wrst.*

Subsistence ORV Use

For trails in the FEIS Wilderness Area (Black Mountain Trails and the southern portions of the Tanada Lake Trail), the rule requires that subsistence ORV users stay on trails or, when for the purpose of game retrieval only, within identified trail corridors. The trail corridors consist of 0.5 miles on either side of the trail. Travel outside of these designated trail corridors in the FEIS Wilderness Area is prohibited. Trails and trail corridors in the FEIS Wilderness Area, and the boundaries of the FEIS Wilderness Area, are identified on the Upper Copper/Jacksina Wilderness map available at the Slana Ranger Station and the Main Park Visitor Center, and on the park's planning Web site at *http://www.nps.gov/wrst.* They are also identified at the Tanada and Copper Lake trailheads.

Authorized Off-Road Vehicles

The rule also establishes the types of ORVs that may be operated for recreational as well as subsistence uses. The following types of vehicles, because of their size, width, weight, or high surface pressure (measured, for example, in pounds per square inch) are prohibited for recreational or subsistence uses:

- Nodwells or other tracked rigs greater than 5.5 feet in width or 4,000 pounds curb weight.
- Street-legal highway vehicles.
- Custom 4x4 jeeps, SUVs, or trucks designed for off-road use.
- Original or modified ''deuce and a half'' cargo trucks.
- Dozers, skid-steer loaders, excavators, or other construction equipment.
- Motorcycles or dirt bikes.
- Log skidders.

The rule requires that all wheeled vehicles (including all-terrain vehicles, utility vehicles, and Argos) be less than 1,500 pounds curb weight, not including trailers. Nothing in this rule supersedes the applicable provisions of 36 CFR part 4 and 36 CFR 13.460(d), which require that ORVs be operated in compliance with applicable state and federal laws, and prohibit damaging park resources or harassing wildlife.

Frequently Asked Questions

This section explains some of the principal elements of the rule in a question and answer format.

What is an ''Off-Road Vehicle'' (ORV)?

Any motor vehicle, including all-terrain vehicles, designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, wetland, or other natural terrain, except snowmachines or snowmobiles. This definition does not include snowmachines and the rule does not affect the use of snowmachines in Wrangell-St. Elias.

What is recreational ORV use?

Any ORV use by individuals not engaged in subsistence uses as defined in 36 CFR 13.420 or accessing an inholding. Recreational ORV use in the portion of the Nabesna District located within the National Preserve includes, but is not limited to, access for sport hunting, fishing, and dispersed camping.

Do I need a permit to operate an ORV for recreational purposes?

Yes, if you are using the ORV for recreational use as defined above. Permits for recreational ORV use may be obtained at the Main Park Visitor Center in Copper Center or the Slana Ranger Station in Slana.

Do I need a permit to operate an ORV for subsistence purposes?

No, not if you are a local rural resident as defined by 36 CFR 13.420

and are actively engaged in subsistence uses.

Is there a limit to the number of ORV permits available?

No, there is no limit to the number of permits that the Superintendent may issue for recreational ORV use.

Several of my family members have ORVs that we would like to use for recreational purposes on trails in the National Preserve. Do we need a permit for each vehicle?

Yes, you need to obtain a permit for each vehicle that you want to use for recreational purposes on designated ORV trails. The operator of the ORV must have the permit in his or her possession when the ORV is in use.

How long will permits be valid for ORV use?

When you apply for a permit, you must indicate how long you intend to operate an ORV for recreational use. The NPS will determine the duration of the permit based upon the requested time period and other factors such as public health and safety, resource protection, protection of cultural or scientific values, subsistence uses, endangered or threatened species conservation, or other management considerations necessary to ensure that ORV use is being managed in a manner compatible with the purposes for which the park was established. The duration of each permit will be stated in the terms and conditions of the permit.

Where can I operate my ORV?

For recreational ORV users, designated trails will be listed on the face of the permit and identified on maps available at the Slana Ranger Station and the Main Park Visitor Center, and on the park's Web site at *http://www.nps.gov/wrst.* Travel is only permitted on the trails listed on the permit, which will include all of the trails designated for ORV use by this rule that are either frozen or improved.

Will designated trails for recreational ORV users be marked on the ground?

Yes, trails designated for recreational ORV use will be shown on a map on a kiosk at the trailhead and will be marked on the ground with carsonite posts.

Can I tow a trailer with my ORV on designated trails?

Yes, NPS recommends the use of low-pressure ''balloon'' style tires on ORV trailers.

Are there any vehicle requirements for my ORV?

Yes, all ORVs are required to comply with the weight and size limits specified in the rule. The rule also prohibits the use of certain types of vehicles.

I am a local rural resident engaged in subsistence uses. What effect does the rule have on me?

Your ORV must comply with the weight and size limits described in the rule, and certain types of vehicles listed in the rule are prohibited. On the trails in the FEIS Wilderness Area (Black Mountain Trails and the southern portions of the Tanada Lake Trail), subsistence ORV users generally must stay on trails; however, off-trail ORV use in the FEIS Wilderness area is authorized in designated trail corridors (i.e., 0.5 miles on either side of the trail) for the sole purpose of game retrieval. All other areas of the FEIS Wilderness Area are closed to subsistence ORV use.

How will designated trails and trail corridors for subsistence ORV users in the FEIS Wilderness Area be identified?

The designated trails and trail corridors are identified on the Upper Copper/Jacksina Wilderness map available at the Slana Ranger Station and the Main Park Visitor Center, and on the park's Web site at *http://www.nps.gov/wrst.* They are also identified at the Tanada and Copper Lake trailheads.

Summary of and Responses to Public Comments

The NPS published the proposed rule at 79 FR 2608 (January 15, 2014). The NPS accepted comments through the mail, hand delivery, and through the Federal eRulemaking Portal at *http://www.regulations.gov.* Comments were accepted through March 17, 2014, and the NPS received nine comments. A summary of comments and NPS responses is provided below. Several comments supported the proposed rule and did not request any change. After considering the public comments and after additional review, the NPS did not make any substantive changes in the final rule. The definition of ''ORV'' in the proposed rule was removed because ''off-road vehicle'' is already defined in 36 CFR 13.1. Other minor changes were made for clarity.

1. Comment: One comment stated that the NPS should not allow any recreational ORV use in the National Preserve because it would detrimentally affect the National Park and cause severe degradation of the National Preserve and its biodiversity.

NPS Response: Section 1313 of ANILCA (16 U.S.C. 3201) allows for sport hunting and fishing in national preserves in Alaska. As noted in the FEIS, there is a network of trails in the Nabesna District that predates the establishment of Wrangell-St. Elias. These trails were used by ORVs to access areas for sport and subsistence hunting, mining, and access to private property. Part of the purpose of the Nabesna Off-Road Vehicle Management Plan, as stated in the FEIS, is to provide ''access to sport hunting in the National Preserve'' that is compatible with park purposes and values. The FEIS concluded that permitting recreational ORV use on improved trails in the National Preserve was a reasonable and appropriate means of access. The FEIS also concluded that permitting recreational ORV use on frozen or improved trails in the portion of the Nabesna District located within the National Preserve would not result in significant impacts on the environment or severe degradation of natural resources, including wildlife, in either the National Park or the National Preserve.

2. Comment: One comment stated that the NPS should not allow any recreational ORV use in the National Preserve because it would not result in any economic benefit or increased tourism.

NPS Response: The NPS completed a cost-benefit analysis of the selected action in a report entitled ''Cost-Benefit and Regulatory Flexibility Analyses: Proposed Regulations for Management of Off Road Vehicles in The Nabesna District of Wrangell-St. Elias National Park and Preserve'' which can be viewed online at *http://parkplanning.nps.gov/wrst,* by clicking the link entitled ''Nabesna ORV Management Plan EIS'' and then clicking the link entitled ''Document List.'' This report concluded that the selected action will have beneficial effects on trail condition, visitor opportunities, and socioeconomics. It also concluded that the selected action will improve economic efficiency.

3. Comment: The Alaska Quiet Rights Coalition stated that the NPS should not allow any recreational ORV use in the National Preserve because it would eliminate a quiet alternative to less protected public lands.

NPS Response: The FEIS concluded that permitting recreational ORV use on improved trails in the National Preserve would have ''minor, long-term, adverse direct and indirect impacts to soundscapes'' because of the low anticipated level of ORV use and because of the small affected area

relative to other areas available for non-motorized activities. Because of the minor impacts and relatively small area, the NPS determined that recreational ORV use on certain trails in the National Preserve is an appropriate way for individuals to experience and enjoy Wrangell-St. Elias National Preserve.

4. Comment: Some commenters stated that it will be difficult for the NPS to regulate and enforce the rules related to ORV use.

NPS Response: The NPS believes that it will be able to enforce the rules related to ORV use for the following reasons:

• Recreational ORV users are required to obtain a permit. Most users will get their permit at the Slana Ranger Station where they will receive information about local trail conditions and restrictions. Recreational ORV users are required to have their permit with them when the ORV is in use.

• Trailheads are well-signed with kiosks that will indicate whether or not the trail is open to recreational ORV use. Trails will be marked on the ground with carsonite posts. Maps showing trails and trail corridors for subsistence ORV users in designated wilderness will be posted at the Copper Lake and Tanada Lake trailheads.

• There is a full-time ranger stationed in Slana. Patrol of the trails is a priority during hunting season.

• This rule applies only to the Nabesna District, not the entire 13.2 million acres of Wrangell St. Elias.

5. Comment: One commenter stated that ORVs should not be allowed outside of trails and trail corridors when frozen because this could damage soil and vegetation.

NPS Response: Recreational ORV users are required to stay on trails. Within the FEIS Wilderness area, subsistence ORV users are limited to trails and, for the purpose of game retrieval only, off-trail in trail corridors. Outside the FEIS Wilderness Area, subsistence ORV users are not limited to trails or trail corridors; however, the NPS expects that ORV use under frozen conditions will be light to non-existent because ORV use is driven by hunting seasons which typically end on or before September 20th.

6. Comment: The State of Alaska ANILCA Implementation Program and Citizen's Advisory Committee on Federal Areas (CACFA) suggested 43 CFR 36.11(g) as a mechanism to authorize recreational ORV use on improved trails in the National Park since these trails are ''existing.''

NPS Response: Because the proposed re-routes of the most degraded segments of ORV trails would take substantial resources to build, deviate significantly from the current alignment, and result in a different set of environmental impacts, the NPS does not believe these re-routed trails are ''existing'' within the meaning of 43 CFR 36.11(g).

7. Comment: The State of Alaska ANILCA Implementation Program and CACFA stated that recreational ORV use should be allowed on improved or frozen trails in the National Park to provide affordable access to hunting and fishing opportunities.

NPS Response: The NPS does not believe it is appropriate to allow recreational ORV use in the National Park for the following reasons:

• The primary use of recreational ORVs is to access areas for sport hunting. Section 1313 of ANILCA (16 U.S.C. 3201) allows for sport hunting in national preserves in Alaska, but this activity is not permitted in the National Park.

• This decision meets the objectives for the project as stated in the FEIS and represents a balanced approach based upon public comments received on the DEIS. This is further described in the section entitled ''Basis for the Decision'' in the ROD that can be found online at *http://www.parkplanning.nps.gov/wrst,* by clicking on the link entitled ''Nabesna ORV Management Plan EIS'' and then clicking on the link entitled ''Document List.''

• Air taxis provide an alternative means of accessing remote sport hunting in the National Preserve.

• Improved trails in the National Park (e.g., Tanada Lake Trail) will provide enhanced non-motorized access for recreational activities.

8. Comment: CACFA stated that recreational ORV use should be allowed on improved or frozen trails in the National Park because ANILCA guarantees that these types of traditional uses would be allowed to continue.

NPS Response: ANILCA does not address recreational ORV use in NPS areas. Section 811 (16 U.S.C. 3121) speaks to subsistence access for local rural residents. While section 1110(a) (16 U.S.C. 3170(a)) speaks to the use of *non-motorized* surface transportation (as well as snowmachines, motorboats, and airplanes) for traditional activities and for travel to and from villages and homesites, it does not address ORVs.

9. Comment: The State of Alaska ANILCA Implementation Program stated that recreational ORV use should be allowed on improved or frozen trails in the National Park because the same monitoring protocols and management tools being applied to subsistence ORV use in the National Park and National Preserve and non-subsistence ORV use in the National Preserve would also detect and mitigate impacts from recreational ORV use in the National Park.

NPS Response: It is true that the monitoring identified in the ROD will help the NPS mitigate direct impacts to soils, vegetation, and wetlands from all ORV use. However, the NPS is not monitoring impacts to visitor opportunities, hunting competition (subsistence), or soundscape that would occur if recreational ORV use were permitted in the National Park.

10. Comment: One commenter stated that all wilderness areas should be open to subsistence ORV use and that subsistence ORV use should not be confined to trails and trail corridors.

NPS Response: The FEIS concludes that the closures in the FEIS Wilderness Area are needed to prevent major impacts to the undeveloped character of the designated wilderness. The closures are consistent with the 1986 WRST GMP and Section 811(b) of ANILCA (16 U.S.C. 3121(b)), which states that the Secretary shall permit subsistence use of ORVs traditionally employed by local residents, subject to reasonable regulation.

Compliance With Other Laws, Executive Orders, and Department Policy

Use of Off-Road Vehicles on the Public Lands (Executive Orders 11644 and 11989)

Executive Order 11644, as amended by Executive Order 11989, was adopted to address impacts on public lands from ORV use. The Executive Order applies to ORV use on federal public lands that is not authorized under a valid lease, permit, contract, or license. Section 3(a)(4) of Executive Order 11644 provides that ORV ''[a]reas and trails shall be located in areas of the National Park System, Natural Areas, or National Wildlife Refuges and Game Ranges only if the respective agency head determines that off-road vehicle use in such locations will not adversely affect their natural, aesthetic, or scenic values.'' Since the Executive Order clearly was not intended to prohibit all ORV use everywhere in these units, the term ''adversely affect'' does not have the same meaning as the somewhat similar terms ''adverse impact'' and ''adverse effect'' used in the National Environmental Policy Act of 1969 (NEPA). In analyses under NEPA, a procedural statute that provides for the study of environmental impacts, the term ''adverse effect'' includes minor or negligible effects.

Section 3(a)(4) of the Executive Order, by contrast, concerns substantive management decisions and must be read in the context of the authorities applicable to such decisions. Wrangell-St. Elias is an area of the National Park System. Therefore, NPS interprets the Executive Order term ''adversely affect'' consistent with its NPS Management Policies 2006. Those policies require that the NPS only allow ''appropriate use'' of parks and avoid ''unacceptable impacts.''

This rule is consistent with those requirements. It will not impede attainment of Wrangell-St. Elias's desired future conditions for natural and cultural resources as identified in the FEIS. NPS has determined that this rule will not unreasonably interfere with the atmosphere of peace and tranquility or the natural soundscape maintained in natural locations within Wrangell-St. Elias. Therefore, within the context of the resources and values of Wrangell-St. Elias, motor vehicle use on the routes and areas designated by this rule (which are also subject to resource closures and other management measures that will be implemented under the selected action in the ROD) will not cause an unacceptable impact to the natural, aesthetic, or scenic values of Wrangell-St. Elias.

Section 8(a) of the Executive Order requires agency heads to monitor the effects of ORV use on lands under their jurisdictions. On the basis of information gathered, agency heads may from time to time amend or rescind designations of areas or other actions as necessary to further the policy of the Executive Order. The selected action in the ROD includes monitoring and resource protection procedures and periodic review to provide for the ongoing evaluation of impacts of motor vehicle use on protected resources. The Superintendent has authority to take appropriate action as needed to protect park resources.

Regulatory Planning and Review (Executive Orders 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 rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 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. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (RFA)

This rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This certification is based on the cost-benefit and regulatory flexibility analyses found in the report entitled ''Cost-Benefit and Regulatory Flexibility Analyses: Proposed Regulations for Management of Off Road Vehicles in The Nabesna District of Wrangell-St. Elias National Park and Preserve'' which can be viewed online at *http://parkplanning.nps.gov/wrst,* by clicking the link entitled ''Nabesna ORV Management Plan EIS'' and then clicking the link entitled ''Document List.''

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (UMRA)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

Takings (Executive Order 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. A takings implication assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a Federalism summary impact statement. The rule is limited in effect to federal lands managed by the NPS and does not have a substantial direct effect on state and local government in Alaska. A Federalism summary impact statement is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribes (Executive Order 13175 and Department Policy) and ANCSA Corporations

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation and Alaska Native Claims Settlement Act (ANCSA) Native Corporation policies. While the NPS has determined the rule would not have a substantial direct effect on federally recognized Indian tribes or ANCSA Native Corporation lands, water areas, or resources, the NPS has consulted Alaska Native tribes and Alaska Native Corporations regarding implementation of this rule. Consultation occurred through bi-annual government to government meetings with Cheesh'na tribal council and Mentasta traditional village council. In addition, a letter was sent to each tribal entity within the park's resident zone communities and to Ahtna Native Corporation, Inc. when the proposed rule was published in the **Federal Register**.

Paperwork Reduction Act (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. OMB has approved the

information collection requirements associated with NPS Special Park Use Permits and has assigned OMB Control Number 1024–0026 (expires 08/31/16). 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.

National Environmental Policy Act of 1969 (NEPA)

This rule constitutes a major Federal action significantly affecting the quality of the human environment. We have prepared the FEIS under the NEPA. The FEIS is summarized above and available online at *http://www.parkplanning.nps.gov/wrst,* by clicking on the link entitled ''Nabesna ORV Management Plan EIS'' and then clicking on the link entitled ''Document List.''

Effects on the Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

Drafting Information

The primary authors of this rule are Bruce Rogers, Norah Martinez, and Peter Christian, Wrangell-St. Elias National Park and Preserve; Paul Hunter and Andee Sears, NPS Alaska Regional Office, and Jay P. Calhoun, Regulations Program Specialist, National Park Service, Regulations and Special Park Uses.

List of Subjects in 36 CFR Part 13

Alaska, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service amends 36 CFR part 13 as set forth below:

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

■ 1. The authority citation for part 13 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 462(k), 3101 *et seq.;* Subpart N also issued under 16 U.S.C. 1a–2(h), 20, 1361, 1531, 3197; Pub. L. 105–277, 112 Stat. 2681–259, October 21, 1998; Pub. L. 106–31, 113 Stat. 72, May 21, 1999; Sec. 13.1204 also issued under Sec. 1035, Pub. L. 104–333, 110 Stat. 4240.

Subpart V—Special Regulations—Wrangell-St. Elias National Park and Preserve

■ 2. Add § 13.1914 to subpart V to read as follows:

§ 13.1914 Off-road motor vehicle use in the Nabesna District.

(a) *What is the scope of this regulation?* The regulations contained in paragraphs (b) through (e) of this section apply to the use of motor vehicles off roads within the boundaries of the Nabesna District within Wrangell-St. Elias National Park and Preserve. This section does not affect the use of snowmobiles or snowmachines.

(b) *What terms do I need to know?* The following definitions apply only to the regulations in this section:

FEIS Wilderness Area means an area of designated wilderness identified on the Upper Copper/Jacksina Wilderness map available at the Slana Ranger Station, the Main Park Visitor Center, the Tanada and Copper Lake trailheads, and on the park Web site.

Frozen means frost depth of 6 inches as measured with a soil probe and determined by the Superintendent.

Improved means a trail that is in a design-sustainable or maintainable condition as determined by the Superintendent.

Nabesna District means a designated area in the northern portion of Wrangell-St. Elias National Park and Preserve as shown on a map available at the Slana Ranger Station, the Main Park Visitor Center, and on the park Web site.

Recreational use means the use of an off-road vehicle for any purpose other than for subsistence uses, which are defined in § 13.420, or access to inholdings in accordance with 43 CFR 36.10.

Trail corridor means an area extending 0.5 miles from either side of the centerline on the Black Mountain trails and portions of the Tanada Lake trail within the FEIS Wilderness Area.

(c) *Must I obtain a permit to operate an off-road vehicle for recreational use?* (1) You must obtain a permit before operating an off-road vehicle for recreational use. Permits may be obtained at the Slana Ranger Station in Slana or the Main Park Visitor Center in Copper Center.

(2) The Superintendent may issue permits for the recreational use of off-road vehicles on any of the following trails in the National Preserve:

(i) Suslota Trail.
(ii) Caribou Creek Trail.
(iii) Trail Creek Trail.
(iv) Lost Creek Trail.
(v) Soda Lake Trail.
(vi) Reeve Field Trail.

(3) Permits may be issued for the recreational use of off-road vehicles only on designated trails that are either frozen or improved. A map showing trails designated for recreational off-road vehicle use, and a current list of frozen and improved trails, are available at Slana Ranger Station, the Main Visitor Center, and on the park's Web site.

(4) You must obtain a permit for each off-road vehicle that you want to use for recreational purposes on designated off-road vehicle trails. The operator of the off-road vehicle must have the permit in his or her possession when the off-road vehicle is in use.

(5) Violating any term or condition of a permit is prohibited.

(6) The recreational use of off-road vehicles without a permit is prohibited.

(d) *May I operate an off-road vehicle for subsistence uses in the FEIS Wilderness Area?*

(1) In the FEIS Wilderness Area, local rural residents may operate off-road vehicles for subsistence uses as defined by this part on the following trails:

(i) Black Mountain Trails.
(ii) Tanada Lake Trail.

(2) In the FEIS Wilderness Area, off-road vehicles may be operated off the designated trails only for the purpose of game retrieval in the designated trail corridors.

(3) All other areas of the FEIS Wilderness Area are closed to subsistence ORV use and local rural residents may not operate an off-road vehicle for subsistence uses outside of the trails and trail corridors identified in paragraphs (d)(1)–(2) of this section.

(4) Trails and trail corridors in the FEIS Wilderness Area, and the boundaries of the FEIS Wilderness Area, are shown on the Upper Copper/Jacksina Wilderness map available at the Slana Ranger Station, the Main Park Visitor Center, the Tanada and Copper Lake trailheads, and on the park Web site.

(e) *Are there limits on the types of off-road vehicles that may be operated off roads in the Nabesna District of Wrangell-St. Elias National Park and Preserve?* The following types of vehicles may not be used off roads for recreational or subsistence uses in the Nabesna District of Wrangell-St. Elias National Park and Preserve:

(1) Nodwells or other tracked rigs greater than 5.5 feet in width or 4,000 pounds curb weight.

(2) Street-legal highway vehicles.

(3) Custom 4x4 jeeps, SUVs, or trucks designed for off-road use.

(4) Original or modified ''deuce and a half'' cargo trucks.

(5) Dozers, skid-steer loaders, excavators, or other construction equipment.

(6) Motorcycles or dirt bikes.

(7) Log skidders.

(8) Wheeled vehicles (including all terrain vehicles, utility vehicles, and

Argos) exceeding 1,500 pounds curb weight, not including trailers.

Dated: July 30, 2014.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2014–19740 Filed 8–19–14; 8:45 am]

BILLING CODE 4310–EJ–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2013–0713; FRL–9915–40–Region 10]

Approval and Promulgation of Implementation Plans; Washington: Kent, Seattle, and Tacoma Second 10-Year PM_{10} Limited Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving a limited maintenance plan submitted by the State of Washington on November 29, 2013, for the Kent, Seattle, and Tacoma maintenance areas for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). The EPA first identified these areas in 1987 as potentially violating the 24-hour PM_{10} national ambient air quality standard (NAAQS). All three areas have been attaining the NAAQS since 1990, due to State Implementation Plan (SIP) measures such as a residential wood smoke control program, a prohibition on outdoor burning, and industrial controls. The areas were redesignated to attainment for the 24-hour PM_{10} NAAQS effective May 2001, when the EPA approved the first 10-year maintenance plan. This limited maintenance plan covers the second 10-year maintenance period ending in May 2021. The EPA received one set of adverse comments focused primarily on proposed coal export terminals that may be built in the Pacific Northwest or possible expansion of coal export terminals in Canada that may impact the three maintenance areas in the future.

DATES: This final rule is effective September 19, 2014.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2013–0713. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information the disclosure of which 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 through *www.regulations.gov* or in hard copy at the Air Programs Unit, Office of Air Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at telephone number: (206) 553–0256, email address: *hunt.jeff@epa.gov,* or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials ''Act'' or ''CAA'' mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words ''EPA'', ''we'', ''us'' or our mean or refer to the United States Environmental Protection Agency.

(iii) The initials ''SIP'' mean or refer to State Implementation Plan.

(iv) The words ''Washington'' and ''State'' mean the State of Washington.

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I. Background Information

On August 7, 1987, the EPA identified portions of Kent, Seattle, and Tacoma as ''Group I'' areas of concern for having a greater than 95% probability of violating the 24-hour PM_{10} NAAQS (52 FR 29383). On November 15, 1990, the Group I areas of Kent, Seattle, and Tacoma were designated as nonattainment for PM_{10} by operation of law upon enactment of the Clean Air Act Amendments. The Washington Department of Ecology (Ecology) and the Puget Sound Clean Air Agency (PSCAA) worked with the communities of Kent, Seattle, and Tacoma to establish PM_{10} pollution control strategies. Primary control strategies for the three areas included a residential wood smoke control program, a prohibition on open burning, and industrial emission controls. These control measures were highly successful, with monitoring data showing Kent, Seattle, and Tacoma meeting the PM_{10} NAAQS since 1987, 1990, and 1989, respectively, with further declines in PM_{10} levels in subsequent years.

The EPA fully approved the PM_{10} attainment plans for Kent, Seattle, and Tacoma on July 27, 1993, October 26, 1995, and October 25, 1995, respectively (58 FR 40059, 60 FR 54812, and 60 FR 54599). The EPA then approved a 10-year maintenance plan redesignating all three areas from nonattainment to attainment, making them maintenance areas effective May 14, 2001 (66 FR 14492). The limited maintenance plan that the EPA is approving in this final rule was submitted to fulfill the second 10-year planning requirement in section 175A(b) of the Clean Air Act, to ensure compliance with the PM_{10} NAAQS through May 14, 2021. The EPA proposed approval of this limited maintenance plan on December 26, 2013 (78 FR 78311).

II. Response to Comments

On March 10, 2014, the EPA received one set of comments opposing the EPA's proposed approval of the PM_{10} limited maintenance plan for Kent, Seattle and Tacoma. The comments primarily focus on the potential impact that three coal export terminals, proposed to be built in the Pacific Northwest, could have on PM_{10} concentrations in the maintenance areas. The commenter also raises the possibility of other similar impacts if there is an increase in locomotive traffic related to tar sands/oil shipments or expansion of Canadian coal export terminals. Lastly, the commenter questions the methodology used by the EPA, PSCAA, and Ecology in estimating emissions in the 2011 emissions inventory from current rail traffic to Canadian coal export terminals that may pass through the maintenance areas.

These comments are similar to comments previously submitted on February 22, 2013, related to emissions impacts of locomotive coal transport in the emissions inventory for the Tacoma fine particulate matter ($PM_{2.5}$) nonattainment area (Docket No. EPA–R10–OAR–2012–0712). The EPA responded to these comments in the May 29, 2013 final rulemaking approving the inventory explaining that we found no trends of increased $PM_{2.5}$ impacts from coal dust at the chemical speciation monitor using data as of 2011, or increases in ambient concentrations of $PM_{2.5}$ generally, corresponding to the increased locomotive traffic from 2008 to 2011

cited by the commenter (78 FR 32131).[1] The EPA also notes that the Washington State Environmental Policy Act (SEPA) and the National Environmental Policy Act (NEPA) processes for reviewing coal export proposals cited in the February 22, 2013 letter are ongoing. The EPA concluded that many of the issues raised by the commenter about the potential impacts of future projects were beyond the scope of the EPA's action on the Tacoma $PM_{2.5}$ nonattainment area control measures and baseline emissions inventory.

Due to the limited nature of this final action, we are only responding to those comments directly relevant to the Kent, Seattle, and Tacoma second 10-year maintenance plan for PM_{10}. In reviewing the geographic distance and the likely rail routes, the EPA does not expect significant PM_{10} impacts to the Kent, Seattle, and Tacoma maintenance areas from the terminal proposals for Longview, Washington or Port of Morrow, Oregon cited by the commenter. Other potential future impacts, such as proposals for the Gateway Pacific Terminal at Cherry Point, Washington or the expansion of Canadian terminals, are not far enough along in their development that the scope or impact of their emissions can be estimated with any degree of certainty. For example, the commenter questions future impacts from empty rail cars returning through the maintenance areas if the Gateway Pacific Terminal is constructed or if rail traffic increases due to the expansion of Canadian terminals. However, it is not known whether empty rail cars would return through the maintenance area or whether the empty cars could use the more direct but mountainous route that bypasses the maintenance area entirely. Such future route decisions will depend on several rail system factors.

Similarly, it is also unclear whether terminal operators would implement measures to address potential fugitive dust. As noted by the commenter, the draft Environmental Impact Statement (EIS) for the Gateway Pacific proposal will not be complete for at least another year and it is uncertain if washing of rail cars or other measures to reduce fugitive dust would be implemented should that facility be built. Given the range of uncertainty surrounding the proposed terminals, including whether the terminals will be constructed, the location(s) of such terminals, and decisions of terminal and railway operators that would affect rail routes, locomotive emissions and fugitive dust emissions, the EPA believes the level of project-specific inquiry suggested by the commenter is beyond the scope of the Kent, Seattle, and Tacoma second 10-year maintenance plan for PM_{10}.

Accordingly, the EPA is responding to four parts of the March 10, 2014 comments that are pertinent to the limited maintenance plan: Ensuring maintenance through the second 10-year maintenance period, the EPA's approval of a monitoring system modification for PM_{10}, the proximity of monitors for determining compliance with the PM_{10} NAAQS, and the adequacy of the State's current emissions inventory for PM_{10}.

A. Ensuring Maintenance Through the Second 10-Year Maintenance Period

Comment: The commenter is concerned that proposed coal export terminals, such as the proposed Gateway Pacific Terminal at Cherry Point near Bellingham, Washington, could have dramatic impacts on the Kent, Seattle, and Tacoma PM_{10} maintenance areas if the terminals were to be approved and constructed as proposed. Specifically, the commenter is concerned that, if constructed, the proposed terminals could result in greater coal train traffic through the maintenance areas with corresponding increases in locomotive and fugitive coal dust emissions that could raise PM_{10} concentrations in the area. The commenter also raises concern that the expansion of existing Canadian coal export terminals or increased shipments of tar sand and/or Bakken oil to refineries could cause similar increases in PM_{10}. The commenter claims that because the PM_{10} limited maintenance plan for Kent, Seattle and Tacoma does not fully account for potential increases in locomotive and fugitive coal dust emissions should the proposed terminals be constructed, or existing facilities expanded, it does not ensure maintenance and therefore must be disapproved by the EPA. The commenter further states that the maintenance plan and contingency measures do not contain regulatory mechanisms to address potential increases in PM_{10} during the maintenance period.

Response: Many of the proposed coal export terminals cited by the commenter are undergoing NEPA and/or SEPA review and it is not known whether the facilities will be constructed, and if they are constructed, the size and scope of operations that would be authorized. Nor is there certainty about other projects cited by the commenter, such as the expansion of Canadian export terminals or the potential future growth in the shipment of oil to refineries. In addition, as the commenter notes, there are several possible rail routes that could be used and it is not known whether locomotive traffic associated with coal or oil shipments would traverse or bypass the maintenance areas or, as may be the case, whether routes would constantly vary based on decisions by the rail operator.

At this time, due to the speculative nature of the projects, neither PSCAA nor Ecology can reasonably evaluate the potential impact of the projects on future emissions growth in the maintenance areas. However, based on our experience to date with these areas, we believe the dramatic PM_{10} impacts forecasted by the commenter are likely overstated. A recent study entitled *Diesel Particulate Matter Emission Factors and Air Quality Implications from In-Service Rail in Washington State, USA* by Daniel A. Jaffe, et al. (''the Jaffe study'') measured a PM_{10} to $PM_{2.5}$ ratio of 1.15 for coal trains.[2] This means that the vast proportion (87%) of the total PM_{10} mass measured from coal trains in the Jaffe study was $PM_{2.5,}$ with only a minor fraction (13%) of particulate mass falling within the $PM_{2.5}$ to PM_{10} range. As noted in the previous May 29, 2013 response to the commenter, the EPA found no trend of increased $PM_{2.5}$ impacts from coal dust at the Tacoma chemical speciation monitor using data as of 2011, or increases in ambient concentrations of $PM_{2.5}$ generally, corresponding to the increased locomotive traffic from 2008 to 2011 (78 FR 32131).[3] Using the close relationship between PM_{10} and $PM_{2.5}$ found in the Jaffe study, the EPA would expect that any dramatic rise in PM_{10} levels would have a corresponding rise in $PM_{2.5}$ levels. Instead, after accounting for year-to-year meteorological variations, the general $PM_{2.5}$ trend appears to be declining despite increased coal export traffic between 2008 and the present.

The EPA also reviewed Federal Reference Method (FRM) and Federal Equivalent Method (FEM) monitored PM_{10} and $PM_{2.5}$ levels at the nearby Beacon Hill monitoring site which is located approximately one mile from the rail lines that pass through Seattle.[4] In recent years, 2011 to 2014, there have been no observations of PM_{10} at the

[1] See *Tacoma PMF Soil Results* included in Docket No. EPA–R10–OAR–2012–0712.

[2] Calculated from Figure 7, Jaffe, D. A., H. Greg, S. Malashanka, J. Putz, J. Thayer, J. L. Fry, B. Ayres, J. R. Pierce, Diesel particulate matter emission factors and air quality implications from in-service rail in Washington State, USA, Atmospheric Pollution Research 5, 344–351, 2014.

[3] See *Tacoma PMF Soil Results* included in Docket No. EPA–R10–OAR–2012–0712.

[4] See *Beacon Hill monitoring* included in the docket for this action.

Beacon Hill FRM monitor above 35 μg/m³, let alone the PM_{10} standard of 150 μg/m³. In addition, while the rail transport of coal is new to the Kent, Seattle, and Tacoma maintenance areas, rail traffic of coal nationally, including Powder River Basin (PRB) coal, is not. In considering the dramatic rise in future PM_{10} emissions predicted by the commenter, the EPA would expect to have recorded observations of similar dramatic PM_{10} impacts at monitors in other areas of the nation, especially the East and Midwest where heavy rail traffic of coal has been prevalent for decades. The EPA is not aware of any current monitors exhibiting such dramatic PM_{10} impacts from coal train dust.

The EPA, Ecology, and PSCAA are fully committed to ensuring maintenance through the second 10-year maintenance period. Contrary to the commenter's assertion, the qualification criteria for the limited maintenance plan option do provide a regulatory mechanism to address the commenter's primary concern that rapid and significant increases in locomotive and fugitive coal dust emissions could result in an exceedance of the PM_{10} NAAQS. Under the August 9, 2001 limited maintenance plan guidance (Memorandum from Lydia Wegman, Director, Air Quality Standards and Strategies Division, titled ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas''), as part of the qualification criteria, the EPA sets a 5-year average margin of safety threshold of 98 μg/m³, well below the 150 μg/m³ 24-hour PM_{10} NAAQS. To continue qualifying for the limited maintenance plan option, a state is required to recalculate the 5-year average PM_{10} emissions annually to assure the averages for the areas continue to remain below the 98 μg/m³ margin of safety. Emission increases that result in an exceedance of the 98 μg/m³ margin of safety require a state to take actions to reduce PM_{10} concentrations and provide one additional opportunity to requalify for the limited maintenance plan option. If efforts to reduce PM_{10} concentrations fail, or if they succeed but the area continues to experience increases in PM_{10} concentrations, the limited maintenance plan option will no longer be available and a state will be required to submit a full maintenance plan, including a maintenance demonstration and adequate contingency measures, within 18 months.

The estimated 5-year average PM_{10} design values in the areas are: 46±3 μg/m³ for Kent, 50±5 μg/m³ for Seattle, and 58±8 μg/m³ for Tacoma (estimated using a $PM_{2.5}$ correlation method discussed in more detail below). Even assuming a certain level of statistical error, all of these estimates are well below both the 98 μg/m³ margin of safety and the 150 μg/m³ 24-hour NAAQS. In its limited maintenance plan submission, PSCAA committed to conduct an annual recalculation of the 3-year and 5-year design value estimates. Any increases in future estimated design values provide PSCAA an opportunity to assess and address PM_{10} increases to continue qualifying for the limited maintenance plan option. Based on the data and trends for the Kent, Seattle, and Tacoma maintenance areas, the EPA believes that the limited maintenance plan is protective of the PM_{10} NAAQS. If the projects cited by the commenter are built and cause a corresponding increase in PM_{10} concentrations such that the margin of safety is exceeded, the limited maintenance plan requires appropriate consequences that would address the increase in PM_{10} concentrations and/or revoke the area's ability to qualify for a limited maintenance plan and require a full maintenance plan within 18 months.

Lastly, based on our review of the data and emission sources, a violation of the 24-hour $PM_{2.5}$ standard would happen well before a potential violation of the 24-hour PM_{10} standard.[5] The PM_{10} to $PM_{2.5}$ correlation analysis provided in the limited maintenance plan shows that $PM_{2.5}$ levels would need to reach 122 μg/m³ for Kent, 113 μg/m³ for Seattle, and 114 μg/m³ for Tacoma before a violation of the 24-hour PM_{10} standard is likely. Even factoring in the commenter's doubts about the accuracy of the correlation analysis discussed below, these estimates provide a significant margin of safety considering the 24-hour $PM_{2.5}$ standard of 35 μg/m³. As shown in the Jaffe study, and based on our knowledge of sources in these maintenance areas, PM_{10} and $PM_{2.5}$ emissions are closely intertwined. Any effort to address $PM_{2.5}$ nonattainment would have the co-benefit of reducing PM_{10}.

In considering all the factors described above, the EPA has determined that a limited maintenance plan that relies on the 98 μg/m³ margin of safety threshold for PM_{10} is both reasonable and protective in ensuring continued maintenance, even as the mix of emission sources may change over time.

B. The EPA's Approval of a Monitoring System Modification for PM_{10}

Comment: The commenter raises concern that monitoring which relies on current $PM_{2.5}$ monitors and historical PM_{10} and $PM_{2.5}$ correlation data does not accurately capture the effects of changing PM_{10} emissions over time from sources such as fugitive coal dust or other particulate matter from increased locomotive traffic. The commenter also questions the accuracy of the PM_{10} and $PM_{2.5}$ correlation analysis, noting specific data points where the monitored observation greatly exceeded the statistical modeling estimate.

Response: As described in the EPA's December 26, 2013 **Federal Register** publication, the EPA proposed approval of a monitoring system modification under 40 CFR 58.14(c)(3) which states that any state or local air monitor station (SLAM) may be discontinued for any pollutant, provided the monitor has not measured violations of the applicable NAAQS in the previous five years, and the approved SIP provides for a specific, reproducible approach to representing the air quality of the affected county in the absence of actual monitoring data. See 78 FR 78311. In the case of the Kent, Seattle, and Tacoma maintenance areas, the EPA proposed using existing $PM_{2.5}$ monitors and correlated PM_{10} and $PM_{2.5}$ data to estimate PM_{10} emissions. The EPA agrees with the commenter that PM_{10} and $PM_{2.5}$ correlations do vary over time and location as the mix of emission sources change. However, for the reasons described below, the EPA has determined that the monitoring system modification proposed under 40 CFR 58.14(c)(3) is both technically sound and protective of human health and the environment with respect to the PM_{10} NAAQS.

Ecology, as part of the approved monitoring network plan, maintains collocated PM_{10} and $PM_{2.5}$ FRM and FEM monitors at the nearby Beacon Hill site in Seattle.[6] This monitoring site provides the EPA access to ongoing collocated PM_{10} and $PM_{2.5}$ data, similar to the historical data calculated for the Kent, Seattle, and Tacoma maintenance areas. Following the same methodology used by PSCAA and Ecology, the EPA calculated Beacon Hill PM_{10} to $PM_{2.5}$ ratios for the winter period using 2003–2006 data (0.99) and 2011–2013 data (1.37). PSCAA and Ecology's calculated PM_{10} to $PM_{2.5}$ ratios for Kent (1.22), Seattle (1.26), and Tacoma (1.29) all fall with the range of the Beacon Hill data for the winter period calculated by the

[5] See page 26 of the SIP submittal and the discussion on $PM_{10}/PM_{2.5}$ correlation in the section below.

[6] *2012 Ambient Air Monitoring Network Report* and *October 25, 2012 Network Approval Letter,* included in the docket for this action.

EPA. In the summer period, the EPA also calculated Beacon Hill PM_{10} to $PM_{2.5}$ ratios for 2003–2006 data (1.57) and 2011–2013 data (1.70). The historical summer PM_{10} to $PM_{2.5}$ ratios calculated by PSCAA and Ecology for Kent (2.07), Seattle (1.83), and Tacoma (2.44) are all greater than the PM_{10} to $PM_{2.5}$ ratio calculated by the EPA for Beacon Hill (i.e., the PSCAA and Ecology PM_{10} to $PM_{2.5}$ ratios likely err on the side of overestimating PM_{10} relative to the results calculated by the EPA).

The information above is relevant because the Jaffe study found that the vast proportion (87%) of the total PM_{10} mass measured from coal trains was $PM_{2.5}$. Over time, if rail traffic of coal becomes a more dominant factor in the emissions mix as suggested by the commenter, the PM_{10} to $PM_{2.5}$ ratio will be driven closer to the 1.15 ratio found in the Jaffe study.[7] Thus, the PM_{10} to $PM_{2.5}$ ratios used for Kent (2.07), Seattle (1.83), and Tacoma (2.44) will likely err on the side of overestimating PM_{10} levels and are inherently more protective than the ratio measured in the recent Jaffe study for coal train emissions. It is also important to note that the nephelometers used by PSCAA in all three maintenance areas measure light scatter at one second intervals and do not exclude the $PM_{2.5–10}$ particle range. Therefore, the commenter's concern about a sudden burst of coal dust in the $PM_{2.5–10}$ particle range would indeed be measured by the instruments.

Finally, the commenter questions the accuracy of the PM_{10} and $PM_{2.5}$ correlation analysis, noting specific data points where the monitored observation exceeded the statistical modeling estimate. The EPA raises two points in response to this comment. First, the exact statistical fit of each data point is less important than ensuring there is no bias in the models. In this case, the EPA is satisfied that the slopes calculated by PSCAA are representative of the data (i.e. for the outlier data points identified by the commenter where the models underestimate actual PM_{10} emissions, the EPA can find an equal balance of data points where the models overestimate actual PM_{10} emissions). Second, concern over the statistical fit of the models might be greater but for the fact that all of the data points collected over the entire eight years of collocated monitoring, including the outliers identified by the commenter, were all well below the 150 μg/m³ NAAQS and also below the 98 μg/m³ margin of safety. Considering the form of the PM_{10} NAAQS, which allows a certain degree of outliers, the EPA believes it is highly unlikely that use of the statistical correlation would result in undetected violations of the PM_{10} NAAQS.[8]

The EPA recognizes the importance of FRM and FEM monitoring. The limited maintenance plan includes a trigger to reestablish FRM or FEM PM_{10} monitoring should PM_{10} levels reach the 98 μg/m³ margin of safety threshold. Reestablishing the FRM and FEM above the margin of safety means that violations of the PM_{10} NAAQS and triggers for contingency measures would be assessed using PM_{10} monitoring data collected by an FRM or FEM. However, the EPA also recognizes that federal, state, and local monitoring resources are finite. Agency resources to reestablish FRM or FEM PM_{10} monitoring, as requested by the commenter, would likely be at the expense of $PM_{2.5}$ monitoring or other important monitoring needs. Considering the far more pressing and likely greater risks posed by $PM_{2.5}$ as described above, the EPA is approving the monitoring system modification under 40 CFR 58.14(c)(3).

C. The Proximity of Monitors for Determining Compliance With the PM_{10} NAAQS

Comment: The commenter broadly asserts that the monitoring system modification proposed by the EPA violates 40 CFR part 58, Appendix D for comparing an area's air pollution levels to the NAAQS, as discussed above. Included in the commenter's discussion are concerns that, the ''EPA offers no evidence that the placement of the monitors is appropriate for monitoring the trains'' and ''[t]he Kent monitor is a neighborhood scale site to be representative of the Kent Valley Area, not coal trains.''

Response: Many of the issues raised by the commenter, such as the request for trackside microscale monitoring, are discretionary state or local agency choices rather than a failure on the part of Washington to meet 40 CFR part 58, Appendix D requirements. Appendix D to Part 58—*Network Design Criteria for Ambient Air Quality Monitoring* describes how data from FRM, FEM, and approved regional method (ARM) monitors will be used for comparing an area's air pollution levels to the NAAQS. Section 4.6 of the *Pollutant-Specific Design Criteria for SLAMS Sites* contains the specific requirements for PM_{10}. As discussed in section 4.6(b), the EPA determined that the most important spatial scales to effectively characterize the emissions of PM_{10} from both mobile and stationary sources are the middle scales and neighborhood scales. Section 4.6(b)(c) describes the use of neighborhood scale monitors for compliance with the NAAQS.

The Kent monitor, although designated as a neighborhood scale monitor, is almost immediately adjacent to the railroad tracks, less than 0.2 miles according to the scale in Figure 2.1 of the State's submittal. The Seattle and Tacoma monitors are similarly located near railroad corridors reflecting the industrial nature of the previous PM_{10} nonattainment areas. While the Seattle and Tacoma monitors are likely too far away to detect immediate fence line microscale impacts from rail traffic, they meet the middle scale criteria described in section 4.6(b)(3). Under section 4.6(b)(3) the EPA determined that much of the short-term public exposure to PM_{10} is on the middle scale and on the neighborhood scale.

The EPA regulations state that the middle scale and neighborhood scale monitors are most important for determining compliance with the NAAQS. This is not to dismiss the impact to environmental justice or other sensitive populations from microscale impacts. The Jaffe study found that, ''[f]or the one month of measurements at the Seattle site, the average $PM_{2.5}$ concentration was 6.8 μg/m³ higher near the rail lines compared to the average from several background locations.'' Multiplying this 6.8 μg/m³ increase in $PM_{2.5}$ levels times the PM_{10} to $PM_{2.5}$ ratio for coal trains found in the Jaffe study (the highest ratio of all the train types analyzed, and therefore the most conservative ratio to use here) yields an estimated PM_{10} level of 7.82 μg/m³ at the immediate fence line. Even factoring in increased locomotive growth at this conservative level, the extra increment necessary to violate the 150 μg/m³ PM_{10} NAAQS is unlikely, given our understanding of current PM_{10} design values of 46 ± 3 μg/m³ for Kent, 50 ± 5 μg/m³ for Seattle, and 58 ± 8 μg/m³ for Tacoma.

D. The Adequacy of the State's Current Emissions Inventory for PM_{10}

Comment: Setting aside the broader issue of future growth in emissions, the commenter criticizes the methodology used by the State to estimate the 2011 emissions inventory, particularly

[7] Calculated from Figure 7, Jaffe, D. A., H. Greg, S. Malashanka, J. Putz, J. Thayer, J. L. Fry, B. Ayres, J. R. Pierce, Diesel particulate matter emission factors and air quality implications from in–service rail in Washington State, USA, Atmospheric Pollution Research 5, 344–351, 2014.

[8] The twenty-four-hour average concentration of PM_{10} in the ambient air must not exceed 150 μg/m³ more than one time per year, on a three-year average.

emissions of fugitive dust from coal trains.

Response: In responding to previous emissions inventory concerns submitted by the commenter regarding the 2008 baseline emission inventory for the Tacoma $PM_{2.5}$ nonattainment area, the EPA stated:

As noted in the proposal for this action, the EPA referred to the August 2005 ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter NAAQS and Regional Haze Regulations'' (hereafter ''emissions inventory guidance'' or ''guidance''), to assess the adequacy of Washington's submission. The guidance covers several elements related to this comment. First, the mobile source section in the guidance contains no discussion or requirement for calculating fugitive dust from locomotive payloads. Instead, fugitive dust emissions from all source categories are discussed in section 5.4 of the guidance addressing nonpoint sources. The guidance states, ''[n]onpoint sources are generally described as those sources that are too small, numerous, or difficult to be inventoried individually. Potential nonpoint sources of emissions are given in Table 5.4–1 and potential crustal (dust) sources of PM emissions are in Table 5.4–2. These tables are presented as guides to assist State, local and Tribal agencies in focusing their nonpoint source emission inventory efforts.'' The guidance goes on to state, ''[t]he State, local and Tribal agencies may want to concentrate their efforts on the most significant source categories.'' The guidance acknowledges that States cannot individually inventory all nonpoint source emissions, but should use the best available data to inform which nonpoint source categories to focus on in creating a comprehensive and accurate inventory of actual emissions.[9]

For the Kent, Seattle, and Tacoma PM_{10} maintenance areas, PSCAA and Ecology requested the EPA's assistance in estimating possible fugitive coal dust emissions from rail transport in the 2011 emissions inventory included in the State's submittal. The EPA suggested using a paper entitled *A Study of Fugitive Coal Dust Emissions in Canada,* November 2001, by Douglas L. Cope and Kamal K. Bhattacharyya (''the Cope study''). The EPA neither endorses nor rejects the findings of the Cope study, but merely acknowledges it was one of the only recent studies the EPA could find at that time on this topic prior to publication of the recent Jaffe study. Using these emission factors, the State calculated a modest contribution to overall PM_{10} emissions from rail transport of coal including both diesel emissions and an estimate of potential fugitive dust (Seattle = 5%, Tacoma = 2%, and Kent = 6%, respectively, of overall PM_{10} emissions from both diesel emissions and fugitive dust).

[9] 78 FR 32131, May 29, 2013.

As a general response to the commenter's concern about the fugitive dust emissions methodology, the EPA notes that the Cope study and the Jaffe study contain emission factors for both PM_{10} and $PM_{2.5}$. To the extent that the methodology used by the State significantly underestimates PM_{10} emissions, as suggested by the commenter, the EPA would expect to see similar increases in $PM_{2.5}$, particularly for the Kent monitor which is immediately adjacent to a rail line. For example, the commenter includes AMS/EPA Regulatory Model (AERMOD) modeling conducted for the Port of Morrow, Oregon terminal proposal to suggest that the State underestimated PM_{10} from fugitive dust and rail emissions in the 2011 emissions inventory. The modeling submitted was for $PM_{2.5}$, with the commenter arguing that AERMOD ''does not distinguish between PM_{10} and $PM_{2.5}$ in terms of modeled impacts.'' In assessing the predictive accuracy of any model, it is important to measure against actual monitoring data. In this case, figures 4.1.1, 4.1.4, and 4.1.7 of the limited maintenance plan and the nearby Beacon Hill monitoring data show no dramatic increases of $PM_{2.5}$ in 2011 or the present. Therefore, the State's conclusion that PM_{10} emissions in 2011 from rail transport of coal constitute a minor proportion of the overall PM_{10} emissions inventory is consistent with all currently available monitoring data for both PM_{10} and $PM_{2.5}$.

The commenter also questioned the accuracy of the State's 2011 baseline emissions inventory for using an 85% control factor in calculating estimated fugitive dust emissions applying the Cope study methodology. The EPA recalculated the 2011 fugitive dust estimates for PM_{10} using the State methodology as well as a scenario assuming no control, included in the docket for this action. The difference between the methodology used by the State and the uncontrolled scenario calculated by the EPA was approximately 17 tons of cumulative impact for all three maintenance areas, representing 1.2% of the total PM_{10} inventory. To be clear, the EPA is not opining on the validity of the Cope study, the 85% control factor, or any other analysis or conclusions that may or may not result from the ongoing NEPA and SEPA evaluation process. The EPA is simply stating that the generally modest PM_{10} impacts from fugitive dust calculated in the 2011 emissions inventory for this limited maintenance plan appear to be consistent with our calculations and with current monitoring data, and may in fact overestimate these impacts.

Lastly, the commenter questions the State's use of the Cope study in calculating the 2011 emissions inventory because the Cope study does not factor in the fugitive dust impact of empty rail cars returning through the maintenance areas. More recent studies from Australia, included in the docket for this action, suggest that the Cope study might overestimate fugitive dust PM_{10} impacts from coal, finding no statistically significant difference between coal trains (both loaded and empty) and any other type of freight train. Specifically, the Australian studies found ''that other contaminants such as diesel may be of more concern than coal dust. This conclusion is further supported by the fact that effect sizes were similar for freight, loaded and unloaded coal trains, all of which are pulled by diesel locomotives.'' [10] Considering the study results and current particulate matter monitoring data, the EPA concludes that the relatively modest contributions calculated in the State's 2011 emissions inventory represent a good faith effort to quantify fugitive dust emissions.

III. Final Action

The EPA is approving the limited maintenance plan submitted by the State of Washington on November 29, 2013, for the Kent, Seattle, and Tacoma PM_{10} maintenance areas, including approval of a monitoring system modification for the areas. The EPA's approval of this limited maintenance plan satisfies the section 175A Clean Air Act requirements for all three areas, including the portion of the Puyallup Indian Reservation that falls within the Tacoma PM_{10} maintenance area.

IV. Statutory and Executive Orders Review

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, the 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:

[10] See page 3, Re-analysis of ARTC Data on Particulate Emissions from Coal Trains, included in the docket for 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 this action does not involve technical standards; and

• does not provide the 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 rule neither imposes substantial direct compliance costs on tribal governments, nor preempts tribal law. Therefore, the requirements of section 5(b) and 5(c) of the Executive Order do not apply to this rule. Consistent with EPA policy, the EPA nonetheless provided a consultation opportunity to the Puyallup Tribe in a letter dated October 18, 2013. The EPA did not receive a request for consultation.

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. The 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 October 20, 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. 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, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 7, 2014.

Dennis J. McLerran,

Regional Administrator, Region 10.

40 CFR part 52 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 WW—Washington

■ 2. Section 52.2470 is amended in paragraph (e) by adding a new entry in Table 2—ATTAINMENT, MAINTENANCE, AND OTHER PLANS entitled ''Particulate Matter (PM_{10}) 2nd 10-Year Limited Maintenance Plan'' at the end of the section with the heading ''Attainment and Maintenance Planning—Particulate Matter''.

The addition reads as follows:

§ 52.2470 Identification of plan.

* * * * *

(e) * * *

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
*	*	*	*	*
Attainment and Maintenance Planning—Particulate Matter				
*	*	*	*	*
Particulate Matter (PM_{10}) 2nd 10-Year Limited Maintenance Plan.	Kent, Seattle, and Tacoma	11/29/13	8/20/14 [Insert **Federal Register** citation].	
*	*	*	*	*

[FR Doc. 2014–19554 Filed 8–19–14; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2013–0757; FRL–9914–14]

C.I. Pigment Red 112; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of C.I. Pigment Red 112 (CAS Reg. No. 6535–46–2) when used as an inert ingredient seed treatment pigment not to exceed 10% weight/weight (w/w) in pesticide formulations. Clariant Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of C.I. Pigment Red 112.

DATES: This regulation is effective August 20, 2014. Objections and requests for hearings must be received on or before October 20, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2013–0757, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. 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 OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2013–0757 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 20, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2013–0757, 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 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.*

II. Petition for Exemption

In the **Federal Register** of February 21, 2014 (79 FR 9870) (FRL–9904–98), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (IN–10631) by Exponent, 1150 Connecticut Ave. NW., Washington, DC 20036, on behalf of Clariant Corporation, 4000 Monroe Road, Charlotte, NC 28205. The petition requested that 40 CFR 180.920 be amended by establishing an exemption from the requirement of a tolerance for residues of C.I. Pigment Red 112 (CAS Reg. No. 6535–46–2) when used as an inert ingredient seed treatment pigment not to exceed 10% w/w in pesticide formulations. That document referenced a summary of the petition prepared by Exponent, on behalf of Clariant Corporation, the petitioner, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has

exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for C.I. Pigment Red 112 including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with C.I. Pigment Red 112 follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by C.I. Pigment Red 112 as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

Based on the physical and chemical properties of C.I. Pigment Red 112 it is unlikely that C.I. Pigment Red 112 will be absorbed in the body and therefore, it is unlikely that C.I. Pigment Red 112 becomes systemically bioavailable after exposure. It is expected that C.I. Pigment Red 112 will pass though the body and be excreted in the feces.

Acute studies revealed low oral and dermal toxicity. When tested on rabbits, the chemical was shown to be non-irritating to the skin and eyes.

Skin sensitization testing of C.I. Pigment Red 112 (containing 3% Naphtol AS–D, a manufacturing impurity) was performed on guinea pigs according to the Buehler method. The study portion for erythma was performed with a 20% pigment composition (due to the red coloring of the chemical). Based on the results of this study, the chemical and the 20% mixture were not considered to be a dermal sensitizer. In addition, two Local Lymph Node Assays were conducted with up to 20% C.I. Pigment Red 112; one study had <0.01% Naphtol AS–D and the other claimed 4.1% Naphtol AS–D. The second test substance containing what the petitioner claimed was 4.1% Naphtol AS–D was positive for skin sensitization whereas the test with 0.01% Naphtol AS–D was not, indicating that skin sensitization is possible when Naphtol AS–D is present at sufficiently high concentrations. The percent of Napthol AS–D in the second study could not be confirmed with the study data available. However, the two negative skin sensitization studies did have documented proof of the Napthol AS–D content at up to 3%. The manufacturing process for C.I. Pigment Red 112 that will be used as a seed treatment inert ingredient is specifically manufactured to contain less than 1% Naphtol AS–D which, based on the study results, would not result in skin sensitization. Therefore, the C.I. Pigment Red 112 manufactured for use as a seed treatment inert ingredient is not considered a skin sensitizer.

In a 28-day oral toxicity study in rats no treatment-related changes were noted in neurological evaluations, body weights, food consumption, hematology or clinical chemistry analyses, or organ weights at the limit dose of 1,000 milligram/kilogram/day (mg/kg/day). Although there were no reproductive or developmental toxicity studies available for C.I. Pigment Red 112, the 28-day oral study in rats included endpoints specific to reproductive toxicity including organ weights, gross pathology and histopathology. No adverse effects were seen at doses up to 1,000 mg/kg/day (highest dose tested). In addition, DEREK modeling was conducted and did not indicate any structural alerts for reproductive toxicity or endocrine-related toxicity. There was also no indication from the blood parameters, organ weights, or histopathology of an immunotoxic effect at 1,000 mg/kg/day.

No neuropathological changes or effects were reported in the 28-day study (i.e., hearing ability, pupillary reflex, static righting reflex, grip strength, and motor activity testing); therefore, the Agency does not believe C.I. Pigment Red 112 will be neurotoxic. Also, there was no evidence of cytotoxicity or mutagenicity in any of the reviewed studies: A reverse gene mutation study, an *in vitro* cell mutagenicity study, and a Chinese hamster cell *in vitro* study.

Although no carcinogenicity studies are available for C.I. Pigment Red 112, C.I. Pigment Red 112 is unlikely to be carcinogenic. This conclusion is based on the lack of any evidence of mutagenicity in the available mutagenicity studies and the physical/chemical properties of the substance (e.g., high molecular weight making absorption unlikely and low water solubility).

B. Toxicological Points of Departure/Levels of Concern

No endpoint of concern was identified for any of the acute studies conducted. In addition, no endpoint of concern was determined in the 28-day study up to the limit dose of 1,000 mg/kg/day (highest dose tested).

C. Exposure Assessment

Since no endpoint of concern was identified in acute and subchronic studies a quantitative exposure

assessment for C.I. Pigment Red 112 was not conducted.

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to C.I. Pigment Red 112, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from C.I. Pigment Red 112 in food as follows:

Although there is potential dietary exposure from consuming foods grown from the seeds that were treated with pesticide products containing the inert ingredient, the potential is very low because C.I. Pigment Red 112 will be used on treated seeds only and any pigment that is released into the soil is expected to be tightly bound to the soil and therefore, not expected to be taken up by the plant. There will not be dietary exposure from the treated seeds themselves since seeds that have been chemically treated may not be used for food, feed, or oil processing. Even if any chemical residue was accessible to the plant a quantitative dietary risk assessment would not be necessary because no endpoint of concern was identified in the available data.

2. *Dietary exposure from drinking water.* Dietary exposure from drinking water is unlikely because C.I. Pigment Red 112 has low water solubility and therefore, runoff from pesticides containing the inert ingredient is not likely to occur.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables). The proposed use of C.I. Pigment Red 112 as a seed treatment/dye under 40 CFR 180.920 is not expected to result in residential exposure to this chemical. Although there are no reliable data to quantify non-pesticidal exposure, it could occur due to the use of C.I. Pigment Red 112 as an industrial colorant in paints, plastics, and inks. However, there is no safety concern because of the low toxicity of the chemical and the lack of an endpoint of concern in the database.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' EPA has not found C.I. Pigment Red 112 to share a common mechanism of toxicity with any other substances, and C.I. Pigment Red 112 does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that C.I. Pigment Red 112 does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative*.

D. Safety Factor for Infants and Children

No endpoint of concern was identified for any of the acute studies conducted. In addition, no endpoint of concern was determined in the 28-day study up to the limit dose of 1,000 mg/kg/day (highest dose tested). The toxicity database does not contain a carcinogenicity study or an immunotoxicity study but for the reasons stated in Unit IV.A., the Agency has concluded that there are no concerns for carcinogenicity, immunotoxicity, or neurotoxicity for this chemical. No developmental or reproductive effects were seen in the available studies and DEREK modeling did not indicate any structural alerts for reproductive toxicity or endocrine-related toxicity. Since no endpoint of concern was identified in acute and subchronic studies and because C.I. Pigment Red 112 is not expected to be absorbed by the body, a qualitative risk assessment for C.I. Pigment Red 112 was performed. Due to the lack of toxicity of C.I. Pigment Red 112, the Agency determined that a quantitative risk assessment using safety factors was not necessary for assessing risk. For the same reason, no additional safety factor is needed for assessing risk to infants and children.

E. Aggregate Risks and Determination of Safety

Taking into consideration all available information on C.I. Pigment Red 112 when used as an inert ingredient in seed treatment pesticide formulations at not more that 10% w/w, EPA has determined that there is a reasonable certainty that no harm to any population subgroup will result from aggregate exposure to C.I. Pigment Red 112 under reasonable foreseeable circumstances. Therefore, the establishment of an exemption from tolerance under 40 CFR 180.920 for residues of C.I. Pigment Red 112 when used as an inert ingredient in pesticide formulations as a seed treatment pigment at 10% w/w is safe under FFDCA section 408.

V. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation. EPA is establishing a limitation on the amount of C.I. Pigment Red 112 that may be used in pesticide formulations.

The limitation will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq. EPA will not register any seed treatment, use pesticide for sale or distribution with concentrations of C.I. Pigment Red 112 exceeding 10% by weight of the formulation.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.920 for C.I. Pigment Red 112 (CAS Reg. No. 6535–46–2) when used as an inert ingredient seed treatment pigment not to exceed 10% w/w in pesticide formulations.

VII. Statutory and Executive Order Reviews

This final rule establishes an exemption from the requirement of a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as

the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VIII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 14, 2014.

G. Jeffrey Herndon,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.920, the table is amended by alphabetically adding an entry for ''C.I. Pigment Red 112'' after the entry for ''C.I. Pigment Green #7'' to read as follows:

§ 180.920 Inert ingredients used pre-harvest; exemptions from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
*	*	*
C.I. Pigment Red 112 (CAS Reg. No. 6535–46–2) ..	Seed treatment use only. Limited to 10% w/w of pesticide formulation	Coloring agent
*	*	*

[FR Doc. 2014–19742 Filed 8–19–14; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 79, No. 161
Wednesday, August 20, 2014

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0603; Directorate Identifier 2013–CE–026–AD]

RIN 2120–AA64

Airworthiness Directives; Meggitt (Troy), Inc. Combustion Heaters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 81–09–09, which applies to certain Meggitt (Troy), Inc. (previously known as Stewart Warner South Wind Corporation and as Stewart Warner South Wind Division) Model Series 8240 (Models 8240–A, 8240–C, 8240E, and 8248), 8253 (Models 8253–A, 8253–B, and 8253–C), 8259 (Models 8259–A, 8259–C, 8259–DL, 8259HL2, 8259HR2, 8259JR2, 8259L, and 8259M), and 8472 (Models 8472C and 8472D) combustion heaters. AD 81–09–09 currently requires repetitive inspections of the combustion heater; repetitive general inspections of the combustion heater installation; and, for combustion heaters having 1,000 hours or more time-in-service (TIS), overhaul of the combustion heater. Since we issued AD 81–09–09, there was an airplane accident, and we received reports of the heater malfunction. This proposed AD would retain most actions from AD 81–09–09, add a calendar time to the repetitive inspections, and add more detailed actions for the general inspection. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by October 6, 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 Meggitt Control Systems, 3 Industrial Drive, Troy, Indiana 47588; telephone: (812) 547–7071; fax: (812) 547–2488; email: *infotroy@meggitt.com;* Internet: *www.stewart-warner.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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–2014–0603; 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: Chung-Der Young, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018–4696; telephone (847) 294–7309; fax (847) 294–7834 email: *chung-der.young@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–2014–0603; Directorate Identifier 2013–CE–026–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

On April 16, 1981, we issued AD 81–09–09, Amendment 39–4102 (46 FR 24936, May 4, 1981) (''AD 81–09–09''), for certain Meggitt (Troy), Inc. (previously known as Stewart Warner South Wind Corporation and as Stewart Warner South Wind Division) Model Series 8240 (Models 8240–A, 8240–C, 8240E, and 8248), 8253 (Models 8253–A, 8253–B, and 8253–C), 8259 (Models 8259–A, 8259–C, 8259–DL, 8259HL2, 8259HR2, 8259JR2, 8259L, and 8259M), and 8472 (Models 8472C and 8472D) combustion heaters marked as meeting the standards of FAA TSO–C20. AD 81–09–09 requires repetitive inspection of the combustion heater and inspection of the installation of the combustion heater. AD 81–09–09 resulted from a hazardous condition caused by deterioration of the combustion heater. We issued AD 81–09–09 to detect and correct a hazardous condition caused by deterioration of the combustion heater, which could lead to ignition of components and result in smoke and fumes in the cabin.

Actions Since AD 81–09–09 Was Issued

Since we issued AD 81–09–09, Amendment 39–4102 (46 FR 24936, May 4, 1981), we received a report of an airplane accident that resulted in four fatalities and one serious injury. Only the survivor of the accident provided a written statement of the accident. She reported that when the pilot turned on the heater, a ''terrible smell'' was detected. The pilot told the passengers that the smell was normal for some heaters. When the pilot turned the heater off, dark, black smoke began to enter the airplane, which made it difficult to see. In a flight prior to the accident flight, the heater's overheat light illuminated when the heater was

turned on. The airplane maintenance records indicated a previous problem with the heater.

Regardless of whether the heater played a part in the above-referenced accident, this condition of deteriorated ignition components and smoke and fumes in the cabin could lead to passenger injury on other airplanes incorporating such heaters if not inspected and corrected.

Since the accident, Meggitt, Inc. issued new service information for doing a pressure decay test (PDT). It was also identified that the repetitive inspections for the combustion heater required only time-in-service inspections and did not include a calendar time compliance.

Relevant Service Information

We reviewed:

- Stewart-Warner South Wind Corporation South Wind Service Manual for Stewart Warner South Wind Aircraft Heaters 8240–A, 8240–C, 8259–A, 8259–C, 8259–DL, 8259–FL1, 8259–GL1, 8259–GL2, Form No. 09–998, revised: December 1969;
- South Wind Division Stewart-Warner Corporation Beech Aircraft Corporation Service Manual PM–20688, Part No. 404–001039 Heater Assy. (SW 8253–B), revised: April 1965;
- South Wind Division Stewart-Warner Corporation Service Manual South Wind Aircraft Heater 8472 Series, Form No. 09–1015, issued: April 1975; and
- Meggitt Inspection Procedure, Pressure Decay Test, Aircraft Heaters, dated May 17, 2014.

The service information describes procedures for inspection of the combustion heater, inspection of the installation of the combustion heater, and the pressure decay test for aircraft heaters.

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 certain requirements of AD 81–09–09. This proposed AD would continue requiring the inspection of the combustion heater; however, the repair of the combustion tube would be prohibited. This proposed AD would also require a repetitive combustion heater pressure decay test and a more detailed inspection of the combustion heater and components.

Change to AD 81–09–09

Since AD 81–09–09 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have been redesignated in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 81–09–09	Corresponding requirement in this proposed AD
Paragraph (a)	Paragraph (g).
Paragraph (b)	Paragraph (j).

Differences Between This Proposed AD and the Service Information

The proposed AD would prohibit repair of any defective combustion tube while the service information does not specify this.

Costs of Compliance

We estimate that this proposed AD affects 6,000 combustion heaters installed on, but not limited to, Piper Aircraft, Inc. and Cessna Aircraft Company 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
Perform pressure decay test	2 work-hours × $85 per hour = $170	Not Applicable	$170	$1,020,000
Inspection of thermostat switch and upper limit switch.	1 work-hour × $85 per hour = $85	Not Applicable	85	510,000
Inspection of solenoid valve and fuel pump.	2 work-hours × $85 per hour = $170	Not Applicable	170	1,020,000

We estimate the following costs to do any necessary combustion heater overhaul/disable/related replacement that would be required based on the results of the proposed inspection/test. We have no way of determining the number of aircraft that might need a combustion heater overhaul/disable/related replacement:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Overhaul heater with South Wind parts	8 work-hours × $85 per hour = $680	$4,220	$4,900
Replace temperature switches	1 work-hour × $85 per hour = $85	320	405
Repair pump	2 work-hours × $85 per hour = $170	470	640
Disable heater	2 work-hours × $85 per hour = $170	(1)	170
Remove heater	3 work-hours × $85 per hour = $255	(1)	255

[1] Not applicable.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with

promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this 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) 81–09–09, Amendment 39–4102 (46 FR 24936, May 4, 1981), and adding the following new AD:

Meggitt (Troy), Inc.: Docket No. FAA–2014–0603; Directorate Identifier 2013–CE–026–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by October 6, 2014.

(b) Affected ADs

This AD supersedes AD 81–09–09, Amendment 39–4102 (46 FR 24936, May 4, 1981).

(c) Applicability

(1) This AD applies to Meggitt (Troy), Inc. (previously known as Stewart Warner South Wind Corporation and as Stewart Warner South Wind Division) Models 8240–A, 8240–C, 8240E, 8248, 8253–A, 8253–B, 8253–C, 8259–A, 8259–C, 8259–DL, 8259HL2, 8259HR2, 8259JR2, 8259L, 8259M, 8472C, and 8472D combustion heaters.

(2) This appliance is installed on, but not limited to, Piper Aircraft, Inc. and Cessna Aircraft Company airplanes.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 2140; Heating System.

(e) Unsafe Condition

This AD was prompted by an airplane accident and reports we received that the combustion heater was malfunctioning. We are issuing this AD to detect and correct a hazardous condition caused by deterioration of the combustion heater, which could lead to ignition of components and result in smoke and fumes in the cabin.

(f) Compliance

Comply with this AD within the compliance times specified in paragraphs (g) through (j) of this AD, including all sub-paragraphs, unless already done. If the hours of combustion heater operation cannot be determined, use 50 percent of the airplane's hours time-in-service (TIS).

(g) Combustion Heater Inspection

Within the next 10 hours TIS or two calendar months after the effective date of this AD, whichever occurs first, and repetitively thereafter at intervals not to exceed 250 hours of combustion heater operation or two years, whichever occurs first, inspect the combustion heater. If any discrepancies are found during the inspection, before further flight, replace any defective combustion tube and correct or replace other defective assemblies as necessary. Follow, as applicable, Stewart-Warner South Wind Corporation South Wind Service Manual for Stewart Warner South Wind Aircraft Heaters 8240–A, 8240–C, 8259–A, 8259–C, 8259–DL, 8259–FL1, 8259–GL1, 8259–GL2, Form No. 09–998, revised: December 1969; South Wind Division Stewart-Warner Corporation Beech Aircraft Corporation Service Manual PM–20688, Part No. 404–001039 Heater Assy. (SW 8253–B), revised: April 1965; or South Wind Division Stewart-Warner Corporation Service Manual South Wind Aircraft Heater 8472 Series, Form No. 09–1015, issued: April 1975.

Note 1 to paragraph (g) of this AD: The Model 8248 combustion heater is part of the 8240 series of combustion heaters. The Stewart-Warner South Wind Corporation South Wind Service Manual for Stewart Warner South Wind Aircraft Heaters 8240–A, 8240–C, 8259–A, 8259–C, 8259–DL, 8259–FL1, 8259–GL1, 8259–GL2, Form No. 09–998, revised: December 1969, is applicable service information.

(h) Detailed Combustion Heater Inspection Actions

(1) During the inspection required in paragraph (g) of this AD, do the detailed inspection actions listed in paragraphs (h)(1)(i) through (h)(1)(v) of this AD.

(i) Inspect the thermostat switch (external from heater) and upper limit switch (located on the heater). In cold static condition, both switches should be in closed position; in operation (hot) condition, both switches should regulate their sensed temperatures within ±10 degrees F.

(ii) Inspect the solenoid valve and fuel pump for fuel leak, corrosion, diaphragm crack, metal shavings, and excess grease.

(iii) With the heater operating, inspect the fuel pump output pressure for proper gauge hook up and pressure range readings.

(iv) Inspect the combustion heater's fuel pump operating pressure to assure it is not affected by other on-board pumps.

(v) Inspect the heater to assure it instantly responds to the on/off switch.

(2) If any discrepancies are found during the inspections required in paragraph (h)(1) of this AD, before further flight, replace any defective combustion tube and correct or replace other defective assemblies, or disable the combustion heater following paragraph (k)(2) of this AD.

(i) Combustion Heater Installation Inspection

Within the next 10 hours TIS or two calendar months after the effective date of this AD, whichever occurs first, and repetitively thereafter at intervals not to exceed 250 hours of combustion heater operation or two years, whichever occurs first, inspect the combustion heater installation following the actions in paragraphs (i)(1) through (i)(4) of this AD. If any discrepancies are found during this inspection, before further flight, do any necessary corrections or replacements.

(1) Inspect ventilating air and combustion air inlets and exhaust outlet correcting any restrictions and ensure attachment security.

(2) Inspect drain line and ensure it is free of obstruction.

(3) Check all fuel lines for security at joints and shrouds, correcting/replacing those showing evidence of looseness or leakage.

(4) Check all electrical wiring for security at attachment points, correcting conditions leading to arcing, chafing or looseness.

(j) Combustion Heater Pressure Decay Test (PDT)

(1) Within the next 10 hours TIS or two calendar months after the effective date of this AD, whichever occurs first, and repetitively thereafter at intervals not to exceed 250 hours of combustion heater operation or two years, whichever occurs first, do the PDT following Meggitt Inspection Procedure, Pressure Decay Test, Aircraft Heaters, dated May 17, 2014.

Note 2 to paragraph (j)(1) of this AD: The Model 8248 combustion heater is part of the 8240 series of combustion heaters. The Meggitt Inspection Procedure, Pressure Decay

Test, Aircraft Heaters, dated May 17, 2014, is applicable service information.

(2) If the combustion heater fails the PDT, before further flight, do one of the corrective actions listed in paragraphs (k)(1) through (k)(3) of this AD.

(k) Combustion Heater Overhaul/Disable/Removal

If the combustion heater fails the PDT required in paragraph (j) of this AD, before further flight, do one of the actions in paragraphs (k)(1) through (k)(3), including all subparagraphs of this AD:

(1) Overhaul the heater and all exterior supporting components. No repairs to the combustion tube are allowed. Replace any defective combustion tube with an FAA-approved airworthy combustion tube. Follow, as applicable, Stewart-Warner South Wind Corporation South Wind Service Manual for Stewart Warner South Wind Aircraft Heaters 8240–A, 8240–C, 8259–A, 8259–C, 8259–DL, 8259–FL1, 8259–GL1, 8259–GL2, Form No. 09–998, revised: December 1969; South Wind Division Stewart-Warner Corporation Beech Aircraft Corporation Service Manual PM–20688, Part No. 404–001039 Heater Assy. (SW 8253–B), revised: April 1965; or South Wind Division Stewart-Warner Corporation Service Manual South Wind Aircraft Heater 8472 Series, Form No. 09–1015, issued: April 1975.

Note 3 to paragraph (k)(1) of this AD: The Model 8248 combustion heater is part of the 8240 series of combustion heaters. The Stewart-Warner South Wind Corporation South Wind Service Manual for Stewart Warner South Wind Aircraft Heaters 8240–A, 8240–C, 8259–A, 8259–C, 8259–DL, 8259–FL1, 8259–GL1, 8259–GL2, Form No. 09–998, revised: December 1969, is applicable service information.

(2) Disable the heater by the following actions:

(i) Disconnect and cap the heater fuel supply;

(ii) Disconnect circuit breakers;

(iii) Tag the main switch ''Heater Inoperable''; and

(iv) The ventilation blower can stay functional.

(3) Remove the heater by the following actions:

(i) Disconnect and cap the heater fuel supply;

(ii) Disconnect/remove circuit breakers;

(iii) Remove exhaust pipe extension;

(iv) Cap the exhaust opening;

(v) Remove the heater; and

(vi) Do weight and balance for the aircraft.

(l) Credit for Actions Accomplished in Accordance With Previous Service Information

(1) This paragraph provides credit for any inspection required in paragraph (g) of this AD and any overhaul required in paragraph (k)(1) of this AD based on any inspection of this AD if already done before the effective date of this AD following, as applicable, Stewart-Warner South Wind Corporation South Wind Service Manual for Stewart Warner South Wind Aircraft Heaters 8240–A, 8240–C, 8259–A, 8259–C, 8259–DL, 8259–FL1, 8259–GL1, 8259–GL2, Form No. 09–998, revised: December 1969; South Wind Division Stewart-Warner Corporation Beech Aircraft Corporation Service Manual PM–20688, Part No. 404–001039 Heater Assy. (SW 8253–B), revised: April 1965; or South Wind Division Stewart-Warner Corporation Service Manual South Wind Aircraft Heater 8472 Series, Form No. 09–1015, issued: April 1975.

Note 4 to paragraph (l)(1) of this AD: The Model 8248 combustion heater is part of the 8240 series of combustion heaters. The Stewart-Warner South Wind Corporation South Wind Service Manual for Stewart Warner South Wind Aircraft Heaters 8240–A, 8240–C, 8259–A, 8259–C, 8259–DL, 8259–FL1, 8259–GL1, 8259–GL2, Form No. 09–998, revised: December 1969, is applicable service information.

(2) Repair of the combustion tube is prohibited, and this AD does not allow credit for any combustion tube repair.

(m) Special Flight Permit

Special flight permits are permitted in accordance with 14 CFR 39.23 with the following limitation: Use of the heater is not allowed.

(n) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Chicago Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (n)(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.

(3) AMOCs approved for AD 81–09–09 (46 FR 24936, May 4, 1981) are approved as AMOCs for this AD.

(o) Related Information

(1) For more information about this AD, contact Chung-Der Young, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018–4696; telephone (847) 294–7309; fax (847) 294–7834 email: *chung-der.young@faa.gov.*

(2) For service information identified in this AD, contact Meggitt Control Systems, 3 Industrial Drive, Troy, Indiana 47588; telephone: (812) 547–7071; fax: (812) 547–2488; email: *infotroy@meggitt.com;* Internet: *www.stewart-warner.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–19729 Filed 8–19–14; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA–R07–RCRA–2014–0452; FRL–9915–45–Region 7]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA, also, ''the Agency'' or ''we'') is proposing to grant a petition submitted by the John Deere Des Moines Works (John Deere) of Deere & Company, in Ankeny, Iowa to exclude or ''delist'' up to 600 tons per calendar year of F006/F019 wastewater treatment sludge filter cake generated by John Deere's wastewater treatment system from the list of hazardous wastes.

The Agency has tentatively decided to grant the petition based on an evaluation of waste-specific information provided by John Deere. This proposed decision, if finalized, would conditionally exclude the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

This exclusion would be valid only when the wastewater treatment sludge filter cake is disposed of in a Subtitle D landfill which is permitted, licensed, or otherwise authorized by a State to manage industrial solid waste.

If finalized, EPA would conclude that John Deere's petitioned waste is nonhazardous with respect to the original listing criteria and that there are no other current factors which would cause the waste to be hazardous.

DATES: Comments must be received on or before September 19, 2014. EPA will stamp comments received after the close of the comment period as late. These late comments may not be considered in formulating a final decision. Any person may request a hearing on the proposed decision by filing a request to EPA by September 4, 2014. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–RCRA–2014–0452 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. Email: *herstowski.ken@epa.gov.*
3. Fax: (913) 551–7631, to the attention of Ken Herstowski.
4. Mail: Ken Herstowski, Air and Waste Management Division, Waste Remediation and Permits Branch, U.S. EPA Region 7, 11201 Renner Boulevard, Lenexa KS 66219.
5. Hand Delivery: Ken Herstowski, Air and Waste Management Division, Waste Remediation and Permits Branch, U.S. EPA Region 7, 11201 Renner Boulevard, Lenexa, KS 66219. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please contact Ken Herstowski at (913) 551–7631.

Instructions: Direct your comments to Docket ID No. EPA–R07–RCRA–2014–0452. 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.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the EPA Region 7 offices at 11201 Renner Boulevard, Lenexa KS 66219 by appointment only during normal hours of operation. Appointments must be made in advance to view hard copy docket materials by contacting Ken Herstowski at (913) 551–7631 or by email at *herstowski.ken@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Ken Herstowski, Air and Waste Management Division, Waste Remediation and Permits Branch, U.S. EPA Region 7, 11201 Renner Boulevard, Lenexa KS 66219; telephone number: (913) 551–7631; fax number (913) 551–7631; email address: *herstowski.ken@epa.gov.*

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

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I. Overview Information

Title 40 CFR 260.20 allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 266, 268 and 273. Section 260.22(a) specifically provides generators the opportunity to petition the Administrator to exclude a waste on a ''generator specific'' basis from the hazardous waste lists.

The Agency bases its proposed decision to grant a petition on an evaluation of waste-specific information provided by the petitioner. This proposed decision, if finalized, would conditionally exclude the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

If finalized, we would conclude the petitioned waste from this facility is non-hazardous with respect to the original listing criteria and that the waste process used will substantially reduce the likelihood of migration of hazardous constituents from this waste. We would also conclude that the processes minimize short-term and long-term threats from the petitioned waste to human health and the environment. The EPA is proposing to grant a petition submitted by John Deere Des Moines Works of Deere and Company (John Deere) located in Ankeny, Iowa, to exclude or delist an annual volume of 600 tons per year of F006/F019 wastewater treatment sludge filter cake from the lists of hazardous waste set forth in title 40 CFR 261.31, Hazardous wastes from non-specific sources. John Deere claims that the petitioned waste does not meet the criteria for which EPA listed it, and that there are no additional constituents or factors which could cause the waste to be hazardous.

Based on the EPA's evaluation described in section III, in which we reviewed the description of the process which generates the waste and the analytical data submitted by John Deere, we agree with the petitioner that the waste is nonhazardous. We believe that the petitioned waste does not meet the criteria for which the waste was listed, and that there are no other factors which might cause the waste to be hazardous.

A. What action is EPA proposing?

EPA is proposing: (1) To grant John Deere's delisting petition to have its WWTP sludge excluded, or delisted, from the definition of a hazardous waste; and subject to certain verification and monitoring conditions. (2) To use the Delisting Risk Assessment Software (DRAS) to evaluate the potential impact of the petitioned waste on human health and the environment. The Agency used this model to predict the concentration of hazardous constituents released from

the petitioned waste, once it is disposed.

B. Why is EPA proposing to approve this delisting?

John Deere's petition requests an exclusion from the F006 waste listing pursuant to 40 CFR 260.20 and 260.22. John Deere does not believe that the petitioned waste meets the criteria for which EPA listed it. John Deere also believes no additional constituents or factors could cause the waste to be hazardous. EPA's review of this petition included consideration of the original listing criteria and the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See section 3001(f) of RCRA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(1)–(4) (hereinafter all sectional references are to 40 CFR unless otherwise indicated). In making the initial delisting determination, EPA evaluated the petitioned waste against the listing criteria and factors cited in § 261.11(a)(2) and (a)(3). Based on this review, EPA agrees with the petitioner that the waste is non-hazardous with respect to the original listing criteria. If EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, EPA would have proposed to deny the petition. EPA evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. EPA considered whether the waste is acutely toxic, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability. EPA believes that the petitioned waste does not meet the listing criteria and thus should not be a listed waste. EPA's proposed decision to delist waste from John Deere is based on the information submitted in support of this rule, including descriptions of the wastes and analytical data from the John Deere, Ankeny, IA facility.

C. How will John Deere manage the waste, if it is delisted?

If the sludge is delisted, the WWTP sludge from John Deere will be disposed at a RCRA Subtitle D landfill permitted by the Iowa Department of Natural Resources.

D. When would the proposed delisting exclusion be finalized?

RCRA section 3001(f) specifically requires EPA to provide a notice and an opportunity for comment before granting or denying a final exclusion. Thus, EPA will not grant the exclusion until it addresses all timely public comments (including those at public hearings, if any) on this proposal.

RCRA section 3010(b)(1) at 42 U.S.C.A. 6930(b)(1), allows rules to become effective in less than six months when the regulated facility does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for persons generating hazardous wastes.

EPA believes that this exclusion should be effective immediately upon final publication because a six-month deadline is not necessary to achieve the purpose of section 3010(b), and a later effective date would impose unnecessary hardship and expense on this petitioner. These reasons also provide good cause for making this rule effective immediately, upon final publication, under the Administrative Procedure Act, 5 U.S.C. 553(d).

II. Background

A. What is a listed waste?

The EPA published an amended list of hazardous wastes from nonspecific and specific sources on January 16, 1981, as part of its final and interim final regulations implementing section 3001 of Resource Conservation and Recovery Act (RCRA). The EPA has amended this list several times and publishes it in 40 CFR 261.31 and 261.32.

We list these wastes as hazardous because: (1) They typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in subpart C of part 261 (that is, ignitability, corrosivity, reactivity, and toxicity) or (2) they meet the criteria for listing contained in § 261.11(a)(2) or (3).

B. What is a delisting petition?

Individual waste streams may vary depending on raw materials, industrial processes, and other factors. Thus, while a waste described in the regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be.

The procedure to exclude or delist a waste in 40 CFR 260.20 and 260.22 allows a person, or a facility, to submit a petition to the EPA or to an authorized state demonstrating that a specific waste from a particular generating facility is not hazardous.

In a delisting petition, the petitioner must show that a waste does not meet any of the criteria for listed wastes in 40 CFR 261.11 and that the waste does not exhibit any of the hazardous waste characteristics of ignitability, reactivity, corrosivity, or toxicity. The petitioner must present sufficient information for the Agency to decide whether any factors in addition to those for which the waste was listed warrant retaining it as a hazardous waste. (See § 260.22, 42 U.S.C. 6921(f) and the background documents for the listed wastes.)

If a delisting petition is granted, the generator remains obligated under RCRA to confirm that the waste remains nonhazardous.

C. What factors must EPA consider in deciding whether to grant a delisting petition?

In reviewing this petition, we considered the original listing criteria and the additional factors required by the Hazardous and Solid Waste Amendments of 1984 (HSWA). See section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2)–(4). We evaluated the petitioned waste against the listing criteria and factors cited in § 261.11(a)(2) and (3).

Besides considering the criteria in 40 CFR 260.22(a), 261.11(a)(2) and (3), 42 U.S.C. 6921(f), and in the background documents for the listed wastes, EPA must consider any factors (including additional constituents), other than those for which we listed the waste, if these additional factors could cause the waste to be hazardous.

Our tentative decision to delist waste from John Deere's facility is based on our evaluation of the waste for factors or criteria which could cause the waste to be hazardous. These factors included: (1) Whether the waste is considered acutely toxic; (2) the toxicity of the constituents; (3) the concentration of the constituents in the waste; (4) the tendency of the constituents to migrate and to bioaccumulate; (5) the persistence in the environment of any constituents once released from the waste; (6) plausible and specific types of management of the petitioned waste; (7) the quantity of waste produced; and (8) waste variability.

EPA must also consider as hazardous wastes, mixtures containing listed hazardous wastes and wastes derived from treating, storing, or disposing of listed hazardous waste. See 40 CFR 261.3(a)(2)(iv) and (c)(2)(i), called the ''mixture'' and ''derived-from'' rules, respectively. Mixture and derived-from

wastes are also eligible for exclusion but remain hazardous until excluded.

III. EPA's Evaluation of the Waste Information and Data

A. What waste did John Deere petition EPA to delist?

On January 28, 2014, John Deere (through its consultant) petitioned EPA to exclude from the list of hazardous wastes contained in 40 CFR 261.31, F006/F019 Waste Water Treatment Sludge Filter Cake (Filter Cake) from dewatering sludge generated by the plant wastewater treatment facility from the John Deere facility located in Ankeny, Iowa. The filter cake is subject to two waste listings as it is the result of treating a mixture of wastewater from different manufacturing processes. F006 is defined in § 261.31 as ''Wastewater treatment sludges from electroplating operations . . .'' F019 is defined in § 261.31 as ''Wastewater treatment sludges from the chemical conversion coating of aluminum . . .'' John Deere claims that the petitioned waste does not meet the criteria for which F006 was listed (i.e., cadmium, hexavalent chromium, nickel, cyanide (complexed)) or for which F019 was listed (i.e., hexavalent chromium, cyanide (complexed)) and that there are no other factors which would cause the waste to be hazardous. Specifically, the petition request is for a standard exclusion for 600 tons per calendar year of Filter Cake.

B. How does John Deere generate the waste?

The Filter Cake John Deere generates is from the plant wastewater treatment facility. Wastewater is generated from a variety of manufacturing activities at the facility. Approximately 106,000 gallons per day of [total] wastewater is conveyed to the wastewater treatment facility. The wastewater is a combination of wastewater from washing/cleaning, plating and coating metal parts manufactured and/or used in the assembly of agricultural equipment at the facility. Those processes that account for highest wastewater generation include: chrome electroplating (15,000 gallons per day or 15,000 gpd) the source of the wastewater for the F006 listing, E-Coat system (54,000 gpd) the source of the F019 listing, heat treat (10,000 gpd), and Department 20C Wash Line (16,000 gpd). The wastewater from chrome electroplating is pre-treated to reduce hexavalent chromium to trivalent chromium before it is transferred to John Deere's wastewater treatment facility generating the Filter Cake. All wastewater generated onsite is transferred to the wastewater treatment facility where it is treated to remove dirt, oil, grease, metals and other constituents before it is discharged under a ''Water Contribution Permit'' (Permit Number A10138 issued by the [City of Des Moines] Waste Water Regulation Authority) via sewers to a publicly owned treatment works operated by the City of Des Moines.

C. How did John Deere sample and analyze the petitioned waste?

To support its petition, John Deere submitted: (1) Facility information on production processes and waste generation processes; (2) initial Filter Cake composite sample analytical results to determine constituents of concern (COC); and (3) Analytical results from six composite samples of Filter Cake for the COC. The initial sample was analyzed for EPA's list of hazardous constituents in 40 CFR part 261, appendix VIII, pesticides, PCBs. The COC selected from the initial composite sample results are barium, chromium, hexavalent chromium, copper, lead, mercury, nickel, vanadium, zinc, cyanide, acetone and methyl ethyl ketone. Both total and leachable concentrations of the COC in the Filter Cake were determined.

John Deere generated the sampling data used in the Delisting Risk Assessment Software (DRAS) under a Sampling Plan and Quality Assurance Project Plan (June 2012 Revision). EPA believes that the sampling procedures used by John Deere satisfy EPA's criteria for collecting representative samples of the F006/F019 waste.

D. What were the results of John Deere's analysis of the waste?

EPA believes that John Deere's analytical characterization provides a reasonable basis to grant John Deere's petition for an exclusion of the [wastewater treatment sludge] Filter Cake. Furthermore, EPA believes the data submitted in support of the petition show that the sludge is non-hazardous. Analytical data for the wastewater treatment sludge samples were used in the DRAS to develop delisting levels.

The data for the total concentration of COC in the Filter Cake are as follows: milligrams per kilogram (mg/kg) Barium—643; Copper—959; Chromium—15,000; Hexavalent Chromium—13.6; Cyanide—1.92; Lead—291; Mercury—0.635; Nickel—1,010; Vanadium—253; Zinc—3,390; Acetone—9.13; and Methyl Ethyl Ketone—0.191. The data for the leachate concentration of COC in the Filter Cake are as follows: milligrams per liter (mg/l) Barium—.0272; Copper—0.442; Chromium—0.826; Cyanide—<0.01; Lead—<0.05; Mercury—0.000702; Nickel—0.744; Vanadium—0.0164; Zinc—0.403; Acetone—0.001; and Methyl Ethyl Ketone—0.001. Note that the above levels represent the highest COC concentration result reported. If the result was reported as ''non-detect'' (shown above by a ''<'') the detection limit was used in the analysis. Hexavalent chromium was analyzed with DRAS at milligrams per liter (mg/l) 0.0826 (one tenth of the chromium leachate value).

E. How did EPA evaluate the risk of delisting this waste?

For this delisting determination, we assumed that the waste would be disposed in a Subtitle D landfill and we considered transport of waste constituents through groundwater, surface water and air. We evaluated John Deere's petitioned waste using the Agency's Delisting Risk Assessment Software (DRAS) described in 65 FR 58015 (September 27, 2000), 65 FR 75637 (December 4, 2000), and 73 FR 28768 (May 19, 2008) to predict the maximum allowable concentrations of hazardous constituents that may be released from the petitioned waste after disposal and determined the potential impact of the disposal of John Deere's petitioned waste on human health and the environment. To predict the potential for release to groundwater from landfilled wastes and subsequent routes of exposure to a receptor, the DRAS uses dilution attenuation factors derived from EPA's Composite Model for Leachate Migration and Transformation Products (EPACMTP). From a release to groundwater, the DRAS considers routes of exposure to a human receptor of ingestion of contaminated groundwater, inhalation from groundwater while showering and dermal contact from groundwater while bathing.

From a release to surface water by erosion of waste from an open landfill into stormwater run-off, DRAS evaluates the exposure to a human receptor by fish ingestion and ingestion of drinking water. From a release of waste particles and volatile emissions to air from the surface of an open landfill, DRAS considers routes of exposure of inhalation of volatile constituents, inhalation of particles, and air deposition of particles on residential soil and subsequent ingestion of the contaminated soil by a child. The technical support document and the user's guide to DRAS are included in the docket.

At a benchmark cancer risk of one in one hundred thousand (1×10^{-5}) and a benchmark hazard quotient of 1.0, the DRAS program determined maximum allowable concentrations for each constituent in both the waste and the leachate at an annual waste volume of 1000 cubic yards disposed in a landfill for 20 years after which time the landfill is closed. We used the maximum reported total and TCLP leachate concentrations as inputs to estimate the constituent concentrations in the groundwater, soil, surface water and air.

F. What did EPA conclude about John Deere's waste?

The maximum reported concentrations of the hazardous constituents found in this waste are presented above in section D. The maximum allowable total COC concentrations in the Filter Cake as determined by the DRAS are as follows: milligrams per kilogram (mg/kg) Barium—2.85×10^{7}; Copper—5.34×10^{6}; Chromium (III)—4.56×10^{10}; Hexavalent Chromium—1.36×10^{4}; Cyanide—2.99×10^{6}; Lead—1.09×10^{7}; Mercury—1.86×10^{1}; Nickel—4.76×10^{6}; Vanadium—1.52×10^{8}; Zinc—1.38×10^{7}; Acetone—3.63×10^{8}; and Methyl Ethyl Ketone—1.45×10^{9}. The maximum allowable leachate COC concentrations in the Filter Cake as determined by the DRAS are as follows: milligrams per liter (mg/l) Copper—1.78×10^{2}; Hexavalent Chromium—1.38×10^{1}; Cyanide—2.27×10^{1}; Lead—4.18; Nickel—9.78×10^{1}; Vanadium—2.47×10^{1}; Zinc—1.48×10^{3}; Acetone—3.84×10^{3}; and. The maximum allowable leachate COC concentrations in the Filter Cake as determined by TCLP are as follows: milligrams per liter (mg/l) Barium—100; Chromium (total)—5; Mercury—2×10^{-1}; and Methyl Ethyl Ketone—200. The concentrations of all constituents in both the waste and the leachate are below the allowable concentrations. We conclude that John Deere's Filter Cake is not a substantial or potential hazard to human health and the environment when disposed of in a Subtitle D landfill.

We propose to grant an exclusion for the Filter Cake. If this exclusion is finalized, John Deere must dispose of the Filter Cake in a Subtitle D landfill permitted, licensed or otherwise authorized by a state RCRA solid waste permit program, and will remain obligated to verify that the waste meets the allowable concentrations set forth here. John Deere must also continue to determine whether the Filter Cake is identified in subpart C of 40 CFR part 261.

IV. Conditions for Exclusion

A. When would EPA finalize the proposed delisting exclusion?

HSWA specifically requires the EPA to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, EPA will not make a final decision or grant an exclusion until it has addressed all timely public comments on today's proposal, including any at public hearings.

Since this rule would reduce the existing requirements for persons generating hazardous wastes, the regulated community does not need a six-month period to come into compliance in accordance with section 3010 of RCRA as amended by HSWA therefore a final rule granting John Deere's petition is proposed to be effective immediately upon publication in the **Federal Register**. Similarly, since John Deere is already required to comply with RCRA Subtitle C for the management of the petitioned waste, a final rule denying the petition would be effective immediately upon publication in the **Federal Register** as the petitioned waste would remain *status quo*—a hazardous waste.

B. How will John Deere manage the waste if it is delisted?

If the petitioned waste is delisted, John Deere must dispose of it in a subtitle D landfill which is permitted, licensed, or otherwise authorized by a state to manage industrial waste.

C. With what conditions must the petitioner comply?

The petitioner, John Deere, must comply with the conditions which will be in 40 CFR part 261, appendix IX, table 1. The text below gives the rationale and details of those requirements.

(1) Delisting Levels: This paragraph provides the levels of constituents for which John Deere must test the WWTP sludge, below which these wastes would be considered non-hazardous. EPA selected the set of constituents and levels specified in paragraph (1) of 40 CFR part 261, appendix IX, table 1, (the exclusion language) based on information in the petition, information from DRAS and variability of the WWTP sludge composition. The proposed levels EPA compiled the constituents list from the composition of the waste, descriptions of John Deere's treatment process, previous test data provided for the waste, and the respective health-based levels used in delisting decision-making.

(2) Waste Holding and Handling: The purpose of this paragraph is to ensure that John Deere manages and disposes of any Filter Cake that contains hazardous levels of inorganic and organic constituents according to Subtitle C of RCRA. Managing the Filter Cake as a hazardous waste until initial verification testing is performed will protect against improper handling of hazardous material. Unless and until EPA concurs that the initial verification data collected under paragraph (3) supports the data provided in the petition, the exclusion will not cover the petitioned waste. The exclusion is effective upon publication in the **Federal Register** but the disposal as non-hazardous waste cannot begin until two quarters of verification sampling is completed and an approval is obtained from EPA.

(3) Verification Testing Requirements: John Deere must implement a verification testing program on the Filter Cake to assure that the sludge does not exceed the maximum levels specified in paragraph (1) of the exclusion language. The first part of the verification testing program is the quarterly testing of representative samples of the Filter Cake during the first year of waste generation (two quarters prior to obtaining written EPA approval and two additional quarters). The proposed testing would verify that John Deere operates a treatment facility where the constituent concentrations of the Filter Cake do not exhibit unacceptable temporal and spatial levels of toxic constituents. John Deere would begin quarterly sampling 30 days after the final exclusion as described in paragraph (3)(A) of the exclusion language. Consequently this program will ensure that the sludge is evaluated in terms of variation in constituent concentrations in the Filter Cake over time. Following two consecutive quarters of sampling where the levels of constituents do not exceed the levels in paragraph (1), John Deere can then manage and dispose of the Filter Cake as non-hazardous in accordance with all applicable solid waste regulations following EPA approval. If EPA determines that the data collected under this paragraph does not support the data provided in the petition, the exclusion will not cover the generated Filter Cake. John Deere must then prove through a new demonstration that its Filter Cake meets the conditions of the exclusion.

The second part of the verification testing program is the annual testing of representative samples of the Filter Cake, per paragraph (3)(B) of the exclusion language. To confirm that the characteristics of the waste do not

change significantly over time, John Deere must continue to analyze a representative sample of the Filter Cake on an annual basis. Annual testing requires analyzing the full list of constituents in paragraph (1) of the exclusion language. If operating conditions change as described in paragraph (4) of the exclusion language, John Deere must reinstate all testing in paragraph (1) of the exclusion language. John Deere must then prove through a new demonstration that its Filter Cake meets the conditions of the exclusion. If the annual testing of the Filter Cake does not meet the delisting requirements in paragraph (1), John Deere must notify EPA according to the requirements in paragraph (6) of the exclusion language. The facility must provide sampling results that support the rationale that the delisting exclusion should not be withdrawn.

(4) Changes in Operating Conditions: Paragraph (4) of the exclusion language would allow John Deere the flexibility of modifying its processes (for example, changes in equipment or operating conditions). However, if significant changes to the manufacturing or treatment process described in the petition, or the chemicals used in the manufacturing or treatment process are made, then John Deere must prove the that the modified process(es)/chemicals will not affect the composition or type of Filter Cake generated and must request approval from EPA. EPA will determine if these changes will result in additional COCs. John Deere must manage Filter Cake generated during the new process demonstration as hazardous waste until it has obtained written approval from EPA and paragraph (3) of the exclusion language is satisfied.

If the proposed exclusion is made final, it will apply only to a maximum of 600 tons per calendar year of Filter Cake generated at John Deere after successful verification testing. EPA would require John Deere to file a new delisting petition if it generates waste volumes greater than 600 tons per calendar year of Filter Cake. John Deere must manage these greater volumes as hazardous waste unless and until EPA grants a new exclusion.

EPA may review and approve changes in writing or alternatively may require John Deere to file a new delisting petition under any of the following circumstances:

(a) If it significantly alters the wastewater treatment process;

(b) If it significantly changes from the current manufacturing process(es) described in the John Deere petition; or

(c) If it makes any changes that could affect the composition or type of waste generated such that the changes would cause any of the constituents in paragraph (1) of the exclusion language to potentially be above the delisting levels or would introduce any new constituents into the waste.

(5) Data Submittals and Recordkeeping: To provide appropriate documentation that John Deere's Filter Cake is meeting the delisting levels, John Deere must submit reports to EPA as specified in the conditions, and must compile, summarize, and keep delisting records on-site for a minimum of five years. It must keep all analytical data obtained through paragraph (3) of the exclusion language including quality control information for five years. Paragraph (5) of the exclusion language requires that John Deere furnish the data upon request for inspection by any employee or representative of EPA or the State of Iowa.

(6) Reopener: The purpose of paragraph (6) of the exclusion language is to require John Deere to disclose new or different information related to a condition at the facility or disposal of the Filter Cake, if it is pertinent to the delisting. This provision will allow EPA to reevaluate the exclusion, if a source provides new or additional information to EPA. EPA will evaluate the information on which EPA based the decision to see if it is still correct, or if circumstances have changed so that the information is no longer correct or would cause EPA to deny the petition, if presented.

This provision expressly requires John Deere to report differing site conditions or assumptions used in the petition in addition to failure to meet the annual testing conditions within 10 days of discovery. If EPA discovers such information itself or from a third party, it can act on it as appropriate. The language being proposed is similar to those provisions found in RCRA regulations governing no-migration petitions at § 268.6.

It is EPA's position that it has the authority under RCRA and the Administrative Procedures Act (APA), 5 U.S.C. 551 (1978) *et seq.,* to reopen a delisting decision when it receives new information that calls into question the assumptions underlying the delisting. EPA believes a clear statement of its authority in delisting is merited in light of EPA's experience. *See* the **Federal Register** notices regarding Reynolds Metals Company at 62 FR 37694 (July 14, 1997) and 62 FR 63458 (December 1, 1997) where the delisted waste leached at greater concentrations into the environment than the concentrations predicted when conducting the TCLP, leading EPA to repeal the delisting. If an immediate threat to human health and the environment presents itself, EPA will continue to address these situations on a case-by-case basis. Where necessary, EPA will make a good cause finding to justify emergency rulemaking. *See* APA section 553(b).

(7) Notification Requirements: In order to adequately track wastes that have been delisted, EPA is requiring that John Deere provide a one-time written notification to any state regulatory agency through which or to which the delisted waste is being transported. John Deere must provide this notification 60 days before commencing this activity. In addition to providing this notification, John Deere is advised to verify with each state the status of EPA's delisting decision under state law (see the discussion in Section V. for specifics).

D. What happens if John Deere violates the terms and conditions of the exclusion?

If John Deere violates the terms and conditions established in the exclusion, the Filter Cake would not be exempt from subtitle C since this is a conditional exclusion, and thus the Filter Cake would be subject to hazardous waste management requirements. EPA also could then initiate procedures to withdraw the exclusion. Where there is an immediate threat to human health and the environment, EPA will evaluate the need for enforcement activities on a case-by-case basis. EPA expects John Deere to conduct the appropriate waste analysis and comply with the criteria explained above in paragraph (1) of the exclusion.

V. How would this action affect the states?

EPA is issuing this exclusion under the Federal RCRA delisting program. Thus, upon the exclusion being finalized, the wastes covered will be removed from subtitle C control under the Federal RCRA program. This will mean, first, that the wastes will be delisted in any State or territory where the EPA is directly administering the RCRA program (e.g., Iowa, Indian Country). Thus, the delisting would be valid in Iowa on the effective date of a final rule delisting the petitioned waste. However, whether the wastes will be delisted in other States which have been authorized to administer the RCRA program will vary depending upon the authorization status of the States and

the particular requirements regarding delisted wastes in the various States.

Some generally authorized States have not received authorization for delisting. Thus, the EPA makes delisting determinations for such States. However, RCRA allows states to impose their own regulatory requirements that are more stringent than EPA's, under section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a Federally issued exclusion from taking effect in the state, or that requires a State concurrence before the Federal exclusion takes effect, or that allows the State to add conditions to any Federal exclusion. The petitioner must contact the state regulatory authority in each State to or through which it may wish to ship its wastes to establish the status of its wastes under the state's laws and regulations affecting transport and disposal of the petitioned waste.

EPA has also authorized some states to administer a delisting program in place of the Federal program, that is, to make state delisting decisions. In such states, the state delisting requirements operate in lieu of the Federal delisting requirements. Therefore, this exclusion does not apply in those authorized states unless the state makes the rule part of its authorized program. If John Deere transports the Federally excluded waste to or manages the waste in any state with delisting authorization, John Deere must obtain a delisting authorization from that state before it can manage the waste as non-hazardous in that state.

VI. Statutory and Executive Order Reviews

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this rule is not of general applicability and therefore, is not a regulatory action subject to review by the Office of Management and Budget (OMB). 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.*) because it applies to a particular facility only. Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202, 204, and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Because this rule will affect only a particular facility, it will not significantly or uniquely affect small governments, as specified in section 203 of UMRA. Because this rule will affect only a particular facility, this proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'', (64 FR 43255, August 10, 1999). Thus, Executive Order 13132 does not apply to this rule.

Similarly, because this rule will affect only a particular facility, this proposed rule does not have tribal implications, as specified in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). Thus, Executive Order 13175 does not apply to this rule. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The basis for this belief is that the Agency used DRAS, which considers health and safety risks to children, to calculate the maximum allowable concentrations for this rule. 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. This rule does not involve technical standards; 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, ''Civil Justice Reform'', (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties (5 U.S.C. 804(3)). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability. Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The Agency's risk assessment did not identify risks from management of this material in a Subtitle D landfill. Therefore, EPA believes that any populations in proximity of the landfills used by this facility should not be adversely affected by common waste management practices for this delisted waste.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: Section 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: August 7, 2014.

Karl Brooks,

Regional Administrator, Region 7.

For the reasons set out in the preamble, EPA proposes to amend 40 CFR part 261 as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

■ 2. In Table 1 of Appendix IX to part 261 add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * *
John Deere Des Moines Works of Deere & Company.	Ankeny, IA	Wastewater Treatment Sludge Filter Cake (WWTS Filter Cake) (Hazardous Waste No. F006/F019) generated from combined onsite wastewater treatment at the Ankeny, IA, facility wastewater treatment plant at a maximum annual rate of 600 tons per calendar year and disposed of in a Subtitle D Landfill which is licensed, permitted, or otherwise authorized by a state to accept the delisted WWTS Filter Cake. John Deere must implement a testing program that meets the following conditions for the exclusion to be valid: 1. *Delisting Levels:* (A) The WWTS Filter Cake shall not exhibit any of the ''Characteristics of Hazardous Waste in 40 CFR 261, Subpart C. (B) All TCLP leachable concentrations (40 CFR 261.24(a)) for the following constituents must not exceed the following levels (mg/L for TCLP): Arsenic—5.0; Barium—100.0; Cadmium—1.0; Chromium—5.0; Lead—5.0; Mercury 0.2; and, Nickel—32.4. (C) EPA SW–846 Method 1313 Extraction at pH 2.88, 7 and 13 concentration of Chromium (hexavalent) must not exceed (mg/l) 0.087. (D) All total concentrations for the following constituents must not exceed the following levels (mg/kg): Antimony—103; Arsenic—52; Barium—965; Beryllium—21; Cadmium—10; Chromium (total)—22,500; Cobalt—11; Copper—1439; Lead—437; Nickel—1,515; Selenium—52; Silver—26; Thallium—52; Tin—68; Vanadium—380; Zinc—5,085; Mercury—1; Chromium (hexavalent)—20; Cyanide—3, Oil and Grease—32,250; Acetone—8; Methyl Ethyl Ketone (MEK)—0.3. 2. *Waste Handling and Holding:* (A) John Deere must manage as hazardous all WWTS Filter Cake generated until it has completed initial verification testing described in paragraph (3)(A) and valid analyses show that paragraph (1) is satisfied and written approval is received from EPA. (B) Levels of constituents measured in the samples of the WWTS Filter Cake that do not exceed the levels set forth in paragraph (1) for two consecutive quarterly sampling events are non-hazardous. After approval is received from EPA, John Deere can manage and dispose of the non-hazardous WWTS Filter Cake according to all applicable solid waste regulations. (C) Not withstanding having received the initial approval from EPA, if constituent levels in a later sample exceed any of the Delisting Levels set in paragraph (1), from that point forward, John Deere must treat all the waste covered by this exclusion as hazardous until it is demonstrated that the waste again meets the levels in paragraph (1). John Deere must manage and dispose of the waste generated under Subtitle C of RCRA from the time that it becomes aware of any exceedance. 3. *Verification Testing Requirements:* John Deere must perform sample collection and analyses in accordance with the Quality Assurance Project Plan submitted with the ''John Deere Des Moines, Iowa, Sampling and Analysis Plan for Delisting of F006 and F019 Filter Cake, June 2012.'' All samples shall be representative composite samples according to appropriate methods. As applicable to the method-defined parameters of concern, analyses requiring the use of SW–846 methods incorporated by reference in 40 CFR 260.11 must be used without substitution. As applicable, the SW–846 methods might include Methods 0010, 0011, 0020, 0023A, 0030, 0031, 0040, 0050, 0051, 0060, 0061, 1010A, 1020B,1110A, 1310B, 1311, 1312, 1313, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A (uses EPA Method 1664, Rev. A), 9071B, and 9095B. Methods must meet Performance Based Measurement System Criteria in which the Data Quality Objectives are to demonstrate that samples of the John Deere sludge are representative for all constituents listed in paragraph (1). To verify that the waste does not exceed the specified delisting concentrations, for one year after the final exclusion is granted, John Deere must perform quarterly analytical testing by sampling and analyzing the WWTP sludge as follows: (A) Quarterly Testing: (i) Collect two representative composite samples of the WWTS Filter Cake at quarterly intervals after EPA grants the final exclusion. The first composite samples must be taken within 30 days after EPA grants the final approval. The second set of samples must be taken at least 30 days after the first set. (ii) Analyze the samples for all constituents listed in paragraph (1). Any waste regarding which a composite sample is taken that exceeds the delisting levels listed in paragraph (1) for the sludge must be disposed as hazardous waste in accordance with the applicable hazardous waste requirements from the time that John Deere becomes aware of any exceedance. (iii) Within thirty (30) days after taking each quarterly sample, John Deere will report its analytical test data to EPA. If levels of constituents measured in the samples of the sludge do not exceed the levels set forth in paragraph (1) of this exclusion for two consecutive quarters, and EPA concurs with those findings, John Deere can manage and dispose the non-hazardous sludge according to all applicable solid waste regulations. (B) Annual Testing: (i) If John Deere completes the quarterly testing specified in paragraph (3) above and no sample contains a constituent at a level which exceeds the limits set forth in paragraph (1), John Deere may begin annual testing as follows: John Deere must test two representative composite samples of the WWTS Filter Cake (following the same protocols as specified for quarterly sampling, above) for all constituents listed in paragraph (1) at least once per calendar year. (ii) The samples for the annual testing taken for the second and subsequent annual testing events shall be taken within the same calendar month as the first annual sample taken. (iii) John Deere shall submit an annual testing report to EPA with its annual test results, within thirty (30) days after taking each annual sample. The annual testing report also shall include the total amount of waste in tons disposed during the calendar year.

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		4. *Changes in Operating Conditions:* If John Deere significantly changes the manufacturing or treatment process described in the petition, or the chemicals used in the manufacturing or treatment process, it must notify the EPA in writing and may no longer handle the WWTS Filter Cake generated from the new process as non-hazardous unless and until the WWTS Filter Cake is shown to meet the delisting levels set in paragraph (1), John Deere demonstrates that no new hazardous constituents listed in appendix VIII of part 261 have been introduced, and John Deere has received written approval from EPA to manage the wastes from the new process under this exclusion. While the EPA may provide written approval of certain changes, if there are changes that the EPA determines are highly significant, the EPA may instead require John Deere to file a new delisting petition.
		5. *Data Submittals and Recordkeeping:* John Deere must submit the information described below. If John Deere fails to submit the required data within the specified time or maintain the required records on-site for the specified time, EPA, at its discretion, will consider this sufficient basis to reopen the exclusion as described in paragraph (6). John Deere must: (A) Submit the data obtained through paragraph (3) to the Chief, Waste Remediation and Permits Branch, US EPA Region 7, 11201 Renner Boulevard, Lenexa KS 66219, within the time specified. All supporting data can be submitted on CD–ROM or some comparable electronic media; (B) Compile, summarize, and maintain on site for a minimum of five years and make available for inspection records of operating conditions, including monthly and annual volumes of WWTS Filter Cake generated, analytical data, including quality control information and, copies of the notification(s) required in paragraph (7); (C) Submit with all data a signed copy of the certification statement in 40 CFR 260.22(i)(12).
		6. *Reopener:* (A) If, any time after disposal of the delisted waste, John Deere possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or groundwater monitoring data) or any other relevant data to the delisted waste indicating that any constituent is at a concentration in the leachate higher than the specified delisting concentration, then John Deere must report such data, in writing, to the Chief, Waste Remediation and Permits Branch, US EPA Region 7, 11201 Renner Boulevard, Lenexa KS 66219 within 10 days of first possessing or being made aware of that data. (B) Based on the information described in paragraph (A) and any other information received from any source, the Regional Administrator, EPA Region 7, will make a preliminary determination as to whether the reported information requires Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment. (C) If the Regional Administrator determines that the reported information does require Agency action, the Regional Administrator will notify John Deere in writing of the actions the Regional Administrator believes are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing John Deere with an opportunity to present information as to why the proposed Agency action is not necessary or to suggest an alternative action. John Deere shall have 30 days from the date of the Regional Administrator's notice to present the information. (D) If after 30 days John Deere presents no further information or after a review of any submitted information, the Regional Administrator will issue a final written determination describing the Agency actions that are necessary to protect human health or the environment. Any required action described in the Regional Administrator's determination shall become effective immediately, unless the Regional Administrator provides otherwise.
		7. *Notification Requirements:* John Deere must do the following before transporting the delisted waste: (A) Provide a one-time written notification to any state Regulatory Agency to which or through which it will transport the delisted waste described above for disposal, 60 days before beginning such activities. (B) Update the one-time written notification if it ships the delisted waste into a different disposal facility. Failure to provide this notification will result in a violation of the delisting petition and a possible revocation of the decision.

* * * * * * *

[FR Doc. 2014–19771 Filed 8–19–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60–1

RIN 1250–AA03

Government Contractors: Requirement To Report Summary Data on Employee Compensation; Correction

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Proposed rule; correction.

SUMMARY: The Department of Labor, Office of Federal Contract Compliance Programs, published a document in the **Federal Register** on August 8, 2014, seeking comments on its notice of proposed rulemaking (NPRM) regarding reporting summary data on employee compensation. This document corrects errors in that document.

FOR FURTHER INFORMATION CONTACT: Debra Carr, (202) 693–0103 (voice) or (202) 693–1337 (TTY).

Correction

In proposed rule FR Doc 2014–18557, beginning on page 46562, in the issue of August 8, 2014, make the following corrections:

This NPRM is OMB control number 1250–AA03.

Under the heading, ''Public Comment,'' in column 1 on page 46604, the Uniform Resource Locator (URL) for finding the information collection request (ICR) on RegInfo.gov ''. . . *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=[INSERTICR REFERENCENUMBER],*'' is corrected to read ''. . . *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201407-1250-001.*'' While the original link routed the reader to OMB's Office of Information and Regulatory Affairs (OIRA) conclusion page, the revised link

will take the reader to a specific OIRA page for the ICR referenced in the NPRM.

Additionally, in column 1 on page 46604, the incorrect number of days for comments on the ICR directed to the Department ''. . . within 30 days of the publication of this notice,'' is corrected to read, ''. . . within 90 days of the publication of this notice.''

Dated: August 14, 2014.

Debra A. Carr,

Director, Division of Policy and Program Development, Office of Federal Contract Compliance Programs.

[FR Doc. 2014–19760 Filed 8–19–14; 8:45 am]

BILLING CODE 4510–45–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 105

[Docket No. USCG–2013–0195]

RIN 1625–AC18

Commercial Fishing Vessels Dispensing Petroleum Products

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes revisions to its regulations for commercial fishing vessels carrying flammable or combustible liquid cargoes in bulk. The proposed revisions would reflect a 1984 statutory change that eliminated fishery-specific and geographical limitations on a statutory exemption that, effectively, permits certain commercial fishing vessels to carry and dispense flammable and combustible material including petroleum products; additionally, this proposed revision would simplify regulatory text. This notice of proposed rulemaking promotes the Coast Guard's maritime safety mission.

DATES: Comments and related material must be submitted on or before November 18, 2014.

ADDRESSES: 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. Hand delivery hours: 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays (telephone 202–366–9329).

Viewing incorporation by reference material. Make arrangements to view this material by calling the Coast Guard's Office of Regulations and Administrative Law at 202–372–3870 or by emailing *HQS–SMB-CoastGuardRegulationsLaw@uscg.mil.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Jack Kemerer, Fishing Vessel Safety Division (CG–CVC–3), Office of Commercial Vessel Compliance (CVC), U.S. Coast Guard; telephone 202–372–1249, email *Jack.A.Kemerer@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:

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I. Public Participation and Request for Comments

We encourage you to submit comments (or related material) on this notice of proposed rulemaking (NPRM). We will consider all submissions and may adjust our final action based on your comments. Comments should be marked with docket number USCG–2013–0195 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.

We are not planning to hold a public meeting, but will consider doing so if public comments indicate a meeting would be helpful. We would issue a separate **Federal Register** notice to announce the date, time, and location of such a meeting.

II. Abbreviations

CFV Commercial fishing vessel
CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive Order
FR Federal Register
MSM Coast Guard's Marine Safety Manual
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
§ Section symbol
U.S.C. United States Code

III. Basis and Purpose

The statutory basis of this proposed rule is provided by 33 U.S.C. 1321(j)(5), 46 U.S.C. 2103, 3306, 3703, and 4502. In 33 U.S.C.—

- Section 1321(j)(5) of 33 U.S.C. authorizes the Secretary of the department in which the Coast Guard is operating to issue regulations that require certain vessel and facility owners or operators to submit plans for responding to bulk noxious liquid substance spills from the vessel or facility.

In 46 U.S.C.—

- Section 2103 gives the Secretary general regulatory authority to implement Subtitle II (Chapters 21 through 147), including Chapter 37 (Carriage of Liquid Bulk Dangerous Cargoes);
- Section 3306 requires the Secretary to regulate in several areas relating to inspected vessels, to implement Subtitle II, Part B (Inspection of Vessels), and to secure the safety of individuals and property on board vessels subject to inspection;
- Section 3703 gives the Secretary both mandatory and discretionary regulatory authority for the specific implementation of Chapter 37; and

• Section 4502 requires the Secretary to regulate safety standards on uninspected commercial fishing vessels.

The Secretary's authority under 33 U.S.C. 1321 was delegated to the Coast Guard in DHS Delegation No. 0170.1, para. II (73). The Secretary's authority under 46 U.S.C. 2103, 3306, 3703, and 4502 was delegated to the Coast Guard in DHS Delegation No. 0170.1, para. II (92)(a) and (92)(b).

The purpose of this proposed rule is to align Coast Guard regulations with a 1984 statutory change that eliminated fishery-specific and geographical limitations on a statutory exemption that, effectively, permits certain commercial fishing vessels to carry and dispense flammable and combustible material including petroleum products. The proposed rule would also simplify the structure of 46 CFR part 105.

IV. Background

Until 1968, 46 U.S.C. 391a(1) (the predecessor to 46 U.S.C. 3703), provided that vessels carrying inflammable or combustible cargo, in bulk and in tanks, must be ''considered steam vessels for the purposes of title 52 of the Revised Statutes [hereafter ''title 52 vessels''] and shall be subject to the provisions thereof . . .''.

In 1968, Congress enacted Public Law 90–397 (the ''1968 Act,'' 82 Stat. 341). Section 4 of the 1968 Act amended 46 U.S.C. 391a(1) to permit all ''cannery tenders, fishing tenders, or fishing vessels of not more than five hundred gross tons used in the salmon or crab fisheries'' of Alaska, Oregon, and Washington (hereafter ''1968 Act vessels'') ''to have on board inflammable or combustible cargo in bulk to the extent and upon conditions as may be required'' by Coast Guard regulations (rather than as title 52 vessels). The relevant Coast Guard regulations for these Public Law 90–397 vessels were added in 1969, as 46 CFR part 105. Part 105 allowed the 1968 Act vessels to carry and dispense liquid bulk dangerous cargoes, subject to the safety regulations and other conditions set forth in part 105.

In 1972, Congress enacted Public Law 92–340 (the ''1972 Act,'' 86 Stat. 424). It significantly rewrote and expanded 46 U.S.C. 391a. Former subsection (1) was redesignated as subsection (2). As redesignated, subsection (2) contained the following proviso: ''nothing contained herein shall be deemed to amend or modify the provisions of section 4 of Public Law 90–397 with respect to certain vessels of not more than five hundred gross tons.'' [1] This proviso ratified and preserved the 1968 Act's exemption for all cannery tenders, fishing tenders, or fishing vessels of not more than five hundred gross tons used in the salmon or crab fisheries of Alaska, Oregon, and Washington.

In 1974, Congress enacted Public Law 93–430 (the ''1974 Act,'' 88 Stat. 1180). It amended 46 U.S.C. 391a(2) in two pertinent respects. First, it repeated the 1972 Act's language and added it as new subsection (2)(ii): ''nothing contained herein shall be deemed to amend or modify the provisions of section 4 of Public Law 93 [sic]–397 with respect to certain vessels of not more than five hundred gross tons.'' [2] Second, it added new subsection (2)(iii): ''this section shall not apply to vessels of not more than five thousand gross tons used in the processing and assembling of fishery products [in Alaska, Oregon, and Washington] and such vessels shall be allowed to have onboard inflammable or combustible cargo in bulk to the extent and upon conditions'' as specified by the Coast Guard.[3]

Thus, the 1974 Act left in place the exemption, first added by the 1968 Act, for all salmon and crab fish tenders and fishing vessels of not more than 500 gross tons in Alaska, Oregon, and Washington, and added a new exemption for all fish processing vessels of not more than 5,000 gross tons in those three States.

In 1976, the Coast Guard revised 46 CFR part 105 to incorporate the changes made by the 1972 and 1974 Acts.

In 1983, Congress enacted Public Law 98–89 (the ''1983 revision,'' 97 Stat. 501), to revise and consolidate laws pertaining to vessels and seamen, placing the revised statutes in 46 CFR subtitle II. The House Report accompanying the 1983 revision stated: ''the bill as reported does in fact make a great many substantive changes to the present law. Those changes are all either minor changes, adjustments, or modifications, or they are more significant changes to which the committee received no objection [from the maritime community] and which the committee believed would enhance the clarity and effectiveness of the law and generally accepted by the industry. Thus, if a comparison of the language of this bill with the existing law shows that a substantive change has resulted, it should be understood that that change was intended by the committee.'' [4]

The 1983 revision redesignated the former provisions of 46 U.S.C. 391a(2)(ii) and (iii) as new 46 U.S.C. 3702(c) and (d), in new Chapter 37 (Carriage of Liquid Bulk Dangerous Cargoes). The new provisions removed Pacific Northwest fish tenders and fishing vessels of not more than 500 gross tons and engaged only in the salmon or crab fishing industry from the scope of Chapter 37. They preserved the existing exemption for Pacific Northwest fish processing vessels of not more than 5,000 gross tons, engaged in the salmon or crab fishing industry, when they are carrying flammable or combustible liquid cargo in bulk. In light of the House Report that accompanied the 1983 revision, the Coast Guard understands that the removal of 1968 Act vessels was intentional, and viewed by Congress as non-controversial.

In 1984, Congress enacted Public Law 98–364 (the ''1984 Act,'' 98 Stat. 446). It amended 46 U.S.C. 3702(c) and (d). This amendment removed the salmon/crab fishery and geographical specifications from subsections (c) and (d). There appears to have been no practical effect to the subsection (c) amendment, because neither by statute nor by regulation had commercial fishing vessels outside the Pacific Northwest ever been authorized to carry flammable or combustible liquid cargoes in bulk. The effect of the subsection (d) amendment was to permit fish processors under 5,000 gross tons to carry flammable or combustible liquid cargo in bulk anywhere in the country and in any fishery, not just in the Pacific Northwest salmon and crab fisheries. There is no legislative history to explain Congress's intent.

The Coast Guard has not amended 46 CFR part 105 since 1976. The part needs to be revised to align with the 1984 Act's removal of elimination of the salmon/crab fishery and geographical specifications. The opportunity to revise part 105 also allows us to consolidate, simplify, and reorganize the part. We discuss these changes more fully in Section V., Discussion of Proposed Rule.

V. Discussion of Proposed Rule

We propose revising 46 CFR part 105 to reflect the 1984 legislative changes. Also, we propose several non-substantive changes in regulatory text to better align the regulations with current Coast Guard practice. Finally, we propose simplifying the structure of part 105, eliminating its current subparts,

[1] Public Law 92–340, 86 Stat. 424 at 428.

[2] 88 Stat. 1180 at 1183; the reference to ''Public Law 93–397'' was presumably intended to cite Public Law 90–397.

[3] *Id.*

[4] H.R. Rep. 98–338 at 120.

and combining related subject matter, as shown in Table 1.

TABLE 1—PROPOSED RESTRUCTURING OF 46 CFR PART 105

Current 46 CFR §	Proposed new §
105.01–1	105–1.
105.01–3	105–3.
105.01–5	Transfer substance to proposed § 105–1 and remove to help simplify part 105 structure.
105.05–1	105–1, 105–11.
105.05–2	105–11.
105.05–3	Transfer substance to proposed § 105–5 and remove to help simplify part 105 structure.
105.05–5	Section 105.05–5 specifies in positive terms how petroleum products must be stored on vessels. This may be unduly restrictive. Therefore, we propose replacing it with § 105–11, which instead would specify only those types of storage that are prohibited.
105.05–10	Transfer substance to proposed §§ 105–1 and 105–11, and remove to help simplify part 105 structure.
105.10–5	105–5.
105.10–10	105–5.
105.10–15	105–5.
105.10–20	105–5.
105.10–25	Remove definition of ''commercial fishing vessel'' as obsolete in light of the 1984 Act. Proposed § 105–5 includes a definition of ''commercial fish-processing vessel,'' the only type of vessel to which part 105 is still applicable.
105.15–1	105–10.
105.15–5	105–10.
105.15–10	105–10.
105.15–15	105–10.
105.15–20	105–10.
105.20–1	105–10.
105.20–3	105–12.
105.20–5	105–12.
105.20–10	105–12.
105.20–15	105–12.
105.25–1	105–12.
105.25–5	105–12.
105.25–7	105–12.
105.25–10	105–12.
105.25–15	105–12.
105.25–20	105–12.
105.30–1	105–13.
105.30–5	105–13.
105.35–1	105–14.
105.35–5	105–14.
105.35–10	105–14.
105.35–15	105–14.
105.45–1(a)(1), (a)(2).	105–10.
105.45–1(b)	New specific requirements for cargo transfer operations appear in proposed § 105–15. We propose removing § 105.45–1(b) because its merchant-mariner credentialing provisions duplicates of existing requirements in 46 CFR Subchapter B (Merchant Marine Officers and Seamen).
105.45–5	105–15.
105.45–10	105–15.
105.45–15	105–15.
105.45–20	105–15.
105.90–1	105–12(i), 105–13(d).

The changes we propose within each section of part 105 and the reasons for each proposed change are listed in Table 2.

TABLE 2—SUBSTANTIVE CHANGES PROPOSED FOR 46 CFR PART 105

46 CFR—Proposed § & subject	Proposed change
105–1 Purpose and applicability	Revise to align with 1984 Act and implement 46 U.S.C. 3702(d). Part 105 would apply to section 3702(d) commercial fish processors built since 1976 and not greater than 5,000 gross tons, but would no longer apply to commercial fishing industry vessels of 500 gross tons or less.

TABLE 2—SUBSTANTIVE CHANGES PROPOSED FOR 46 CFR PART 105—Continued

46 CFR—Proposed § & subject	Proposed change
105–3 Incorporation by reference	Revise section to reference UL 19 and an updated version of ASTM 323. Existing regulations for fire hoses (46 CFR 105.35–15(c)(1)) tie regulatory compliance to UL 19 but do not officially incorporate it by reference. In order to enforce compliance with UL 19, the Coast Guard must incorporate the standard into regulation (per requirements of the Office of the Federal Register). ASTM 323 is incorporated not to impose any regulatory obligation on the public, but merely to provide a currently available industry standard that usefully defines ''Reid vapor pressure'' (which is a term used in the proposed revision of part 105). The Coast Guard specifically requests public comment on these proposed incorporations and on whether other standards should be incorporated in place of or in addition to UL 19 and ASTM 323.
105–5 Definitions	Add definitions for ''bulk,'' ''cargo,'' ''certificate of compliance,'' ''commercial fish-processing vessel,'' ''dispensing,'' ''dispensing tank,'' ''examination,'' ''fuel tank,'' ''limited quantities,'' and ''new vessel,'' all of which are terms used in the proposed part 105 revision. These definitions are derived either from existing Coast Guard regulations or from our Marine Safety Manual (MSM). The definition of ''limited quantities'' uses a ''20% of deadweight tonnage'' standard; this represents no change from the current standard for CFVs and other ''miscellaneous vessels,'' as stated in MSM volume II, chapter 2. The definition of ''new vessel'' reflects the impact of the 1974 act, which added the fish processing vessel provision, and the 1984 act, which removed the salmon/crab fishery and geographical limitations.
105–10 Vessel examinations	Replace the term ''vessel inspections'' with ''vessel examinations.'' In the context of part 105, the former term was never proper. Examinations, not inspections, are and have always been the customary Coast Guard enforcement mechanism for CFVs.
105–11 Prohibitions	The only substantive change is to replace § 105.05–5's positive specifications as to how petroleum products must be stored on vessels with a specification of what storage arrangements are prohibited. Positive statement of what *is* allowed may be unduly restrictive, because it leaves no regulatory room for the future evolution of safe storage arrangements. Therefore, our proposed rule's focus is on prohibiting existing arrangements that we know to be unsafe.
105–12 Cargo tank and pumping system requirements.	The proposed requirements are substantially similar to those now contained in subparts 105.20, 105.25, and 105.90 (requirements for plans and sketches would be transferred to new § 105–10), but they are presented in a shorter format that in some cases eliminates or simplifies details found in those subparts.
105–13 Electrical fittings and fixtures.	The proposed requirements are substantively identical to those now contained in subparts 105.30 and 105.90, but they are presented in a shorter format that in some cases eliminates or simplifies details found in those subparts.
105–14 Fire extinguishing equipment.	The proposed requirements are substantially similar to those now contained in subpart 105.35, but they are presented in a shorter format that in some cases eliminates or simplifies details found in those subparts.
105–15 Cargo transfer operations	The proposed requirements are substantially similar to those now contained in subpart 105.45, but they are presented in a shorter format that in some cases eliminates or simplifies details found in those subparts, and they eliminate documentation requirements that appear elsewhere in the proposed revised part or that duplicate provisions of 46 CFR Subchapter B (Merchant Marine Officers and Seamen).

VI. Incorporation by Reference

Material proposed for incorporation by reference appears in proposed 46 CFR 105–3. See **ADDRESSES** for information on viewing this material. Copies of the material are available from the sources listed in proposed 46 CFR 105–3. Before publishing a binding rule, we will submit this material to the Director of the **Federal Register** for approval of the incorporation by reference.

This NPRM proposes incorporating two standards: UL 19 and an updated version of ASTM 323. The Coast Guard specifically requests public comment on these proposed incorporations and on whether other standards should be incorporated in place of or in addition to UL 19 and ASTM 323.

VII. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders (E.O.s) related to rulemaking. Below we summarize our analyses based on these statutes and E.O.s.

A. Regulatory Planning and Review

Executive Orders 12866, Regulatory Planning and Review and 13563, Improving Regulation and Regulatory Review direct agencies to assess the 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, safety effects, distributive impacts, and equity benefits). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule has not been designated a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, the proposed rule has not been reviewed by the Office of Management and Budget (OMB).

The Coast Guard does not expect this proposed rule to result in any economic impact on industry. The proposed revisions would reflect 1984 statutory changes, simplify regulatory text, and clarify existing language in order to harmonize the existing regulations with current industry practices. We estimate that 14 commercial fish processing vessels would be affected by this proposed rulemaking and we obtained this number by using the Coast Guard's Marine Information Safety and Law Enforcement System (MISLE) database. Additionally, Coast Guard subject matter experts working in the Office of Commercial Vessel Compliance (CVC–3), have independently verified and confirmed the total affected population to be 14 vessels. Our analysis of this population shows that all the commercial fish processing vessels affected by this proposed rule are fitted with storage tanks that allow them to transport liquid cargoes in bulk.

It is the intent of this proposed rule to clarify and update existing CFR language to align with current industry practices. The updates in this proposed rulemaking do not require changes to industry practices because these updates simply reflect current industry

practices; therefore, this proposed rule does not incur any cost on the affected population. Table 2 (earlier in this preamble) lists the proposed changes and we summarize the proposed changes and the economic impact of this proposed rule in the following paragraphs:

105–1 Purpose and Applicability

This provision has been revised to align with the 1984 Act and to implement 46 U.S.C. 3702(d). Part 105 would apply to section 3702(d) regarding commercial fish processing vessels not greater than 5,000 gross tons and built after 1976. The Coast Guard and industry have been operating in accordance with the 1984 Act and 46 U.S.C. Additionally, the 1984 Act removed the geographical limitations which were restricted to the States of Washington, Alaska, and Oregon and this provision is updating current CFR language to reflect these statutory changes. We do not expect this provision to change industry operations and believe it should have no economic impact on industry.

105–3 Incorporation by Reference

We are revising this section to reference UL 19 and the updated version of ASTM 323. The revised section would comply with current Office of **Federal Register** requirements and this update would link existing regulatory compliance standards for fire hoses (46 CFR 105.35–15 (c) (1)) to UL 19. We have incorporated ASTM 323 simply to reference the current industry standards that define ''Reid Vapor Pressure''. The language in this provision would not cause any economic impact.

105–5 Definitions

The proposed rule updates the definitions that are required to identify the population of commercial fish processing vessels transporting and dispensing limited quantities of flammable or combustible liquid cargo in bulk. This provision would not cause any economic burden to industry because it is simply clarifying, not changing, the criteria that are applicable to the affected population.

105–10 Vessel Examinations

The change in language from ''vessel inspection'' to ''vessel examination'' is a technical change that is consistent with the Coast Guard's terminology related to commercial fishing vessels. The term inspection is typically used to describe Coast Guard activities related to vessels that require a Certificate of Inspection (COI). Similar activities on vessels not required to hold a COI, such as commercial fishing vessels, are typically referred to as examinations. The change is solely to provide consistency and would not produce any economic burden on industry.

105–11 Prohibition

There is one substantive change to this section, which is to replace § 105.5's specifications on how petroleum products must be stored on vessels with a specification of what storage arrangements are prohibited. Positive statements of what storage arrangements are allowed may be unduly restrictive, because these statements leave no room for the future evolution of safe storage arrangements. This provision would not cause an economic burden on industry since the provision is simply stating the Coast Guard's authority to review and address any safety concerns with the storage and transportation of petroleum products.

105–12 Cargo Tanks and Pumping System Requirement

This provision would consolidate the requirements for plans and drawings which are now found in subparts 105.20, 105.25, and 105.90, in the new § 105–10. These editorial changes will shorten the current format by simplifying details found within subparts 105.20, 105.25, and 105.90. These editorial changes would not cause an economic burden on the affected population.

105–13 Electrical Fitting and Fixtures

This provision is an editorial change that consolidates and simplifies existing subparts 105.30 and 105.90 to reflect the statutory changes by shorting the format and by simplifying specific details found within these subparts. The change proposed in this provision would not cause any economic burden on the affected population.

105–14 Fire Extinguishing Equipment

The proposed provision will shorten the format and simplify details found in subpart 105.35. This provision would not cause an economic burden on the affected population since the changes proposed in this provision are editorial.

105–15 Cargo Transfer Operations

The proposed changes in this subpart will shorten the format and simplify language of existing part 105.45. This provision will also eliminate documentation requirements that appear elsewhere in the subpart. These requirements are duplicates of the provisions found in 46 CFR subchapter B (Merchant Marine officers and Seaman). This provision does not cause an economic burden on the affected population since the changes proposed in this provision are editorial in nature.

B. Small Entities

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. 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 regulation does not impose any economic impact. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

C. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, contact the Coast Guard (see **FOR FURTHER INFORMATION CONTACT**). 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.

D. Collection of Information

This proposed rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

E. Federalism

A rule has implications for federalism under E.O. 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements as described in Executive Order 13132. Our analysis is explained below.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard, including categories for inspected vessels. It is also well-settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (*See* the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke and Intertanko* v. *Locke, 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).*)

This proposed rule would amend the applicability of existing regulations in order to align with the statutory authority granted, through delegation, to the Coast Guard under 46 U.S.C. 3306, and further outlined under 46 U.S.C. 3702, to promulgate regulations for commercial fish-processing vessels when carrying flammable or combustible liquid cargoes in bulk. This authority was specifically defined by Congress and, hence, States and local governments do not have the authority to determine the applicability of Coast Guard-issued regulations for commercial fish-processing vessels, nor do they have the authority to promulgate regulations within the category of commercial fish-processing vessels carrying flammable or combustible liquid cargoes in bulk. Therefore, the proposed rule would be consistent with the principles of federalism and preemption requirements in E.O. 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with federalism implications and preemptive effect, E.O. 13132 specifically directs agencies to consult with State and local governments during the rulemaking process. If you believe this rule would have implications for federalism under E.O. 13132, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

F. Unfunded Mandates Reform Act

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

G. Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

H. Civil Justice Reform

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

I. Protection of Children

We have analyzed this proposed rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

J. Indian Tribal Governments

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

K. Energy Effects

We have analyzed this proposed rule under E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under E.O. 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

L. Technical Standards

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule uses the following voluntary consensus standards: ASTM D 323–94 and UL 19. The proposed sections that reference these standards and the locations where these standards are available are listed in 46 CFR 105–3.

M. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969, 42 U.S.C. 4321–4370f, and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This proposed rule is likely to be categorically excluded under section 2.B.2, figure 2–1, paragraph (34)(d) and (e) of the Instruction and 6(a) of Coast Guard Procedures for Categorical Exclusions published July 23, 2002 (67 FR 48243). This proposed rule involves regulations concerning vessel operation safety standards; regulations concerning equipment approval and carriage requirements; and regulations concerning the examination of and equipping of vessels. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 46 CFR Part 105

Cargo vessels, Fishing vessels, Hazardous materials transportation, Marine safety, Petroleum, Seamen.

For the reasons discussed in the preamble, the Coast Guard proposes to revise 46 CFR part 105 to read as follows:

PART 105—COMMERCIAL FISHING VESSELS DISPENSING PETROLEUM PRODUCTS

Sec.
105–1 Purpose and applicability.
105–3 Incorporation by reference.
105–5 Definitions.
105–10 Vessel examination.
105–11 Prohibitions.
105–12 Cargo tank and pumping system requirements.
105–13 Electrical fittings and fixtures.
105–14 Fire extinguishing equipment.
105–15 Cargo transfer operations.

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306, 3703, 4502; Department of Homeland Security Delegation No. 0170.1, para. II (73), (93)(a) and (b).

§ 105–1 Purpose and applicability.

This part implements 46 U.S.C. 3702(d) and applies to each vessel of not more than 5,000 gross tons, the primary use of which is as a commercial fish-processing vessel, and that incidental to its primary use, carries and dispenses limited quantities of flammable or combustible liquid cargo in bulk. Certain provisions in 46 CFR 105–12 apply only to vessels the construction of which was contracted for before May 31, 1976.

§ 105–3 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish a notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.* Also, it is available for inspection at Coast Guard Headquarters. Contact Commandant (CG–CVC), Attn: Office of Commercial Vessel Compliance, U.S. Coast Guard Stop 7501, 2703 Martin Luther King Jr. Avenue SE., Washington, DC 20593–7501; telephone 202–372–1244. The material is also available from the sources listed in paragraphs (b) and (c) of this section.

(b) ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, telephone: 610–832–9500, fax: 610–832–9555, *http://www.astm.org.*

(1) ASTM D 323–08, ''Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method),'' incorporation by reference approved for § 105–5.

(2) [Reserved]

(c) UL (formerly Underwriters Laboratories, Inc.), 12 Laboratory Drive, Research Triangle Park, NC 27709–3995, 919–549–1400, *http://www.ul.com.*

(1) UL 19, ''Standard for Safety-Lined Fire Hose and Hose Assemblies,'' incorporation by reference approved for § 105–14.

(2) [Reserved]

§ 105–5 Definitions.

As used in this part, the italicized terms have the meanings indicated in this section.

Approved means approved by the Commandant, U.S. Coast Guard, unless otherwise stated.

Bulk means having a capacity of 250 barrels or more.

Cargo means any combustible liquid or flammable liquid that is transported and off-loaded at a destination by a commercial fish-processing vessel. It does not include combustible or flammable liquid carried in temporary tanks or permanently installed tanks for use only by machinery and boats carried aboard the vessel, or for use only by vessels that are directly supporting the vessel's primary operations.

Certificate of compliance means the document issued and displayed in accordance with 46 CFR 105–10.

Combustible liquid means any liquid having a flashpoint above 80 °F (as determined from an open cup tester, as used for testing of burning oils). A *Grade D* combustible liquid is one having a flashpoint above 80 °F and below 150 °F. A *Grade E* combustible liquid is one having a flashpoint of 150 °F or above.

Commercial fish-processing vessel means a self-propelled manned vessel that commercially prepares fish or fish products other than by gutting, decapitating, gilling, skinning, shucking, icing, freezing, or brine chilling.

Dispensing means the loading or unloading of limited quantities of flammable or combustible liquids in bulk.

Dispensing tank means any tank from which a limited quantity of a flammable or combustible liquid, in bulk, that is not used to supply fuel for vessel propulsion or auxiliary machinery is off-loaded by means of pumping, gravitation, or displacement.

Examination means a careful and critical assessment of the vessel and its appurtenances carried out by an authorized examiner or an organization designated by the Commandant, U.S. Coast Guard. This includes, where necessary, a visual assessment of the vessel's hull, structures, electrical systems, and machinery, supplemented by other means such as measurement and/or nondestructive testing.

Flammable liquid means any liquid that gives off flammable vapors (as determined by flashpoint from an open cup tester, as used for testing of burning oils) at or below 80 °F. Flammable liquids are referred to by grades as follows:

(1) *Grade A.* Any flammable liquid having a Reid vapor pressure of 14 pounds or more, as measured in accordance with ASTM D 323–08 (incorporated by reference, see § 105–3).

(2) *Grade B.* Any flammable liquid having a Reid vapor pressure of less than 14 pounds and more than 8½ pounds, as measured in accordance with ASTM D 323–08.

(3) *Grade C.* Any flammable liquid having a Reid vapor pressure of 8½ pounds or less and a flashpoint of 80 °F or below, as measured in accordance with ASTM D 323–08.

Fuel tank means a tank other than a dispensing tank used to transport flammable or combustible liquid for the purpose of supplying fuel for propulsion of the vessel to which it is attached.

Limited quantities means not more than 20 percent of a vessel's deadweight tonnage as applied to bulk liquid cargoes or carried in permanent or temporary tanks.

New vessel means a vessel whose construction is contracted for on or after May 31, 1976.

Pressure vacuum relief valve means any device or assembly of a mechanical, liquid, weight, or other type used for the automatic regulation of pressure or vacuum in enclosed places.

§ 105–10 Vessel examination.

(a) Each examination referred to in this section must be conducted by the Coast Guard, or an accepted or similarly qualified organization designated by the Commandant, to determine whether the examined vessel is in substantial compliance with this part. An examination may include any test or verification that the examiner deems necessary for determining the vessel's safety and seaworthiness.

(1) The owner or operator of each vessel subject to this part must apply, using Form CG–3752, available at *http://www.uscg.mil/forms/cg/cg_3752.pdf,* to the cognizant Officer in Charge, Marine Inspection, for the vessel to be examined in accordance with paragraph (b) of this section. In applying for a vessel's initial examination under this section, the application must be accompanied by a plan or sketch of each cargo tank and piping system for filling and dispensing bulk flammable or combustible cargoes, and a brief description of those systems, including their dimensions and materials used. If cargo tanks will be located in enclosed compartments or below decks, the plans or sketches must show the proposed ventilation system. Plans or sketches need not be submitted if the cargo tanks and piping systems have previously been accepted by the Coast Guard.

(2) Each vessel must be examined before its first use in loading, transporting, or dispensing combustible or flammable liquids in bulk, and at least annually thereafter if the vessel carries such liquids in temporarily installed cargo tanks or containers, or at least biennially thereafter if the vessel carries such liquids in permanently installed cargo tanks.

(3) A vessel that is laid up, dismantled, or out of commission is exempt from the requirements of this section.

(b) After examining a vessel and finding it to be in substantial compliance with this part, the examiner will issue, and the vessel's owner or operator must display onboard, a certificate of compliance that describes the amounts of bulk liquid flammable or combustible cargoes that the vessel may carry, the number of crewmembers required to hold merchant mariner credentials and tankerman endorsements in accordance with 46 U.S.C. 8304 and 46 CFR part 13, and any conditions applicable to the carriage or dispensation of those cargoes. Each certificate of compliance is valid for not more than 2 years or until suspended or revoked.

§ 105–11 Prohibitions.

Each vessel to which this part applies is prohibited from transporting Grade A flammable liquids in bulk, or carrying bulk flammable or combustible liquids in portable or temporarily installed dispensing tanks or containers that are either below deck or in closed compartments on or above deck.

§ 105–12 Cargo tank and pumping system requirements.

(a) Cargo tanks for the carriage of bulk flammable or combustible liquids must be constructed of iron, steel, copper, nickel alloy, copper alloy, or aluminum. Tanks must be designed to withstand the maximum head to which they may be subjected, and tanks of more than 150 gallons capacity must have at least the thickness indicated in Table 105–12.

TABLE 105–12—TANK THICKNESS

Material	ASTM specification (latest edition)	Thickness in inches and gauge number [2 3]
Nickel copper	B127, hot rolled sheet or plate	0.107 (USSG 12).
Copper nickel [1]	B122, Alloy No. 5	0.128 (AWG 8).
Copper [1]	B152, Type ETP	0.182 (AWG 5).
Copper silicon [1]	B97, Alloys A, B, and C	0.144 (AWG 7).
Steel or iron		0.179 (MSG 7).
Aluminum [4]	B209, Alloy	5086 0.250 (USSG 3).[5]

[1] Tanks fabricated with these materials must not be utilized for the carriage of diesel oil.
[2] The gauge numbers used in this table may be found in many standard engineering reference books. The letters "USSG" stand for "U.S. Standard Gauge" which was established by the act of March 3, 1892 (15 U.S.C. 206) for sheet and plate iron and steel. The letters "AWG" stand for "American Wire Gauge" (or Brown and Sharpe Gauge) for nonferrous sheet thicknesses. The letters "MSG" stand for "Manufacturers' Standard Gauge" for sheet steel thicknesses.
[3] Tanks more than 400 gallons must be designed with a factor of safety of four on the ultimate strength of the tank material used with a design head of not less than 4 feet of liquid above the top of the tank.
[4] Anodic to most common metals. Avoid dissimilar-metal contact with tank body unless galvanically compatible.
[5] And other alloys acceptable to the Commandant.

(1) All tank joints, connections, and fittings must be welded or brazed, and tanks may not have flanged-up top edges.

(2) A tank exceeding 30 inches in any horizontal dimension must be fitted with vertical baffle plates of the same material as the tank, unless the tank has a greater thickness than minimum requirements and is reinforced with stiffeners. Limber holes at the bottom and air holes at the top of all baffles must be provided.

(3) An opening fitted with a threaded pipe plug may be used on the bottom of the tank for cleaning purposes.

(b) *Supports.* Tanks must be adequately supported and braced to prevent movement. Supports and braces must be insulated from contact with the tank surface using a nonabrasive and nonabsorbent material.

(c) *Fittings.* (1) Filling lines must be at least 1½ inches standard pipe size and extend to within 1½ -inch pipe diameters of the bottom of the tank.

(2) Suction lines from diesel oil tanks may be taken from the bottom provided a shutoff valve is installed at the tank. Tanks for Grades B and C liquids must have top suctions only.

(3) Vent lines must be at least equal in size to the filling lines.

(4) When a cargo tank contains Grades B or C liquids, the vent lines must be terminated with an approved pressure vacuum relief valve not less than 3 feet above the weather deck. When a cargo tank contains Grades D or E liquids, the vent line may be terminated with a gooseneck fitted with a flame screen at a reasonable height above the weather deck.

(d) *Hydrostatic tests.* Tanks vented to the atmosphere must be hydrostatically tested to a pressure of 5 pounds per square inch or 1½ times the maximum head to which they may be subjected in service. A standpipe of 11⅓ feet in length attached to the tanks may be filled with water to accomplish the 5 pounds per square inch test.

(e) *Piping systems.* (1) Piping must be copper, nickel copper, or copper nickel, with a minimum wall thickness of 0.035 inches; except that seamless steel piping or tubing providing equivalent safety may be used for diesel cargo systems.

(2) Valves must be of a suitable nonferrous metallic Union Bonnet type with ground seats, except that steel or nodular iron may be used in cargo systems that use steel pipe or tubing.

(3) Aluminum or aluminum alloy valves and fittings may not be used in cargo lines.

(f) *Pumps.* (1) Pumps for cargo dispensing must be of a type satisfactory for the purpose.

(2) A relief valve must be provided on the discharge side of the pump if the pressure under shutoff conditions exceeds 60 pounds. When a relief valve is installed, it must discharge back to the suction of the pump.

(3) Where electric motors are installed with dispensing pumps, they must be explosion-proof and so labeled by UL or another recognized laboratory, as suitable for Class I, Group D atmospheres.

(g) *Grounding.* (1) All tanks and associated lines must be electrically grounded to the vessel's common ground.

(2) A grounded type hose and nozzle must be used for dispensing fuels.

(h) *Cargo tanks installed below decks—additional requirements.* (1) Compartments or areas containing tanks or pumping systems must be closed off from the remainder of the vessel by gastight bulkheads. Such gastight bulkheads may be pierced for a drive shaft and pump engine control rods if the openings are fitted with stuffing boxes or other acceptable gland arrangements.

(2) Each compartment must be provided with a mechanical exhaust system capable of ventilating the compartment with a complete change of air every 3 minutes. The intake duct or ducts must be of a sufficient size to permit the required air change. The exhaust duct or ducts must be located so as to remove vapors from the lower portion of the space or bilges.

(3) The ventilation outlets must terminate more than 10 feet from any opening to the interior of the vessel that normally contains sources of vapor ignition. The ventilation fan must be explosion-proof and unable to act as a source of ignition.

(4) Cargo pumps must not be installed in the cargo tank compartment unless the drive system is outside the compartment. Suction pipelines from cargo tanks must be run directly to the pump, but not through working or crew spaces of the vessel.

(5) Tanks must be located so as to provide at least 15 inches of space around the tank, including top and bottom, to permit external examination.

(6) Shutoff valves must be provided in the suction lines as close to the tanks as possible. Valves must be installed so as to shut off against the flow. Remote control of the shutoff valve must be provided where the examiner deems necessary.

(i) *Exemption for older vessels.* Tanks, containers, and associated piping systems in use prior to December 1, 1969, on a vessel whose construction was contracted for a date before May 31, 1976, are exempt from the requirements of this section provided they are maintained in a condition that the Officer in Charge, Marine Inspection, finds satisfactory, and provided that major repairs or replacement of exempted equipment and systems is in accordance with this part.

§ 105–13 Electrical fittings and fixtures.

(a) In compartments or areas containing tanks or pumps handling petroleum products other than Grade E products, no electrical fittings, fixtures, or equipment may be installed or used unless approved for a Class I, Group D hazardous location and labeled as such by UL or another recognized laboratory.

(b) All electrical equipment, fixtures, and fittings located within 10 feet of a vent outlet or a dispensing outlet must be explosion-proof and labeled as such by UL or another recognized laboratory, as suitable for Class I, Group D atmospheres.

(c) All electrical equipment must be grounded to the vessel's common ground.

(d) Tanks, containers, and associated piping systems in use prior to December 1, 1969, on a vessel whose construction was contracted for a date before May 31, 1976, are exempt from the requirements of this section provided they are maintained in a condition that the Officer in Charge, Marine Inspection, finds satisfactory, and provided that major repairs or replacement of exempted equipment and systems is in accordance with this part.

§ 105–14 Fire extinguishing equipment.

(a) Each vessel must carry at least two B–II dry chemical or foam portable fire extinguishers that comply with 46 CFR 28.160 and bear the UL marine type label, and must be located at or near each dispensing area. This equipment must be examined prior to issuing a letter of compliance.

(b) Each vessel must be provided with a hand-operated portable fire pump having a capacity of at least 5 gallons per minute and equipped with a suction and discharge hose suitable for use in firefighting. The pump may also serve as a bilge pump.

(c) A self-priming power-driven fire pump must be installed on each vessel of more than 65 feet in length overall. The pump must be able to discharge an effective stream from a hose connected to the highest outlet, must be fitted with a pressure gauge, and must have a minimum capacity of 50 gallons per minute at a pressure of not less than 60 pounds per square inch at the pump outlet. The pump must be self-priming and connected to the fire main and may be driven off a propulsion engine or other source of power. The pump may also be connected to the bilge system so that it can serve as either a fire pump or a bilge pump.

(d) Each vessel that must have a power-driven fire pump must also have a fire main system that includes a fire main, hydrants, hoses, and nozzles.

(1) Fire hydrants must be of sufficient number and located such that any part of the vessel may be reached with an effective stream of water from a single length of hose.

(2) All piping, valves, and fittings must be in accordance with good marine practice and suitable for the purpose intended.

(3) One length of the fire hose must be attached to each fire hydrant at all times. The fire hose may be a commercial fire hose or equivalent of not more than a 1½-inch diameter, or a garden hose of not less than a ⅝-inch nominal inside diameter. The hose must be in one piece, not less than 25 feet, and not more than 50 feet in length. If a 1½-inch diameter fire hose is used after January 1, 1980, each length of hose must be lined as a commercial fire hose that conforms to UL 19 (incorporated by reference; see 46 CFR 105–3). A hose that bears a UL label as a lined fire hose is accepted as conforming to this requirement. The hose must have a combination nozzle approved by the Commandant in accordance with 46 CFR 162.027–6. If a garden hose is used, it must be of a good commercial grade constructed of an inner rubber tube, plies of braided cotton reinforcement, and an outer rubber cover, or of equivalent material, and must be fitted with a commercial garden hose nozzle of good-grade bronze or equivalent metal. All fittings on fire hoses must be of brass, copper, or other suitable corrosion-resistant metal.

§ 105–15 Cargo transfer operations.

During a transfer operation involving bulk liquid flammable or combustible cargoes—

(a) The operation must comply with any conditions listed in the vessel's certificate of compliance;

(b) The person in charge of the operation must ensure that—

(1) Any galley fire is safely maintained during the operation or immediately extinguished if it cannot be so maintained; and

(2) No smoking takes place in the vicinity of the operation.

(c) A red flag by day or a red electric lantern at night, visible on all sides, must be used to signal a dockside transfer operation. For non-dockside transfer operations, a red flag must be used to signal the operation; and

(d) During a dockside transfer operation, a placard must be displayed to warn persons approaching the gangway. The placard must use letters at least 2 inches high, bear the heading ''Warning,'' and prohibit open lights, smoking, or visitors.

Dated: August 8, 2014.

J.C. Burton,

Captain, U.S. Coast Guard, Director of Prevention and Compliance.

[FR Doc. 2014–19142 Filed 8–19–14; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2014–0022]

RIN 2127–AL55

Federal Motor Vehicle Safety Standards: Vehicle-to-Vehicle (V2V) Communications

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Advance notice of proposed rulemaking (ANPRM); notice of availability of technical report.

SUMMARY: This document initiates rulemaking that would propose to create a new Federal Motor Vehicle Safety Standard (FMVSS), FMVSS No. 150, to require vehicle-to-vehicle (V2V) communication capability for light vehicles (passenger cars and light truck vehicles (LTVs)) and to create minimum performance requirements for V2V devices and messages. The agency believes that requiring V2V communication capability in new light vehicles would facilitate the development and introduction of a number of advanced vehicle safety applications. Some crash warning V2V applications, like Intersection Movement Assist (IMA) and Left Turn Assist (LTA), rely on V2V-based messages to obtain information to detect and then warn drivers of possible safety risks in situations where other technologies have less capability. Both of those applications address intersection crashes, which are among the most deadly crashes that U.S. drivers currently face. NHTSA believes that V2V capability will not develop absent regulation, because there would not be any immediate safety benefits for consumers who are early adopters of V2V. V2V begins to provide safety benefits only if a significant number of vehicles in the fleet are equipped with it and if there is a means to ensure secure and reliable communication between vehicles. NHTSA believes that no single manufacturer would have the incentive to build vehicles able to ''talk'' to other vehicles, if there are no other vehicles to talk to—leading to likely market failure without the creation of a mandate to induce collective action.

Through this ANPRM, and through the accompanying technical report, ''Vehicle-to-Vehicle Communications: Readiness of V2V Technology for Application,'' NHTSA presents the results of its initial research efforts. In this report, NHTSA has done a very preliminary estimate of the costs of V2V and the benefits for two V2V-based safety applications, IMA and LTA, for addressing intersection crashes and left-turning crashes, respectively. The report also explores technical, legal, security, and privacy issues related to the implementation of V2V. NHTSA seeks comment on the research report, and solicits additional information, data, and analysis that will aid the agency in developing an effective proposal to require new light vehicles to be V2V-capable. By mandating V2V technology in all new vehicles, but not requiring specific safety applications, it is NHTSA's belief that such capability will in turn facilitate market-driven development and introduction of a variety of safety applications, as well as mobility and environment-related applications that can potentially save drivers both time and fuel.

DATES: Comments must be received no later than October 20, 2014.

ADDRESSES: *Report:* The research report is available on the internet for viewing in PDF format at *http://www.safercar.gov/v2v,* and at *http://www.regulations.gov,* Docket No. NHTSA–2014–0022. On regulations.gov, input this docket number into the search box on the home page and follow the link provided to find the report.

Comments: You may submit comments, identified by Docket No. NHTSA–2014–0022, by any of the following methods:

Internet: To submit comments electronically, go to *http://www.regulations.gov* and follow the online instructions for submitting comments. Alternatively, go to *http://www.safercar.gov/v2v/resources* and click the yellow button labeled ''Submit comments on the 2014 V2V Light Vehicle Technical Report here'' to go directly to the docket in regulations.gov.

Facsimile: Written comments may be faxed to 1–202–493–2251.

Mail: Send comments to Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

Hand Delivery: If you plan to submit written comments by hand or by courier, please do so at U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC between 9 a.m. and 5 p.m. Eastern Standard Time, Monday through Friday, except Federal holidays. You may call the Docket Management Facility at 1–800–647–5527.

Instructions: For detailed instructions on submitting comments and additional information see the *Public Participation* heading of the **SUPPLEMENTARY INFORMATION** section of this notice. Please note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the *Privacy Act* heading under the *Public Participation* heading below for more information.

FOR FURTHER INFORMATION CONTACT: For technical issues: Gregory Powell, Office of Rulemaking, National Highway Traffic Safety Administration, at 202–366–5206. For legal issues: Rebecca Yoon, Office of the Chief Counsel, National Highway Traffic Safety Administration, at 202–366–2992.

SUPPLEMENTARY INFORMATION:

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I. Executive Summary
II. Questions on which NHTSA Requests Further Information From the Public
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I. Executive Summary

In early 2014, NHTSA announced its decision to move forward with the regulatory process for light duty V2V communication systems. This ANPRM announces the availability of the NHTSA research report, ''Vehicle-to-Vehicle Communications: Readiness of V2V Technology for Application'' which includes analysis of the Department's research findings in several key areas including technical feasibility, privacy and security, and preliminary estimates on costs and safety benefits and seeks comments on how NHTSA can best evaluate the need

for and likely effects of any mandate for V2V. NHTSA will use the responses to this ANPRM and the research report as part of our work to develop a regulatory proposal that would require V2V devices in new vehicles in a future year, consistent with applicable legal requirements, Executive Orders, and guidance.

NHTSA will also issue a Request for Information (RFI) in the near future to seek comments on whether any private entities may have an interest in exploring the possibility of constituting and operating a V2V Security Credential Management System (SCMS), get feedback on certain questions regarding the establishment of an SCMS, and obtain any other comments or information from the public on the issue of an SCMS. The RFI, when it is issued, will be available in Docket No. NHTSA–2014–0023.

II. Questions on Which NHTSA Requests Further Information From the Public

NHTSA invites comment on all aspects of the research report, in order to inform the agency as it works toward making the rulemaking proposal, but also has specific questions in each of the following areas evaluated as part of the research report. As a general matter, the agency requests that commenters provide as much research, evidence, or data as possible to support their comments, as that information will be of great assistance to the agency as it moves forward in the development of a proposed rule.

a. Safety Need

Section III of the research report discusses an analysis conducted to determine the potential Safety Need associated with V2V technology:

1. NHTSA intends to use additional V2V data collected from real-world test beds already being executed by DOT to continue to supplement our understanding of which crash scenarios are most likely to be addressed by V2V technology. (Note: this question is different from that of possible benefits, discussed below, which goes to the likely effectiveness of the technology—the degree to which a crash risk will be reduced—in a given scenario.) In the future, these same test beds will likely serve as early deployment sites for V2V and V2I. How might we use data from these test beds to inform our estimates of the likely target population for V2V in the real world? How might we use data from these test beds (or from our earlier 3000-car study) to inform our estimates of the likely benefits and costs of requiring V2V? Additionally, outside of using test beds or additional field operational trials, how can we better ensure that our evaluation accurately reflects, or permits valid conclusions about, the population of drivers, vehicles, and environments where V2V will be used if it is mandated on a nationwide basis?

2. We will also work with the General Services Administration (GSA) to determine which vehicles in the government fleet can be equipped with V2V devices for testing purposes, and to facilitate the early penetration of V2V technology into the on-road fleet. Who else is interested in outfitting a public or private fleet with V2V technology? How might we choose fleets for additional testing purposes to best reflect the demographics and characteristics of the driving public and the conditions under which they drive?

3. Do commenters believe that the agency correctly conducted its preliminary analysis of which types of crashes could potentially be addressed by V2V-based safety applications, as discussed in Section III of the report? If not, how would commenters suggest the agency change the analysis? Did the agency choose appropriate target crashes and pre-crash scenarios, or should it have excluded some or included others, and if so, which ones and why? Did the agency appropriately account for societal costs (fatalities, injuries, property damage) associated with that target population, and if not, how else should the agency have evaluated those potential costs? Did the agency appropriately assess, for purposes of determining an appropriate target population, which crash scenarios can be addressed by V2V as opposed to some other crash avoidance technology, or should the agency have considered this issue differently? That is, in delineating which crash scenarios may be better addressed by V2V technology than by a vehicle-resident technology, was the report over- or under-inclusive?

4. Do commenters believe that V2V-enabled safety applications may evolve over time to address more and different pre-crash scenarios than the agency has accounted for in the preliminary analysis? If so, how would commenters suggest the agency attempt to evaluate the potential safety improvements associated with this evolution? If not, please provide evidence about why the agency's view concerning the evolution of this technology is mistaken.

5. Do commenters believe that the agency's preliminary analysis of the potential for V2V to address vehicle crashes, as summarized in Section III.B, seems accurate? If not, how would commenters suggest the agency change this analysis to more accurately estimate the likely safety improvements resulting from a nationwide requirement of V2V technology?

6. One concern when governments intervene in network goods markets is that they may choose the wrong technology or standard.[1] Is there a concern that by mandating V2V NHTSA may ''crowd out'' other promising technologies? How can NHTSA be sure that V2V is the most cost effective technology available?

b. NHTSA's Exercise of Its Legal Authority To Require V2V

7. In the report, NHTSA discusses how its current legal authority would apply to various technologies involved in the V2V system, including: integrated original equipment manufacturer (OEM) V2V technologies (including safety applications), integrated aftermarket equipment, non-integrated aftermarket equipment, software related to V2V, and certain roadside infrastructure. As discussed in the report, the agency is confident that its existing legal authority would cover all of the above categories to the extent necessary to ensure the success of the V2V system. Nevertheless, with regard to non-integrated aftermarket equipment and software related to V2V, the agency is interested in the public's view regarding whether the agency has struck the correct balance in limiting its authority to only those devices or programs where a substantial portion of its suspected use is in conjunction with motor vehicles. Likewise, regarding roadside infrastructure, has the agency struck the correct balance if it were to limit its authority to items that are used concurrently with only one vehicle, rather than items that could be used by many vehicles at once?

8. The agency also discusses how its existing authority would apply in establishing an FMVSS mandating that new light vehicles be equipped with a dedicated short-range communications (DSRC) device, including a preliminary discussion of potential performance standards. The agency is interested in commenter's views on this discussion.

9. Likewise, the agency briefly discusses how a potential FMVSS for a safety application would generally be structured. Although less detailed than the discussion for a DSRC FMVSS, the agency is interested in commenter's views on this preliminary discussion.

[1] Oz Shy, *The Economics of Network Industries,* 2001.

c. What's Necessary for DSRC To Work

Throughout Section V of the research report, NHTSA identifies aspects of V2V technology that the agency describes as needing further research and development in order to transition to wide-scale V2V deployment.

10. Can V2V safety applications only be addressed through the use of DSRC devices, or is there some other method of communication that could be used?

11. Of the research needs identified in the report, do commenters believe that any of the descriptions should be modified to better support wide-scale implementation of V2V technology? If so, how should they be modified? Additionally, are there research needs that are not identified or addressed? If so, please identify those needs and suggest how the agency may address them.

12. Do commenters agree with the agency's preliminary conclusions about what should be included as part of the Basic Safety Message (BSM)? Are there any additional elements that should be included?

13. NHTSA currently does not plan to propose to require specific V2V-based safety applications. Rather, we plan to propose to require that new vehicles be equipped with DSRC devices, which will enable a variety of applications that may provide various safety-critical warnings to drivers. Should vehicle manufacturers be allowed to choose what form of warning should be provided to drivers? Should drivers be able to modify or turn off any warnings that they receive?

14. NHTSA is considering including in its proposed rule technical standards for V2V communications, drawing heavily on standards under development by the auto industry. This may be necessary to ensure compatibility of all V2V devices, whether installed in new vehicles or made available in the aftermarket. How can NHTSA choose the correct standard(s) for V2V? Executive Order 12866 directs agencies to use performance-based standards whenever possible. Should NHTSA mandate a particular standard or only mandate V2V, but allow market participants to choose a standard? If you believe a standard should be chosen, how specific should the standard be? Should the standard mandate a particular form of communication? Should cellphones be an option for the communication or must V2V be a component of the vehicle? Does cellular technology have the low latency and security necessary for safety-critical communications?

15. Do commenters believe that the current standards for interoperability are mature enough to support the more wide-scale deployment of V2V devices, given that interoperability was achieved in the context of the Safety Pilot Model Deployment in Ann Arbor, Michigan? [2]

16. Section V of the research report discusses additional work on interoperability that the agency expects will be performed by voluntary standards organizations such as Society of Automotive Engineers (SAE), Institute of Electrical and Electronics Engineers (IEEE), International Standards Organization (ISO), etc., along with additional research underway by the agency itself. Do commenters believe that this research will be sufficient to facilitate interoperability for wide-scale V2V deployment, or do commenters believe that additional research is needed? If so, what additional research could be beneficial, and why?

17. Do commenters believe that the agency's preliminary assessment that V2V devices would require two DSRC radios, one for safety communications and the other for security-related communications, is accurate? If not, why not, and how do commenters suggest safety messages maintain priority?

18. The Federal Communication Commission (FCC) has proposed the possibility of sharing the DSRC frequency of 5.9 GHz with other unlicensed devices. What are the possible ramifications of this sharing on current safety applications and future applications that may be developed? If commenters believe that spectrum sharing in the 5.9 GHz frequency is feasible and will not interfere with V2V communications, can commenters provide research to support that belief? Please also share any research and evidence that there will be interference. If sharing is not possible, how might NHTSA evaluate opportunity cost associated with those forgone alternative uses of the spectrum? Because the sharing decision will not be made by NHTSA, need the agency evaluate that opportunity cost as part of its rulemaking?

19. How could spectrum sharing affect business interests and possible business approaches in relation to the deployment of the V2V technology? That is, if the FCC concludes that some spectrum sharing will not result in interference, will that decision discourage some investment in V2V and V2I technology implementation and delay the realization of certain benefits? If so, what kinds of business development would be deterred or delayed?

20. Can message congestion be managed, or might some kind of active mitigation be needed in a V2V system? Any information that commenters can provide about past or current research on this issue, including research content and methodology, would be helpful to the agency. If commenters have conducted such research, how close are you to a production-ready implementation that ensures effective V2V operation in high-congestion environment? What statistics and measurements have you collected that illustrate effective, production-ready congestion mitigation strategies?

21. The agency requests comment on whether DSRC systems should be expected to last the life of the vehicle, and if not, how one might ensure that DSRC systems in individual vehicles remain operable after the consumer has purchased the vehicle.

22. Although NHTSA does not have the authority to require drivers to retrofit existing passenger vehicles with V2V devices, do commenters believe that the agency's decision to propose mandating V2V devices for new vehicles will spur development and application of aftermarket V2V devices? Can commenters provide research or evidence to support this view?

23. Are aftermarket V2V devices more likely to be simple Vehicle Awareness Devices (VADs), or are they more likely to be integrated into vehicles as retrofits, more similar to OEM devices? What can the agency do, consistent with its authority, to help ensure that aftermarket devices can be and are installed properly?

24. Do commenters believe that the agency's technical observations for DSRC devices and safety applications would also apply for vehicles over 10,000 pounds GVWR? If not, why not?

25. How should NHTSA work to harmonize its actions on V2V with those being taken globally?

d. Safety Applications That V2V Could Facilitate

Potential V2V Safety Applications are discussed in Section VI of the research report.

26. Do commenters believe that the agency's preliminary findings and conclusions for each of the safety applications discussed in the report are accurate? Why or why not? Please provide any available evidence or research to support your view.

[2] Please see Section V of the research report for NHTSA's findings thus far with regard to interoperability.

27. The agency would appreciate if commenters, specifically entities currently developing production-intent V2V applications, could provide information regarding V2V applications they anticipate implementing once V2V technology becomes available in the fleet. More specifically, what applications and what safety warning and/or convenience functionality would be available to consumers of their products upon V2V entry to the marketplace?

e. Public Acceptance

Section VII of the research report discusses public acceptance.

28. Do commenters believe that the agency's preliminary assessment of the public acceptance issues associated with V2V is accurate? Why or why not? Please provide any available evidence or research to support your view.

29. Do commenters foresee any issues regarding public or industry acceptance not discussed in the report that the agency should consider in developing its proposal? How do commenters recommend the agency address those issues, if any?

30. What suggestions do commenters have regarding how the agency should go about educating the public about security and privacy aspects of the V2V technology?

f. Privacy Considerations

31. As noted in Section VIII of the research report, concurrent with its issuance of a regulatory proposal that would require V2V devices in new vehicles in a future year, the agency intends to publish a draft Privacy Impact Assessment (PIA) analyzing the potential privacy implications of its regulatory proposal. Although NHTSA welcomes privacy-related comments in response to the research report and ANPRM now being issued, the agency expects that its draft PIA will provide the public with a more detailed basis on which to evaluate potential privacy risks and proposed mitigation controls associated with V2V technology, and will seek public comment on its PIA at that time.

g. V2V Communications Security

NHTSA and DOT intend to conduct a thorough review of the security of the contemplated V2V system to ensure that all credible threats are identified and a solid course for addressing those threats has been developed. We will draw on the knowledge of security experts inside and outside of government in devising that review. We invite knowledgeable commenters to address the questions below to help ensure we are drawing on the full range of expertise in dealing with these issues.

32. The current design for the security system for V2V communications, as discussed in Section IX of the report, is based on Public-Key Infrastructure (PKI), which is currently used to secure the passing of data on public networks (such as the internet). V2V envisions a machine-to-machine PKI system. Do commenters believe that using machine-to-machine PKI for V2V is feasible, and that a security system based on PKI provides the level of security needed to support wide-scale V2V deployment? If not, what other security approach would be a better alternative, and why?

33. Do commenters believe that the current security system design (as shown in Figure IX–3 of the research report) is a reasonable and sufficient approach for implementing a secure and trusted operating environment? If so, why? If not, why not, and what improvements are suggested?

34. The current security system design includes regular distribution of the Certificate Revocation List (CRL) to identify devices that are not functioning properly, as discussed in Section IX. Do commenters believe the CRL is necessary? If so, why? Is there an alternative approach to using CRLs to take V2V devices ''off-line?'' If so, please describe. If commenters believe that CRLs are necessary, are there alternative methods to CRL distribution beyond what the agency described in the research report? If so, what are they?

35. Do commenters believe a V2V system would create new potential ''threat vectors'' (i.e., ''ways into'' a vehicle's electronic control unit) that could somehow control a vehicle or manipulate its responses beyond those existing in today's vehicles? If so, please describe the extent to which they might arise in the context of the security approach described in Section IX of the research report.

36. Do commenters believe that V2V could introduce the threat of remote code execution, i.e., that, among possible threat vectors, malicious code could be introduced remotely into a vehicle through the DSRC device and could create a threat to affected vehicles? If so, do commenters have or plan to develop information (research or data) on this potential risk in the context of V2V, especially the current PKI-based approach to V2V security, as discussed in Section IX in the report?

37. Do commenters have suggestions on how NHTSA could mitigate these potential threats with standardized security practices and how NHTSA could implement a self-certification or third-party audit or testing program to guard against such threats? What research is needed to accomplish these tasks?

38. The currently contemplated security architecture does not involve encryption of the basic safety message (BSM), as explained in the report. In light of the fact that the system does involve asymmetric encryption of the security certificates that are a prerequisite to acceptance of a vehicle's BSM, does the absence of encryption of the BSM itself create any security threat, e.g., reverse engineering of a V2V system? If so, how might that threat be assessed and addressed?

39. If OEM DSRC devices were kept up-to-date through the current methods of upgrading that existing consumer electronics use today, would the use of this updating process introduce a new attack vector? What are the security ramifications of this vector and what are the possible mitigations of the threat?

40. Is there a possibility of cyber-attacks across the entire vehicle fleet and, if so, how should they be analyzed and addressed?

41. Are there any other specific security issues that have not been mentioned here, but that should be addressed in the V2V security review? If so, please identify them and discuss how they should be addressed.

h. Liability

42. Section X discusses issues concerning legal liability associated with a V2V program, especially concerns that have been raised by industry and NHTSA's assessment of those concerns. The agency requests comment on these issues. Do commenters believe that NHTSA's assessment of liability is accurate? Are there any other issues associated with liability that the agency should consider, and how do commenters recommend the agency address them?

i. Preliminary Cost Estimates

43. Section XI of the research report identifies preliminary cost estimates associated with V2V devices, with the communications network, and with the security systems. Do commenters believe that these costs are reasonably representative for the timeframes identified in the research report? If not, can commenters provide data to support alternative cost estimates?

44. Do commenters believe and have supporting information or references that indicate that per-unit costs for V2V devices could be different from the estimates used by the agency in the research report?

45. At this time, NHTSA does not intend to propose to require OEMs to

include specific applications in new vehicles equipped with DSRC technology. Apart from equipment costs, what would the costs be to develop these applications? What would the unit cost be for an application in light of the fact that it would be used in every new vehicle produced by that OEM?

j. Preliminary Benefits Estimates

As described in the research report, NHTSA conducted laboratory simulator studies to test the potential effectiveness of certain safety applications of V2V technology with drivers. The simulations were derived from real-world crash data, including some event recorder data and previous detailed studies of driver behavior prior to crashes. NHTSA recognizes that this type of testing, which is based on conditions in a laboratory setting and does not fully mimic real world conditions, affects the agency's ability to make benefit estimates.

NHTSA also conducted real-world testing of those safety applications.[3] Data from this testing were used in validating the simulator studies. For example, the Model Deployment data were used to validate values for certain parameters (particularly driver response times and braking force applied in certain situations) and to discern relationships between parameters (e.g., how braking force varies with the driver's response time) to help ensure that the simulator reflected real-world driving performance. However, it may be feasible for NHTSA to conduct additional real-world testing of V2V technology to determine long-term driver behavior and the impact of a V2V mandate. The agency's laboratory conditions did not test whether driver use of V2V technology differs with routine distractions such as cell phones, talking to passengers, tuning radio, etc., and the agency may be able to explore these issues through additional testing. Existing studies of driver distraction and its effects on driver response to various types of safety warnings may be very helpful in this regard. In addition, NHTSA could also determine how drivers will react over time to warnings and the consequences for safety if warning systems fail or warn drivers unnecessarily. Human factors research underway concerning safety warning systems may be applicable to warnings regardless of whether their information source is V2V or vehicle-resident technologies. The laboratory conditions also involved relatively simple traffic scenario(s) and ideal weather conditions. NHTSA recognizes the limitations of applying results from its laboratory simulator testing. The application of the results for benefits estimates in this document provides an idea of what the benefits could be under specified conditions. In addition to further simulation data the agency expects to obtain, NHTSA will use available real-world testing data to estimate benefits for the NPRM.

Recognizing that our use of the simulation technique for developing the preliminary estimates found in the research report may need to be replaced or supplemented by additional data sources at the NPRM stage, we would appreciate commenters focusing on what additional methodologies may be helpful in estimating benefits.

46. How could our simulation be improved?

47. NHTSA is statutorily directed by Congress to issue standards to address safety need identified by the agency. In developing those standards, the agency is required to consider ''available'' motor vehicle safety information. To a degree, the agency can increase the amount of information available to it. Indeed, the agency is directed to conduct ''motor vehicle safety research, development, and testing programs and activities, including activities related to new and emerging technologies that impact or may impact motor vehicle safety.'' However the type and amount of information that the agency can develop and the scientific means it can use to develop that information with respect to particular technologies varies as a function of factors such as resources, the type of technology involved and whether the technology is commonplace in the vehicle fleet, available only recently as an option in a limited number of high-end models or still in the research stage. In some circumstances, it may be possible to generate simulation data, but not real-world testing data. If commenters do not agree that it is possible to generate simulation data that can reasonably approximate potential real-world results, how would it be possible for NHTSA to fulfill its duty to carry out its safety mission? How could the agency develop sufficiently reliable data to support benefits estimates for technologies that do not yet exist in the on-road fleet? In those specific circumstances, what form could additional real-world testing take? To assist commenters in considering this issue, we refer them to the data already contained in the research report. In addition, NHTSA will continue to post any additional information about the Model Deployment in our public docket as it becomes available.

48. What ways, if any, do commenters suggest are possible for conducting real-world testing of V2V safety applications in the on-road fleet in the absence of a regulatory mandate for V2V technology?

49. What suggestions, if any, do commenters have to validate a simulation approach so as to verify or improve its real-world applicability?

50. In seeking to estimate the costs and benefits of a possible nationwide mandate for V2V how should NHTSA weigh results from its laboratory setting versus data that may come from the real-world test beds?

51. Should NHTSA consider the potential benefits of any additional V2V-enabled safety applications? If so, which applications? How should those be tested?

52. The agency has not estimated preliminary benefits associated with other potential implementations of V2V technology, including environmental or mobility benefits. Do commenters believe that there will be such additional benefits? If so, please provide evidence or research suggesting environmental, mobility, or other potential benefits of V2V.

53. The safety benefits of V2V are likely to be very different when there are few vehicles on the road using the technology from when most vehicles are using the technology. If NHTSA mandates V2V technology for new vehicles only, it will likely take about 15 to 20 years before the vast majority of all vehicles on the road have the technology installed. How might NHTSA take account of this in real world testing?

54. Once most, but not all, vehicles on the road have the V2V technology installed, it is possible that drivers may over-rely on the technology and may tend to not notice vehicles without the technology. Is this a realistic possibility? If so, is it unique to V2V or common to all technologies that rely on a driver's responsiveness to a warning? How can NHTSA examine this concern in a real-world test setting?

55. Safety technologies are rapidly evolving. How can we take account of new safety technologies, like collision avoidance technologies, when we are attempting to measure the potential incremental benefits of V2V? Which of these technologies are substitutes for V2V? Which are complements to V2V? Which of these technologies will be enhanced in their effectiveness by incorporating the additional safety data available through V2V technology (e.g., V2V will clearly identify other objects

[3] *See* Section VI of the research report for discussion of real world testing of V2V-enabled safety applications.

as vehicles and provide vital safety information not necessarily ascertainable only by sensors or cameras)? In addition, there are safety technologies that are still in the developmental stage. How could future testing (simulation or real-world) better assess the comparative effectiveness of V2V and other technologies?

56. Self-driving vehicles have the potential to dramatically reduce motor vehicle collisions. Even though these vehicles do not exist for sale to the public, how should we take account of this in evaluating the potential safety benefits of V2V? Is V2V an essential input into developing a viable self-driving car, an alternative technology that might compete with or discourage development of self-driving vehicles, or a complementary technology that can enable self-driving vehicles over time? Please explain why or why not.

57. It is NHTSA's view that, if V2V were not mandated by the government, it would fail to develop or would develop slowly. Because the value of V2V to one driver depends upon other drivers' adoption of the technology, V2V falls into the class of goods that economists call ''network goods.'' [4] Economic analysis and experience with network goods indicates that in some markets network goods and the common standards to make these goods interact sometimes develop slowly, and in other cases may develop quickly when market forces are left to work on their own. Additionally, because the value of V2V to one driver depends upon other drivers' adoption of the technology, it seems unlikely to NHTSA that a manufacturer would volunteer to ''go first'' with adding DSRC to its new vehicles, because those units would provide little benefit to their drivers until some critical mass of V2V-equipped vehicles is achieved, and that manufacturer could not know whether other manufacturers would soon follow suit. Moreover, an underlying security system to ensure the validity of basic safety messages exchanged between vehicles is an essential element of V2V. NHTSA believes it is not likely that an entity would step forward to provide such a system absent a predictable, industry-wide demand that only a government mandate is likely to provide. Is it your view that V2V would develop without NHTSA's requirement of the technology? If so, how long would this take? How do you think this would come about? The implementation of the technology would to some degree depend not only on vehicles being equipped but also on their using compatible technical communication standards. Would adoption of the technology come from a single manufacturer or would a consortium of manufacturers come together and develop a single standard as they often do in computer markets?

In considering these questions, commenters should also consider the agency's need to be able to gather data and make judgments in a way that preserves its ability to carry out effectively the lifesaving mandate of the Vehicle Safety Act, 49 U.S.C. 30101 et seq.

III. Public Participation

a. How can I influence NHTSA's thinking on this subject?

NHTSA welcomes public review of this ANPRM and the accompanying research report. NHTSA will consider the comments and information received in developing its eventual proposal for how to proceed on mandating and regulating V2V technology.

b. How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are filed correctly in the Docket, please include the docket number of this document (NHTSA–2014–0022) in your comments.

Your primary comments should not be more than 15 pages long.[5] However, you may attach additional documents to your primary comments. There is no limit on the length of the attachments. Please submit one copy of your comments, including the attachments, to the docket via one of the methods identified under **ADDRESSES** above. Submitting multiple copies of the same comment will clog the docket and impair the agency's ability to review information received.

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg_reproducible;* DOT's guidelines may be accessed at *http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject_areas/statistical_policy_and_research/data_quality_guidelines/html/guidelines.html.*

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement published in the **Federal Register** on April 11, 2000 (65 FR 19477–78) or you may visit *http://www.dot.gov/privacy.html.*

c. How can I be sure that my comments were received?

If you submit comments by hard copy and wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail. If you submit comments electronically, your comments should appear automatically in Docket No. NHTSA–2014–0022 on *http://www.regulations.gov.* If they do not appear within two weeks of posting, we suggest that you call the Docket Management Facility at 1–800–647–5527.

d. How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information that you claim to be confidential business information, to the Chief Counsel, NHTSA, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. In addition, you should submit a copy from which you have deleted the claimed confidential business information to Docket Management, either in hard copy at the address given above under **ADDRESSES**, or electronically through regulations.gov. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in 49 CFR Part 512.

e. Will the agency consider late comments?

We will consider all comments received to the docket before the close of business on the comment closing date indicated above under **DATES**. As new

[4] Nicholas Economides, ''The Economics of Networks,'' International Journal of Industrial Organization, vol. 14, no. 2, March 1996, pp. 673–699, *available at http://www.stern.nyu.edu/networks/94-24.pdf* (last accessed Jul. 21, 2014). The classic example of a network good is the telephone system—telephones have no value to consumers unless there are other consumers using the network and the value to consumers increases as others join the network.

[5] 49 CFR 553.21.

information becomes available after the comment closing date, or if commenters wish to respond to other comments, we encourage interested persons to supplement their original comments. We will consider these additional comments to the extent possible, but we caution that we may not be able to fully address those comments prior to the agency's proposal.

f. How can I read the comments submitted by other people?

You may read the comments received by Docket Management in hard copy at the address given above under **ADDRESSES**. The hours of the Docket Management office are indicated above in the same location.

You may also read the comments on the Internet by doing the following:

(1) Go to *http://www.regulations.gov.*

(2) Regulations.gov provides two basic methods of searching to retrieve dockets and docket materials that are available in the system:

a. the search box on the home page which conducts a simple full-text search of the Web site, into which you can type ''NHTSA–2014–0022,'' and

b. ''Advanced Search,'' which is linked on the regulations.gov home page, and which displays various indexed fields such as the docket name, docket identification number, phase of the action, initiating office, date of issuance, document title, document identification number, type of document, **Federal Register** reference, CFR citation, etc. Each data field in the advanced search function may be searched independently or in combination with other fields, as desired. Each search yields a simultaneous display of all available information found in regulations.gov that is relevant to the requested subject or topic.

(3) Once you locate Docket No. NHTSA–2014–0022 at *http://www.regulations.gov,* you can download the comments you wish to read. We note that since comments are often imaged documents rather than word processing documents (e.g., PDF rather than Microsoft Word), some comments may not be word-searchable.

Please note that, even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

IV. Rulemaking Notices and Analyses

a. Executive Orders 12866 and 13563 and DOT Regulatory Policies and Procedures

Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is ''significant'' and therefore subject to OMB review and to the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one 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 the Executive Order.

We have considered the potential impact of this ANPRM under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. As discussed above, there are a number of considerations that remain to be explored with respect to V2V technology and the agency lacks the necessary information to develop a proposal at this time. Based on the information we do have, we developed this notice and the accompanying research report, which contains very preliminary discussions of costs and benefits, in order to facilitate public input. Preliminary estimates indicate a future proposed rule would be economically significant under Executive Order 12866. This rulemaking action has also been determined to be ''significant'' under the Department of Transportation's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and has been reviewed by the Office of Management and Budget.

b. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., no analysis is required for an ANPRM. However, vehicle manufacturers and equipment manufacturers are encouraged to comment if they identify any aspects of the potential rulemaking that may apply to them.

c. Executive Order 13132 (Federalism)

NHTSA has examined today's ANPRM pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process at this time. The agency has concluded that the document at issue does not have federalism implications because it does 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.''

NHTSA's safety standards can have preemptive effect in at least two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision: ''When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter.'' 49 U.S.C. 30103(b)(1). It is this statutory command that would unavoidably preempt State legislative and administrative law, not today's ANPRM, so consultation would be unnecessary.

We are aware that, depending on the nature of the proposal ultimately adopted, federalism implications could arise. Currently, there is no Federal requirement regarding V2V communications. As a result, any State laws or regulations that seek to regulate V2V communications would not currently be preempted by Federal law. However, if NHTSA issues a standard on the same aspect of V2V communication performance, those State laws and regulations would be preempted if they differed from the Federal requirements. Thus, the possibility of statutory preemption of State laws and regulations does exist. At this time, we do not know of any State laws or regulations that currently exist that are potentially at risk of being preempted, but in this document do request comment on any existing or planned laws or regulations that would fall into this category.

Second, the Supreme Court has recognized the possibility of implied preemption: State requirements imposed on motor vehicle manufacturers, including sanctions imposed by State tort law, can stand as an obstacle to the accomplishment and

execution of a NHTSA safety standard. When such a conflict is discerned, the Supremacy Clause of the Constitution makes the State requirements unenforceable. See Geier v. American Honda Motor Co., 529 U.S. 861 (2000). NHTSA has considered today's ANPRM and does not currently foresee any potential State requirements that might conflict with it. Without any conflict, there could not be any implied preemption.

d. Executive Order 12988 (Civil Justice Reform)

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

e. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. There is no information collection requirement associated with this ANPRM.

f. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, (15 U.S.C. 272) directs the agency to evaluate and use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or is otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers. The NTTAA directs us to provide Congress (through OMB) with explanations when we decide not to use available and applicable voluntary consensus standards. While NHTSA is considering the relevance of a number of voluntary consensus standards to potential V2V-related FMVSSs, as discussed in Section V of the research report, it has not yet developed specific regulatory requirements, and thus the NTTAA does not apply for purposes of this ANPRM.

g. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). This ANPRM would not result in expenditures by State, local or tribal governments, in the aggregate, in excess of $100 million annually. However, given the cost estimates of requiring V2V technology, as discussed in Section XI of the research report, it is very possible that the total cost of a proposed rule on the private sector could exceed $100 million. Given that, the agency has prepared a preliminary assessment of some of the possible costs of V2V technology, contained in Section XI of the research report, and we refer readers there for more information.

h. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has preliminarily determined that installation of V2V technology alone would not have any significant impact on the quality of the human environment. Any environmental effects that could accrue as a result of mandating V2V technology for new light vehicles would depend upon applications voluntarily undertaken in the marketplace by vehicle manufacturers. While the agency believes that any such applications would result in positive environmental impacts, these impacts are too remote and speculative at this time to quantify or analyze. *See, e.g., City of Dallas, Tex.* v. *Hall,* 562 F.3d 712, 719–20 (5th Cir. 2009); *Louisiana Crawfish Producers Ass'n-West* v. *Rowan,* 463 F.3d 352, 358 (5th Cir. 2006); *Sierra Club* v. *Marsh,* 976 F.2d 763, 767 (1st Cir. 1992). Applying the ''rule of reason,'' NHTSA has determined that the usefulness to the decision-making process of such a speculative environmental analysis is minimal, especially in light of the lack of a significantly close relationship between mandating V2V technology and such applications. *See Dept. of Transp.* v. *Public Citizen,* 541 U.S. 752, 767–8 (2004); *City of Dallas,* 562 F.3d at 719–20. NHTSA seeks comment on whether and how to consider potential indirect environmental benefits of V2V technology as it moves forward.

i. Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rulemaking that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rulemaking is not subject to E.O. 13211.

j. Plain Language

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. NHTSA has written this ANPRM to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883). NHTSA requests comment on this ANPRM with respect to the clarity and effectiveness of the language used.

k. Regulatory Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

l. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://www.dot.gov/individuals/privacy/privacy-policy* (last accessed June 20, 2014).

Authority: 49 U.S.C. 30111, 30181–83; delegation of authority at 49 CFR 1.95 and 501.8.

Issued in Washington, DC, under authority delegated in 49 CFR part 1.95.

Daniel C. Smith,

Senior Associate Administrator for Vehicle Safety.

[FR Doc. 2014–19746 Filed 8–18–14; 11:15 am]

BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 79, No. 161

Wednesday, August 20, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Document No. AMS–FV–14–0025, FV–14–327]

United States Standard of Identity for Honey

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) of the Department of Agriculture (USDA) is soliciting comments on how a Federal standard of identity for honey would be in the interest of consumers, the honey industry, and U.S. agriculture.

DATES: Comments must be received by September 19, 2014.

ADDRESSES: Interested persons are invited to submit written comments via the Internet at *http://www.regulations.gov* or to Brian E. Griffin, Standardization Branch, Specialty Crops Inspection Division, Fruit and Vegetable Program, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 0709-South Building; STOP 0247, Washington, DC 20250; telephone (202) 720–5021; fax (202) 690–1527, email *brian.griffin@ams.usda.gov.* Comments should make reference to the date and page number of this issue of the **Federal Register** and will be made available for public inspection at the above office during regular business hours.

Please be advised that all comments submitted in response to this notice will be included in the record and will be made available to the public on the Internet via *http://www.regulations.gov.* Also, the identity of the individuals or entities submitting the comments will be made public.

FOR FURTHER INFORMATION CONTACT: Brian E. Griffin, Standardization Branch, Specialty Crops Inspection Division, Agricultural Marketing Service, U.S. Department of Agriculture, telephone (202) 720–5021or fax (202) 690–1527.

Background

Section 10012 of the Agricultural Act of 2014 (Pub. L. 113–79), the 2014 Farm Bill, charged the Secretary with developing a report describing how a Federal standard of identity for honey would be in the interest of consumers, the honey industry, and U.S. agriculture. Section 10012 specifically states, ''In preparing the report required under subsection (a), the Secretary shall take into consideration the March 2006, Standard of Identity citizens petition filed with the Food and Drug Administration, including any current industry amendments or clarifications necessary to update that petition.''

In 2006, members of the honey producing, packing, and importing industries petitioned the FDA to develop a standard of identity for honey. A copy of the petitioner's request is available as a supporting document for this notice at-*http://www.regulations.gov/#!documentDetail;D=FDA-2006-P-0207-0008.*

The FDA is the agency responsible for developing a standard of identity for commodities such as honey. The Food Drug and Cosmetic Act (FDCA) directs the FDA to establish definitions and standards for food (21 U.S.C. § 341). In an effort to promote honesty and fair dealing for the benefit of consumers, the FDA is authorized to establish, by regulation, a common or usual name, a reasonable definition and standard of identity, a reasonable standard of quality, and reasonable standards of fill of the container for any food. The petitioners contended that ''the proposed standard will promote honesty and fair dealing not only in the interest of consumers, but in the interest of the honey industry as well.'' The petitioners also stated that ''a compositional standard for honey will serve as a tool to help combat the economic adulteration of honey.'' The petitioners requested that the Commissioner of Food and Drugs adopt certain provisions of the Codex Standard for Honey (CODEX STAN 12–1981, Rev.2 (2001)).

On October 5, 2011, FDA denied the petition concluding that no standard of identity for honey was necessary (*http://www.regulations.gov/#!documentDetail;D=FDA-2006-P-0207-0007*). The FDA recently published draft guidance for industry on proper labeling of honey and honey products in the April 9, 2014 **Federal Register** Docket No. FDA–2006–P–0207. In this notice, the FDA addresses the 2006 petition by the American Beekeeping Federation and several other honey-related associations. The FDA believes that the petitioners' goals can be achieved by FDA's existing authorities and that a standard of identity for honey would not promote honesty and fair dealing in the interest of consumers. To address the labeling issues relevant to the petition, the FDA developed the draft guidance to advise the regulated food industry on the proper labeling of honey and honey products to help ensure that honey and honey products are not adulterated or misbranded under sections 402 and 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342 and 343, respectively).

There are currently several standards for the inspection and grading of honey. The U.S. Standards for Grades of Extracted Honey, effective date May 23, 1985, and the U.S. Standards for Grades of Comb Honey, effective date May 24, 1967, are voluntary U.S. grade standards issued under the authority of the Agricultural Marketing Act of 1946 (Act). The Act provides for the development of official U.S. grades to designate different levels of quality. These grade standards are available for use by producers, suppliers, buyers, and consumers. Like all standards for grades of fresh and processed fruits, vegetables, and specialty crops, these standards are designed to facilitate orderly marketing by providing a convenient basis for buying and selling, for establishing quality control programs, and for determining loan values. The standards also serve as a basis for the inspection and grading of commodities by the Federal inspection service. Copies of the current U.S. grade standards for extracted honey and comb honey are on the USDA Web site at *www.ams.usda.gov/scihome.*

To provide an acceptable amount of guidance to help prevent the economic adulteration of honey at some level, many states have adopted, and/or are proposing to adopt, state-level standards of identity for honey. While some are

following the 2006 honey industry petition and using an amended version of the Codex Standard for Honey, CODEX standard 12–1981, Rev. 2 (2001), variations in the state standards of identity for honey are inevitable. The end result could lead to an assortment of standards that vary from state to state and impede interstate commerce.

AMS is seeking comments on the petitioner's request for a standard of identity for honey and, specifically, the adoption of deviations as defined in the petitioner's request, and draft proposal. This notice provides for a 30 day period for interested parties to comment on the petitioners' request, and on how an appropriate Federal standard for the identity of honey would be in the interest of consumers, the honey industry, and United States agriculture.

Authority: Section 10012 of the Agricultural Act of 2014 (Pub. L. 113–79).

Dated: August 15, 2014.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2014–19770 Filed 8–19–14; 8:45 am]

BILLING CODE 3410–02–P

UNITED STATES ARCTIC RESEARCH COMMISSION

102nd Commission Meeting

Notice is hereby given that the U.S. Arctic Research Commission will hold its 102nd meeting in Anchorage, Alaska, on September 15–16, 2014. The business sessions, open to the public, will convene at 1:30 p.m. on September 15 and 8:30 a.m. on September 16.

The Agenda items include:

(1) Call to order and approval of the agenda
(2) Approval of the minutes from the 101st meeting
(3) Commissioners and staff reports
(4) Discussion and presentations concerning Arctic research activities

The focus of the meeting will be Arctic research activities in Anchorage, as well as reports and updates on other programs and research projects affecting the Arctic.

If you plan to attend this meeting, please notify us via the contact information below. Any person planning to attend who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission of those needs in advance of the meeting.

Contact person for further information: John Farrell, Executive Director, U.S. Arctic Research Commission, 703–525–0111 or TDD 703–306–0090.

Dated: August 13, 2014.

John Farrell,

Executive Director.

[FR Doc. 2014–19643 Filed 8–19–14; 8:45 am]

BILLING CODE 7555–01–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the California Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), which a meeting of the California Advisory Committee (Committee) to the Commission will convene on Friday, September 12, 2014, at 1:00 p.m. and adjourn at approximately 2:30 p.m. The meeting will be held by teleconference. The purpose of the meeting is for the Committee to plan its project for the 2015 program year.

This meeting is available to the public through the following toll-free call-in number: 877–446–3914, conference ID: 8563590. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to submit written comments. The comments must be received in the Western Regional Office by October 12, 2014. The mailing address is Western Regional Office, U.S. Commission on Civil Rights, 300 N. Los Angeles St., Suite 2010, Los Angeles, CA 90012. Persons wishing to email their comments may do so to *atrevino@usccr.gov.* Persons that desire additional information should contact Angelica Trevino, Civil Rights Analyst, Western Regional Office, at (213) 894–3437.

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Western Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this Committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Western Regional Office at the above email or street address.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated August 15, 2014.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2014–19726 Filed 8–19–14; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Scientific Advisory Committee

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of the Census (U.S. Census Bureau) is giving notice of a meeting of the Census Scientific Advisory Committee (C–SAC). The C–SAC will meet in a plenary session from September 18–19, 2014. The Committee will address policy, research, and technical issues relating to a full range of Census Bureau programs and activities, including communications, decennial, demographic, economic, field operations, geographic, information technology, and statistics. Last minute changes to the agenda are possible, which could prevent giving advance public notice of schedule adjustments.

DATES: September 18–19, 2014. On September 18, the C–SAC meeting will begin at approximately 8:30 a.m. and adjourn at approximately 5:15 p.m. On September 19, the meeting will begin at approximately 8:30 a.m. and adjourn at approximately 12:30 p.m.

ADDRESSES: The meeting will be held at the U.S. Census Bureau Auditorium, 4600 Silver Hill Road, Suitland, Maryland 20746.

FOR FURTHER INFORMATION CONTACT: Jeri Green, Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 8H182, 4600 Silver Hill Road, Washington, DC 20233, telephone 301–763–6590. For TTY callers, please use the Federal Relay Service 1–800–877–8339. For further information by email, please use the following address: *census.scientific.advisory.committee@census.gov.*

SUPPLEMENTARY INFORMATION: Members of the C–SAC are appointed by the Director, U.S. Census Bureau. The Committee provides scientific and technical expertise, as appropriate, to address Census Bureau program needs and objectives. The Committee has been established in accordance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2, Section 10).

The meeting is open to the public, and a brief period is set aside for public comments and questions on September 19, 2014. Persons with extensive questions or statements must submit them in writing at least three days before the meeting to the Committee Liaison Officer named above. If you plan to attend the meeting, please register by Thursday, September 11, 2014. You may access the online registration form with the following link: *http://www.regonline.com/csac_meeting_sep2014.* Seating is available to the public on a first-come, first-served basis.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should also be directed to the Committee Liaison Officer as soon as known, and preferably two weeks prior to the meeting.

Due to increased security and for access to the meeting, please call 301–763–9906 upon arrival at the Census Bureau on the day of the meeting. A photo ID must be presented in order to receive your visitor's badge. Visitors are not allowed beyond the first floor.

Topics to be discussed include the following items:

- 2020 Census and 2014 Census Test Update.
- Reorganized Census with Integrated Technology (ROCkIT).
- 2015 Census Address Validation Test (AVT).
- 2015 Administrative Records Modeling.
- 2015 Optimizing Self-Response Test (Non-ID Processing).
- Census Enterprise Data Collection and Processing Systems (CEDCap).
- Income, Poverty and Health Insurance Statistics.
- BIG Data.
- Research and Methodology Recommendations Update.

Dated: August 14, 2014.

John H. Thompson,

Director, Bureau of the Census.

[FR Doc. 2014–19674 Filed 8–19–14; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Request for Investigation Under Section 232 of the Trade Expansion Act

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before October 20, 2014.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Lawrence Hall, BIS Office of Administration, 14th and Pennsylvania Ave. NW., HCHB 6622, Washington, DC 20230, 703–675–9944, *lohall.work@comcast.net.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Upon request, BIS will initiate an investigation to determine the effects of imports of specific commodities on the national security, and will make the findings known to the President for possible adjustments to imports through tariffs. The findings are made publicly available and are reported to Congress. The purpose of this collection is to account for the public burden associated with the surveys distributed to determine the impact on national security.

II. Method of Collection

Collected electronically or on paper.

III. Data

OMB Control Number: 0694–0120.

Form Number(s): None.

Type of Review: Regular submission, extension of a current information collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 400.

Estimated Time per Response: 7 hours, 30 minutes.

Estimated Total Annual Burden Hours: 3,000 hours.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 14, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–19641 Filed 8–19–14; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Miscellaneous Short Supply Activities

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before October 20, 2014.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616,

14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Lawrence Hall, BIS Office of Administration, 14th and Pennsylvania Ave. NW., HCHB 6622, Washington, DC 20230, 703–675–9944, *lohall.work@comcast.net.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection is comprised of two rarely used short supply activities: ''Registration Of U.S. Agricultural Commodities For Exemption From Short Supply Limitations On Export (USAG)'', and ''Petitions For The Imposition Of Monitoring Or Controls On Recyclable Metallic materials; Public Hearings (Petition).'' These activities are statutory in nature and, therefore, must remain a part of BIS's information collection budget authorization.

II. Method of Collection

Collected electronically or on paper.

III. Data

OMB Control Number: 0694–0102.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2.

Estimated Time per Response: USAG, 1 hour; Petition, 200 hours.

Estimated Total Annual Burden Hours: 201.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 14, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–19642 Filed 8–19–14; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Proposed Information Collection; Comment Request; Request for the Appointment of a Technical Advisory Committee

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before October 20, 2014.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Lawrence Hall, BIS Office of Administration, 14th and Pennsylvania Ave. NW., HCHB 6622, Washington, DC 20230, 703–675–9944, *lohall.work@comcast.net.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by the Export Administration Regulations and the Federal Advisory Committee Act. The Technical Advisory Committees (TACs) were established to advise and assist the U.S. Government on export control matters. Under this collection, interested parties may submit a request to BIS to establish a new TAC. BIS provides administrative support for these Committees.

II. Method of Collection

Collected electronically or on paper.

III. Data

OMB Control Number: 0694–0100.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1.

Estimated Time per Response: 5 hours.

Estimated Total Annual Burden Hours: 5.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 14, 2014.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2014–19645 Filed 8–19–14; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[14–BIS–002]

In the Matter of: Gatewick LLC, a/k/a Gatewick Freight & Cargo Services a/k/a Gatewick Aviation Services, Mohamad Abdulla Algaz Building, Al Maktoum Street, Al Rigga, Dubai, United Arab Emirates and, G#22 Dubai Airport Free Zone, P.O. Box 393754, Dubai, United Arab Emirates and, P.O. Box 52404, Dubai, United Arab Emirates, Respondent

Order Relating to Gatewick LLC

The Bureau of Industry and Security, U.S. Department of Commerce (''BIS''), has notified Gatewick LLC, of Dubai, United Arab Emirates, a/k/a Gatewick Freight & Cargo Services, a/k/a Gatewick Aviation Services (''Gatewick''), that it has initiated an administrative proceeding against Gatewick pursuant to Section 766.3 of the Export Administration Regulations (the ''Regulations''),[1] and Section 13(c) of the Export Administration Act of 1979, as amended (the ''Act''),[2] through the issuance of a Charging Letter to Gatewick that alleges that Gatewick committed three violations of the Regulations. Specifically, the charges are:

Charge 1: 15 CFR 764.2(d)—Conspiracy

In or about February 2009, Gatewick LLC (''Gatewick'') conspired and acted in concert with others, known and unknown, to bring about an act that constitutes a violation of the Regulations. The purpose of the conspiracy was to bring about the export from the United States to Iran, via the United Arab Emirates (''UAE''), of approximately 2,300 computer motherboards, items subject to the Regulations[3] and valued at approximately $130,000, without the required U.S. Government authorization. Pursuant to Section 746.7 of the Regulations, no person may export or reexport an item subject to the EAR if such transaction is prohibited by the Iranian Transactions Regulations (''ITR''), and has not been authorized by the U.S. Department of the Treasury's Office of Foreign Assets Control (''OFAC''). Under Section 560.204 of the ITR, the exportation, reexportation, sale or supply, directly or indirectly, from the United States of any goods to Iran was prohibited by the ITR[4] at all times pertinent hereto, including the exportation, reexportation, sale or supply of items from the United States to a third country, such as the UAE, undertaken with knowledge or reason to know that the items were intended for supply, transshipment, or reexportation, directly or indirectly, to Iran.

Gatewick is a freight and cargo services company in the UAE and at all times pertinent hereto the sole booking agent for air freight forwarding and cargo services for Mahan Airways, an Iranian airline. Gatewick entered into an agreement with Seyed Mousavi Trading, an Iranian trading company, in connection with the export of the items to Iran. Gatewick agreed to receive the goods ordered by Seyed Mousavi Trading from the United States using Mahan Airways' import code and to then ship the goods from the UAE to their destination in Iran. In furtherance of the conspiracy, Seyed Mousavi Trading, which identified itself to the U.S. reseller as a UAE company, ordered the 2,300 computer motherboards from the reseller for shipment to the UAE. The motherboards were actually destined for Seyed Mousavi Trading's customer in Iran. Pursuant to Seyed Mousavi Trading's instructions, the U.S. reseller shipped the motherboards, from the United States to Gatewick's location in the UAE. Consistent with the agreed-upon scheme, Gatewick received the items on February 8, 2009. Gatewick shipped the items the following day, February 9, 2009, from the UAE to Iran via Mahan Airways. No U.S. Government authorization was received for the export of the computer motherboards to Iran.

In so doing, Gatewick committed one violation of Section 764.2(d) of the Regulations.

Charge 2: 15 CFR 764.2(b)—Causing, Aiding or Abetting an Unlicensed Export

On or about February 8 and February 9, 2009, Gatewick caused, aided, or abetted a violation of the Regulations. Specifically, Gatewick facilitated the export from the United States to Iran, via the UAE, of approximately 2,300 computer motherboards, items subject to the Regulations[5] and valued at approximately $130,000, without the required U.S. Government authorization. Gatewick received the items in the UAE from the United States, and, upon receiving the items, Gatewick shipped them from the UAE to Iran.

Pursuant to Section 746.7 of the Regulations, no person may export or reexport an item subject to the EAR if such transaction is prohibited by the Iranian Transactions Regulations (''ITR''), and has not been authorized by the U.S. Department of the Treasury's Office of Foreign Assets Control (''OFAC''). Under Section 560.204 of the ITR,[6] the exportation, reexportation, sale or supply, directly or indirectly, from the United States of any goods to Iran was prohibited by the ITR at all times pertinent hereto, including the exportation, reexportation, sale or supply of items from the United States to a third country, such as the UAE, undertaken with knowledge or reason to know that the items were intended for supply, transshipment, or reexportation, directly or indirectly, to Iran. No OFAC authorization was sought or obtained for the export of the computer motherboards to Iran.

In so doing, Gatewick committed one violation of Section 764.2(b) of the Regulations.

Charge 3: 15 CFR 764.2(k)—Acting Contrary to the Terms of a Denial Order

On or about February 8 and February 9, 2009, Gatewick took actions prohibited by a BIS denial order. Specifically, Gatewick took actions that, contrary to the terms of a BIS denial order, facilitated the acquisition by Mahan Airways, an Iranian airline and a denied person since March 21, 2008, of the ownership, possession or control of approximately 2,300 computer

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR Parts 730–774 (2014). The charged violations occurred in 2009. The Regulations governing the violations at issue are found in the 2009 version of the Code of Federal Regulations (15 CFR Parts 730–774) (2009). The 2014 Regulations set forth the procedures that apply to this matter.

[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)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 FR 46959 (Aug. 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, et seq. (2006 & Supp. IV 2010)).

[3] The items are designated as EAR99, which is the designation for items subject to the Regulations but not included on the Commerce Control List. *See* 15 CFR 774.1 (2009).

[4] 31 CFR Part 560 (2009). Administered by the Treasury Department's Office of Foreign Assets Control (''OFAC''), the ITR were renamed the Iranian Transactions and Sanctions Regulations (''ITSR'') and reissued in their entirety by OFAC on October 22, 2012. *See* 77 Fed.Reg. 64,664 (Oct. 22, 2012). Section 560.204 remains unchanged in pertinent part. *See* 31 CFR 560.204 (2009 and 2014).

[5] The items are designated as EAR99, which is the designation for items subject to the Regulations but not included on the Commerce Control List. *See* 15 CFR 774.1 (2009).

[6] 31 CFR Part 560 (2009). Administered by the Treasury Department's Office of Foreign Assets Control (''OFAC''), the ITR were renamed the Iranian Transactions and Sanctions. Regulations (''ITSR'') and reissued in their entirety by OFAC on October 22, 2012. *See* 77 Fed.Reg. 64,664 (Oct. 22, 2012). Section 560.204 remains unchanged in pertinent part. *See* 31 CFR 560.204 (2009 and 2014).

motherboards, items subject to the Regulations [7] and valued at approximately $130,000. The items were exported from the United States to Gatewick's location in the UAE. Gatewick used Mahan Airways import code to receive the items in the UAE and then shipped the items from the UAE to Iran via Mahan Airways.

Mahan Airways was named as a Denied Person in a temporary denial order (''TDO'') issued by BIS effective on March 21, 2008, and was subsequently renewed by BIS and in force and effect at all pertinent times hereto.[8] Under the TDO, all persons, including Gatewick, were prohibited from ''taking any action that facilitates the acquisition or attempted acquisition by the Denied Person [Mahan Airways] of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States. . . .''

In acting contrary to the terms of a BIS denial order, as alleged above, Gatewick committed one violation of Section 764.2(k) of the Regulations.

Whereas, BIS and Gatewick have entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations, whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein; [9] and

Whereas, I have approved of the terms of such Settlement Agreement;

It is therefore ordered:

First, Gatewick shall be assessed a civil penalty in the amount of $40,000. Gatewick shall pay the U.S. Department of Commerce in two installments of: $20,000 not later than September 1, 2014; and $20,000 not later than December 1, 2014. If either of the two installment payments is not fully and timely made, any remaining scheduled installment payments may become due and owing immediately.

Second, that, pursuant to the Debt Collection Act of 1982, as amended (31 U.S.C. 3701–3720E (2000)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and if payment is not made by the due date specified herein, Gatewick will be assessed, in addition to the full amount of the civil penalty and interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

Third, that for a period of seven (7) years from the date of this Order, Gatewick LLC, also known as Gatewick Freight & Cargo Services, also known as Gatewick Aviation Services, with last known addresses of Mohamad Abdulla Algaz Building, Al Maktoum Street, Al Rigga, Dubai, United Arab Emirates and G#22 Dubai Airport Free Zone, P.O. Box 393754, Dubai, United Arab Emirates and P.O. Box 52404, Dubai, United Arab Emirates, and when acting for or on its behalf, its successors, assigns, representatives, directors, officers, employees, or agents (hereinafter collectively referred to as ''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, or in any other activity 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.

Fourth, that 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.

Fifth, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

Sixth, that the seven-year denial period set forth above shall be active for a period of two years from the date of this Order. As authorized by Section 766.18(c) of the Regulations, the remaining five years of the denial period shall be suspended during a probationary period of five years under this Order, and shall thereafter be waived, provided that Gatewick has made full and timely payment as set forth above and has committed no other violation of the Act or the Regulations or any order, license or authorization issued thereunder. If Gatewick does not make full and timely payment as set forth above, or commits another violation of the Act or the Regulations or any order, license or authorization issued thereunder during the seven-year denial period under this Order, the five-year suspended portion of this Order may be modified or revoked by BIS. If the suspension is modified or revoked, BIS may extend the active denial period up to seven years from the date of this Order if the failure to pay or other violation and the activation occur during the first two years from the date of this Order, or otherwise until up to five years from the date of the activation if the violation occurs or BIS discovers

[7] The items are designated as EAR99, which is the designation for items subject to the Regulations but not included on the Commerce Control List. *See* 15 CFR 774.l (2009).

[8] The initial TDO was issued by BIS on March 17, 2008, and effective upon publication in the **Federal Register** on March 21, 2008. 73 FR 15,130. The TDO was renewed for 180 days on September 17, 2008, by order effective upon issuance on that date. 73 FR 57,051 (Oct. 1, 2008). The TDO remains in effect today against Mahan Airways, having been renewed most recently on July 22, 2014. 79 FR 44,002 (Jul. 29, 2014).

[9] The citation dates in footnotes 1, 2, 4, 6 and 8 of the Charging Letter have been updated, as applicable, from 2013 to 2014 for purposes of the Settlement Agreement and this Order.

the violation more than two years from the date of this Order.

Seventh, Gatewick shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Charging Letter or this Order. The foregoing does not affect Gatewick's testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

Eighth, that the Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

Ninth, that this Order shall be served on Gatewick, and shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Issued this 13th day of August 2014.

David W. Mills,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2014–19714 Filed 8–19–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–839]

Certain Polyester Staple Fiber From the Republic of Korea: Initiation of Changed Circumstances Review

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

SUMMARY: The Department of Commerce (the Department) received information sufficient to warrant initiation of a changed circumstances review of the antidumping duty order on certain polyester staple fiber (PSF) from the Republic of Korea. Based upon a request filed by Toray Chemical Korea Inc. (Toray), the Department intends to determine in this review whether Toray is the successor-in-interest of Woongjin Chemical Co., Ltd. (Woongjin), a producer/exporter examined in prior administrative reviews of the order.[1]

DATES: *Effective Date:* August 20, 2014.

FOR FURTHER INFORMATION CONTACT: Austin Redington at (202) 482–1664 or Nancy Decker at (202) 482–0196, 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.

SUPPLEMENTARY INFORMATION:

Background

On May 25, 2000, the Department published notice of the *Order* in the **Federal Register**.[2] On July 2, 2014, Toray requested that the Department conduct a changed circumstances review pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216(b) to determine that it is the successor-in-interest to Woongjin for purposes of the antidumping duty order. We received no comments from other interested parties.

Scope of the Order

The product covered by the order is certain PSF. Certain PSF is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to the order may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture.

Merchandise of less than 3.3 decitex (less than 3 denier) currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 5503.20.00.20 is specifically excluded from the order. Also specifically excluded from the order are PSF of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting). In addition, low-melt PSF is excluded from the order. Low-melt PSF is defined as a bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner core.

The merchandise subject to this order is classified in the HTSUS at subheadings 5503.20.00.40 and 5503.20.00.60. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of these orders is dispositive.

Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Act, the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from, an interested party for a review of an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. In accordance with 19 CFR 351.216(d), the Department determines that the information submitted by Toray constitutes sufficient evidence to conduct a changed circumstances review of the *Order.*

In a changed circumstances review involving a successor-in-interest determination, the Department typically examines several factors including, but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base.[3] While no single factor or combination of factors will necessarily be dispositive, the Department generally will consider the new company to be the successor to the predecessor if the resulting operations are essentially the same as those of the predecessor company.[4] Thus, if the record demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor.[5]

Based on the information provided in its submission, Toray provided sufficient evidence to warrant a review to determine if it is the successor-in-interest to Woongjin. Therefore, pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(d), we are initiating a changed circumstances review. However, the Department finds it is necessary to issue a questionnaire requesting additional information regarding changes in management and information regarding the company's customer base, as provided for by 19 CFR 351.221(b)(2). For that reason, the Department is not conducting this review on an expedited basis by publishing preliminary results in conjunction with this notice of initiation. The Department will publish in the **Federal Register** a notice of the preliminary results of the changed circumstances review in accordance with 19 CFR 351.221(b)(4) and 19 CFR 351.221(c)(3)(i). That notice will set forth the factual and legal conclusions

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[1] *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber From the Republic of Korea and Antidumping Duty Orders: Certain Polyester Staple Fiber From the Republic of Korea and Taiwan,* 65 FR 33807 (May 25, 2000) (*Order*).

[2] *See id.*

[3] *See, e.g., Certain Activated Carbon From the People's Republic of China: Notice of Initiation of Changed Circumstances Review,* 74 FR 19934, 19935 (April 30, 2009).

[4] *See, e.g., Notice of Initiation of Antidumping Duty Changed Circumstances Review: Certain Forged Stainless Steel Flanges from India,* 71 FR 327 (January 4, 2006).

[5] *See, e.g., Fresh and Chilled Atlantic Salmon From Norway; Final Results of Changed Circumstances Antidumping Duty Administrative Review,* 64 FR 9979, 9980 (March 1, 1999).

upon which our preliminary results are based and a description of any action proposed.

Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results of review. In accordance with 19 CFR 351.216(e), the Department intends to issue the final results of its antidumping duty changed circumstances review not later than 270 days after the date on which the review is initiated.

During the course of this changed circumstances review, we will not change the cash deposit requirements for the merchandise subject to review. The cash deposit will only be altered, if warranted, pursuant to the final results of this review.

This notice is published in accordance with sections 751(b)(l) and 777(i)(l) of the Act and 19 CFR 351.216(b) and 351.221(b)(1).

Dated: August 13, 2014.

Gary Taverman,

Senior Advisor for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–19757 Filed 8–19–14; 8:45 am]

BILLING CODE 3510–DS–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB–2014–0020]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau) is proposing a new information collection titled, ''Teacher Training Initiative (TTI) Local Education Agencies (LEA) Partnership Application.''

DATES: Written comments are encouraged and must be received on or before October 20, 2014 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- *Electronic: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Consumer Financial Protection Bureau (Attention: PRA Office), 1275 First Street NE., Washington, DC 20002.

Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. In general, all comments received will be posted without change to regulations.gov, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.regulations.gov* (Docket number: CFPB–2014–0020). Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *PRA@cfpb.gov. Please do not submit comments to this mailbox.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Teacher Training Initiative (TTI) Local Education Agencies (LEA) Partnership Application.

OMB Control Number: 3170–XXXX.

Type of Review: New collection (Request for a new OMB control number).

Affected Public: State, Local, or Tribal governments (Local Education Agencies).

Estimated Number of Respondents: 100.

Estimated Total Annual Burden Hours: 200.

Abstract: The Bureau plans to seek Office of Management and Budget approval to collect application information from LEAs interesting in partnering with the Bureau to design and implement a model for training K–12 teachers to teach and/or incorporate financial education concepts in their curriculum. The goal of the Initiative is to identify ways to improve and sustain youth financial capabilities by training and supporting teachers at the LEA-level to teach relevant financial concepts. Additional information may be obtained as described in the **FOR FURTHER INFORMATION CONTACT** section above.

Request for Comments: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

Dated: August 13, 2014.

Ashwin Vasan,

Chief Information Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2014–19736 Filed 8–19–14; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2014–OS–0121]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense (Personnel and Readiness) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (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.

DATES: Consideration will be given to all comments received by October 21, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive,

East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Under Secretary of Defense (Personnel and Readiness) Office of Legal Policy, ATTN: Lt Col Ryan Oakley, 4000 Defense Pentagon, Washington, DC 20301–4000 or call (703) 697–3387.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code, Section 1552; DD Form 149; OMB Control Number 0704–0003.

Needs and Uses: This information collection requirement is necessary for all Service personnel (current and former Service members) to apply to their respective Military Department Boards for Correction of Military Records (BCMR) for a correction of an error or injustice in their military records under Title 10, United States Code § 1552. The BCMRs of the Military Departments are the highest administrative boards and appellate review authorities in the Services for the resolution of military personnel disputes. The Military Department Secretaries, acting through the BCMRs, have broad powers and are duty bound to correct records if an error or injustice exists. The range of issues includes, but is not limited to, awards, clemency petitions (of courts-martial sentences), disabilities, evaluation reports, home of record, memoranda of reprimands, promotions, retirements, separations, survivor benefit plans, and titling decisions by law enforcement authorities. Information collection is needed to provide current and former Service members with a method through which to request correction of a military record and to provide the Services with the basic data needed to process the request.

Affected Public: Individuals or households.

Annual Burden Hours: 20,785.

Number of Respondents: 41,570.

Responses per Respondent: 1.

Annual Responses: 41,570.

Average Burden per Response: 30 minutes.

Frequency: On occasion.

Under Title 10 United States Code Section 1552, Active Duty and Reserve Component Service members, Coast Guard, former Service members, their lawful or legal representatives, spouses of former Service members on issues of Survivor Benefit Program (SBP) benefits, and civilian employees with respect to military records other than those related to civilian employment, who feel that they have suffered an injustice as a result of error or injustice in military records may apply to their respective Boards for Correction of Military Records (BCMR) for a correction of their military records. These Boards are the highest level appellate review authority in the military. The Service member submits to the respective BCMR a DD Form 149, ''Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code Section 1552.'' The DD Form 149 was devised to standardize applications to the BCMRs. This information is used to identify and secure the appropriate official military and medical records from the appropriate records storage facilities. Information on the form is used by the Military Department BCMRs to identify the issues and arguments raised by applicants, identify any counsel representing applicants, and determine if the applicants filed their petitions within the three-year statute of limitations established by Congress. Disclosure is voluntary; however, failure to provide requested information may result in a denial of an application. An applicant's Social Security Number is used to retrieve these records and links to the member's official military personnel file and pay record.

Dated: August 15, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–19711 Filed 8–19–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2014–OS–0120]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense (Personnel and Readiness) announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (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.

DATES: Consideration will be given to all comments received by October 20, 2014.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of the Under Secretary of Defense (Personnel and Readiness) Office of Legal Policy, ATTN: Lt Col Ryan Oakley, 4000 Defense Pentagon, Washington, DC 20301–4000, or call (703) 697–3387.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Application for the Review of Discharge from the Armed Forces of the United States; DD Form 293; OMB Control Number 0704–0004.

Needs and Uses: Former members of the Armed Forces who received an administrative discharge have the right to appeal the characterization or reason for separation. Title 10 of the U.S. Code, section 1553, and DoD Directive 1332.28 established a Board of Review consisting of five members to review appeals of former members of the Armed Forces. The DD Form 293, *Application for Review of Discharge from the Armed Forces of the United States,* provides the respondent a vehicle to present to the Board their reasons/justifications for a discharge upgrade as well as providing the Services the basic data needed to process the appeal.

Affected Public: Individuals or households.

Annual Burden Hours: 7,500.

Number of Respondents: 10,000.

Responses per Respondent: 1.

Annual Responses: 10,000.

Average Burden per Response: 45 minutes.

Frequency: One-time.

Under Title 10 U.S. Code, section 1553, the Secretary of a Military Department established a Board of Review, consisting of five members, to review appeals of former members of the Armed Forces. This information collection allows an applicant to request a change in the type of military discharge issued. Applicants are former members of the Armed Forces who have been discharged or dismissed (other than a discharge or dismissal by sentence of a general court-martial), or if the former member is deceased or incompetent, the surviving spouse, next-of-kin, or legal representative who is acting on behalf of the former members. The DD Form 293, *Application for Review of Discharge from the Armed Forces of the United States,* provides the former member an avenue to present to their respective Service Discharge Review Board their reasons and justifications for a discharge upgrade as well as providing the Military Department the basic data needed to process the appeal.

Dated: August 15, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–19710 Filed 8–19–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board; Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing this notice to announce a meeting of the Strategic Environmental Research and Development Program, Scientific Advisory Board (SAB). This meeting will be open to the public.

DATES: Wednesday, September 10, 2014, from 9:00 a.m. to 4:30 p.m.

ADDRESSES: 901 N. Stuart Street, Suite 200, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Dr. Anne Andrews, SERDP Office, 4800 Mark Center Drive, Suite 17D08, Alexandria, VA 22350–3605; or by telephone at (571) 372–6565.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150. This notice is published in accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463).

Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis.

The purpose of the September 10, 2014 meeting is to review new start research and development projects requesting Strategic Environmental Research and Development Program funds in excess of $1 million over the proposed length of the project as required by the SERDP Statute, U.S. Code—Title 10, Subtitle A, Part IV, Chapter 172, § 2904. The full agenda follows:

9:00 a.m.	Convene/Opening Remarks Approval of June 2014 Minutes	Mr. Joseph Francis, Chair.
9:10 a.m.	Program Update	Dr. Anne Andrews, Acting Executive Director.
9:25 a.m.	Weapons Systems and Platforms Overview	Dr. Robin Nissan, Weapons Systems and Platforms, Program Manager.
9:35 a.m.	15 WP01–007 (WP–2518): Environmentally Sustainable Gasless Delay Compositions For Fuzes (FY15 New Start).	Dr. Jay Poret, US Army ARDEC, Picatinny Arsenal, NJ.
10:20 a.m.	Break.	
10:35 a.m.	15 WP01–013 (WP–2519): Environmentally Benign Multi-Component Delay System with Tunable Propagation Characteristics (FY15 New Start).	Dr. Zac Doorenbos, Innovative Materials and Processes, LLC, Rapid City, SD.
11:20 a.m.	Resource Conservation and Climate Change Overview	Dr. John Hall, Resource Conservation and Climate Change, Program Manager.
11:30 a.m.	15 RC02–041 (RC–2517): Incorporation of the Effects of Future Anthropogenically-Forced Climate Change in Intensity-Duration-Frequency Design Values (FY15 New Start).	Dr. Kenneth Kunkel, North Carolina State University, Asheville, NC.
12:15 p.m.	Lunch.	
1:15 p.m.	15 RC02–020 (RC–2513): Effects of Global Change on Extreme Precipitation and Flooding: New approaches to IDF and Regional Flood Frequency Estimation (FY15 New Start).	Dr. Dennis Lettenmaier, University of Washington, Seattle, WA.
2:00 p.m.	15 RC02–035 (RC–2514): Linked Rainfall and Runoff Intensity-Duration-Frequency in the Face of Climate Change and Uncertainty (FY15 New Start).	Dr. Yonas Demissie, Washington State University, Richland, WA.
2:45 p.m.	Break.	

3:00 p.m.	15 RC02–036 (RC–2515): Changes in Climate and its Effects on Timing of Snowmelt and Intensity-Duration-Frequency Curves (FY15 New Start).	Dr. Anna Wagner, U.S. Army Cold Regions Research and Engineering Laboratory, Fort Wainwright, AK.
3:45 p.m.	SERDP Council Meeting Discussion	Mr. Joseph Francis, SAB Chair.
4:00 p.m.	Strategy Session	Dr. Anne Andrews, Acting Executive Director.
4:30 p.m.	Public Discussion/Adjourn for the day.	

Pursuant to 41 CFR 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements to the Strategic Environmental Research and Development Program, Scientific Advisory Board. Written statements may be submitted to the committee at any time or in response to an approved meeting agenda.

All written statements shall be submitted to the Designated Federal Officer (DFO) for the Strategic Environmental Research and Development Program, Scientific Advisory Board. The DFO will ensure that the written statements are provided to the membership for their consideration. Contact information for the DFO can be obtained from the GSA's FACA Database at *http://www.facadatabase.gov/*.

Time is allotted at the close of each meeting day for the public to make comments. Oral comments are limited to 5 minutes per person.

Dated: August 15, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–19734 Filed 8–19–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2014–0034]

Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, DoD.

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by September 19, 2014.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Use of Government Sources by Contractors, and related clause in Part 252; OMB Control Number 0704–0252.

Type of Request: Extension.

Number of Respondents: 3,500.

Responses per Respondent: 3.

Annual Responses: 10,500.

Average Burden per Response: Approximately .5 hours.

Annual Burden Hours: 5,250.

Needs and Uses: This information collection permits contractors to place orders from Government supply sources, including Federal Supply Schedules, requirements contracts, and Government stock. The information submitted enables DoD to evaluate whether a contractor is authorized to place such orders.

Affected Public: Businesses or other for-profit entities and not-for-profit institutions.

Frequency: On occasion.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2014–19738 Filed 8–19–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2014–0029]

Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, DoD.

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by September 19, 2014.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) part 223, Occupational Safety and Drug-Free Work Force, and related clauses in DFARS 252.223; OMB Control Number 0704–0272.

Type of Request: Extension.

Number of Respondents: 1,519.

Responses per Respondent: 9.

Annual Responses: 13,507.

Average Burden per Response: Approximately .7 hours.

Annual Burden Hours: 675,079 (9,448 response hrs + 665,631 recordkeeping hrs).

Number of Recordkeepers: 12,255.

Average Annual Burden per Recordkeeper: 54.3 hours.

Needs and Uses: This information collection requires that an offeror or contractor submit information to DoD in response to DFARS solicitation provisions and contract clauses relating to occupational safety and drug-free

work force. DoD contracting officers use this information to—

○ Verify compliance with requirements for labeling of hazardous materials;

○ Ensure contractor compliance and monitor subcontractor compliance with DoD 4145.26–M, DoD Contractors' Safety Manual for Ammunition and Explosives, and minimize risk of mishaps;

○ Identify the place of performance of all ammunition and explosives work; and

○ Ensure contractor compliance and monitor subcontractor compliance with DoD 5100.76–M, Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives.

In addition, this information collection requires DoD contractors to maintain records regarding drug-free work force programs provided to contractor employees. The information is used to ensure reasonable efforts to eliminate the unlawful use of controlled substances by contractor employees.

Affected Public: Businesses or other for-profit entities and not-for-profit institutions.

Frequency: On occasion.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2014–19741 Filed 8–19–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2014–0033]

Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, DoD.

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by September 19, 2014.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Evaluation Factor for Use of Members of the Armed Forces Selected Reserve; OMB Control Number 0704–0446.

Type of Request: Reinstatement.

Number of Respondents: 100.

Responses per Respondent: 1.

Annual Responses: 100.

Average Burden per Response: Approximately 1 hour.

Annual Burden Hours: 100.

Needs and Uses: In accordance with section 819 of the National Defense Authorization Act for Fiscal Year 2006 (Pub. L. 109–163), the contracting officer may use an evaluation factor that considers whether an offeror intends to perform the contract using employees or individual subcontractors who are members of the Selected Reserve. When such an evaluation factor is used, the contracting officer includes the provision at DFARS 252.215–7005, Evaluation Factor for Employing or Subcontracting with Members of the Selected Reserve, to require offerors to provide documentation to support any proposal to use employees or individual subcontractors who are members of the Selected Reserve in performance of any resultant contract. This information is required to enable the contracting officer to properly evaluate the offer against the evaluation criteria.

Affected Public: Businesses or other for-profit entities and not-for-profit institutions.

Frequency: On occasion.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2014–19728 Filed 8–19–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2014–0035]

Submission for OMB Review; Comment Request

AGENCY: Defense Acquisition Regulations System, DoD.

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Consideration will be given to all comments received by September 19, 2014.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Small Business Programs; OMB Control Number 0704–0386.

Type of Request: Extension.

Number of Respondents: 41.

Responses per Respondent: 1.

Annual Responses: 41.

Average Burden per Response: Approximately 1 hour.

Annual Burden Hours: 41.

Needs and Uses: DoD needs this information to improve administration under the small business subcontracting program and to evaluate a contractor's past performance in complying with its subcontracting plan.

Affected Public: Businesses or other for-profit entities and not-for-profit institutions.

Frequency: On occasion.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

DoD Clearance Officer: Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2014–19743 Filed 8–19–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Portsmouth

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Portsmouth. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, September 4, 2014, 6:00 p.m.

ADDRESSES: Ohio State University, Endeavor Center, 1862 Shyville Road, Piketon, Ohio 45661.

FOR FURTHER INFORMATION CONTACT: Greg Simonton, Alternate Deputy Designated Federal Officer, Department of Energy Portsmouth/Paducah Project Office, Post Office Box 700, Piketon, Ohio 45661, (740) 897–3737, *Greg.Simonton@lex.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

- Call to Order, Introductions, Review of Agenda
- Approval of June Minutes
- Deputy Designated Federal Officer's Comments
- Federal Coordinator's Comments
- Liaison's Comments
- Presentations
- Administrative Issues
  - Annual Executive Planning and Leadership Training Session Update
- Subcommittee Updates
- Election of Chair and Vice Chair
- Adoption of Fiscal Year 2015 Work Plan
- Public Comments
- Final Comments from the Board
- Adjourn

Public Participation: The meeting is open to the public. The EM SSAB, Portsmouth, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Greg Simonton at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Greg Simonton at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Greg Simonton at the address and phone number listed above. Minutes will also be available at the following Web site: *http://www.ports-ssab.energy.gov/.*

Issued at Washington, DC, on August 13, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–19769 Filed 8–19–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Request for Information on Landscape Design for Sustainable Bioenergy Systems

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Request for Information.

SUMMARY: The U.S. Department of Energy (DOE) invites public comment on its Request for Information (RFI) regarding Landscape Design for Sustainable Bioenergy Systems. The purpose of this RFI is to solicit feedback from bioenergy stakeholders on landscape design approaches that integrate cellulosic bioenergy feedstock production into existing agricultural and forestry systems while maintaining or enhancing environmental and socio-

economic sustainability including ecosystem services and food, feed, and fiber production.

DATES: Comments regarding the RFI must be received on or before September 2, 2014.

ADDRESSES: The RFI is available at *https://eere-exchange.energy.gov.*

FOR FURTHER INFORMATION CONTACT: Responses to the RFI and questions should be sent via email or email attachments to *BETOLandscapeDesignRFI@ee.doe.gov.* Further instructions can be found in the RFI document posted on EERE exchange.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy (DOE) Bioenergy Technologies Office plans to support the continued increase of sustainably produced domestic bioenergy from renewable feedstocks. This Request for Information (RFI) is directed at landscape design approaches for integrating cellulosic bioenergy feedstock production into existing agricultural and forestry systems in a way that maintains or improves environmental sustainability—specifically, greenhouse gas mitigation, water quality, water quantity, soil quality, air quality, and biodiversity. ''Landscape design'' refers to a spatially explicit plan for resource allocation and management that meets multiple desired objectives including environmental (maintains or enhances ecosystem services), social (is acceptable to relevant stakeholders), and economic (maintains or improves livelihoods and landowner profitability). DOE is seeking information on cost-effective, feasible approaches for testing the landscape design approach for increasing bioenergy feedstock production at a watershed, multi-landowner, or comparable spatial scale through a combination of modeling, data collection, field research, and engagement with landowners and other relevant stakeholders. DOE is specifically interested in information on appropriate experimental designs for assessing comprehensive environmental sustainability indicators, potential barriers to implementing landscape design, approaches for assessing needed feedstock logistic systems, and possible projects to test landscape design approaches for bioenergy systems on the landscape.

This is solely a request for information and not a Funding Opportunity Announcement (FOA). EERE is not accepting applications for funding project proposals.

Issued in Golden, CO, on August 14, 2014.

Jonathan Male,

Director, Bioenergy Technologies Office, Energy Efficiency and Renewable Energy.

[FR Doc. 2014–19767 Filed 8–19–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. RF–038]

Decision and Order Denying a Waiver to Felix Storch, Inc. (FSI) From the Department of Energy Residential Refrigerator and Refrigerator-Freezer Test Procedures

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: The U.S. Department of Energy (DOE) gives notice of its decision and order (Case No. RF–038) denying Felix Storch, Inc. a waiver from the DOE electric refrigerator and refrigerator-freezer test procedures used for determining the energy consumption of residential refrigerator-freezers for the basic models set forth in its petition for waiver. The decision and order continues to require that the currently applicable DOE test procedure be used when testing the company's Keg Beer Coolers, Assisted Living Refrigerator-freezers and Ultra-Compact Hotel Refrigerators.

DATES: This Decision and Order is effective August 20, 2014.

FOR FURTHER INFORMATION CONTACT:

Mr. Bryan Berringer, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–0371, Email: *Bryan.Berringer@ee.doe.gov.*

Mr. Michael Kido, U.S. Department of Energy, Office of the General Counsel, Mail Stop GC–71, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0103. Telephone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: In accordance with Title 10 of the Code of Federal Regulations (10 CFR 430.27(l)), DOE gives notice of the issuance of its decision and order as set forth below. The decision and order denies Felix Storch, Inc. (FSI) a waiver from the applicable residential refrigerator and refrigerator-freezer test procedures found in 10 CFR part 430, subpart B, appendix A1 and appendix A for certain basic models of its Keg Beer Coolers, Assisted Living Refrigerator-freezers and Hotel Refrigerators and Ultra-Compact Hotel Refrigerators, as applicable. Under today's decision and order, FSI must continue to use the applicable DOE test procedure found in 10 CFR part 430, subpart B, appendix A1 and appendix A.

Distributors, retailers, and private labelers are held to the same standard when making representations regarding the energy efficiency of these products. 42 U.S.C. 6293(c).

Issued in Washington, DC, on August 13, 2014.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: Felix Storch, Inc. (FSI) (Case No. RF–038)

I. Background and Authority

Title III, Part B of the Energy Policy and Conservation Act of 1975 (EPCA), Pub. L. 94–163 (42 U.S.C. 6291–6309, as codified) established the Energy Conservation Program for Consumer Products Other Than Automobiles, a program covering most major household appliances, which includes the residential electric refrigerators and refrigerator-freezers that are the focus of this notice.[1] Part B includes definitions, test procedures, labeling provisions, energy conservation standards, and the authority to require information and reports from manufacturers. Further, Part B authorizes the Secretary of Energy to prescribe test procedures that are reasonably designed to produce results that measure energy efficiency, energy use, or estimated operating costs and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) The test procedure for residential electric refrigerators and refrigerator-freezers is currently set forth in 10 CFR part 430, subpart B, appendix A1. That procedure will be superseded by a new Appendix A contained in the same part and subpart. Manufacturers are required to use Appendix A starting in September 2014.

The regulations set forth in 10 CFR 430.27, which were recently amended, contain provisions that enable a person to petition DOE to obtain a waiver from the test procedure requirements for covered products. See 79 FR 26591 (May 9, 2014) (revising 10 CFR 430.27, effective June 9, 2014). (DOE notes that

[1] For editorial reasons, upon codification in the U.S. Code, Part B was re-designated Part A.

while the previous version of 10 CFR 430.27 was effective at the time of FSI's submission, the substantive aspects of this regulation have not been changed by the May 9th rule.) A person may petition for a waiver from the test procedure requirements that would ordinarily apply to a particular basic model covered under DOE's regulations when (1) the petitioner's basic model for which the petition for waiver was submitted contains one or more design characteristics that prevent testing according to the prescribed test procedure, or (2) when prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1) (noting that a person may petition to waive for a particular basic model any requirements of 10 CFR 430.23 or of ''any appendix'' under 10 CFR part 430, subpart B). Petitioners must include in their petition any alternate test procedures known to the petitioner to evaluate the basic model in a manner representative of its energy consumption characteristics.

The Assistant Secretary for Energy Efficiency and Renewable Energy (the Assistant Secretary) may grant a waiver subject to conditions, including adherence to alternate test procedures. See 10 CFR 430.27(l) (prior to June 9, 2014) and 10 CFR 430.27(f)(2) (effective June 9, 2014). Waivers remain in effect pursuant to the provisions of 10 CFR 430.27(m) (prior to June 9, 2014). See also 10 CFR 430.27(h) (effective June 9, 2014).

Any interested person who has submitted a petition for waiver may also file an application for interim waiver of the applicable test procedure requirements. 10 CFR 430.27(a)(2). The Assistant Secretary will grant an interim waiver request if it is determined that the applicant will experience economic hardship if the interim waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. 10 CFR 430.27(g).

II. FSI's Petition for Waiver: Assertions and Determinations

On December 12 and 17, 2013, FSI submitted two separate petitions for waiver from the test procedure applicable to residential electric refrigerators and refrigerator-freezers set forth in 10 CFR part 430, subpart B, appendices A and A1. The December 12th petition, which was accompanied by a request for an interim waiver that DOE denied, sought a waiver from appendices A1 and A with respect to the following specific product and model lines—Keg Beer Coolers (Models SBC590, SBC590OS, and SBC635M), Assisted Living Refrigerator-freezers (Models ALBF44 and ALBF68), and Hotel Refrigerators (Models HTL2 and HTL3).[2] The December 17th petition, which was not accompanied by a request for an interim waiver, sought a waiver from the upcoming test procedure requirements in appendix A, which will be required to be used starting in September 2014, for the following specific product and model lines—Keg Beer Coolers (Models SBC490B and SBC570R), Assisted Living Refrigerators (Models FF71TB, FF73, FF74, AL650R, ALB651BR, AL652BR, ALB653BR, CT66RADA, CT67RADA, AL750R, ALB751R, AL752BR, and ALB753LBR), and Ultra-Compact, Hotel Refrigerators (Models FF28LH, FF29BKH, FFAR21H, and FFAR2H). FSI did not contend in either petition that the products at issue have a design characteristic preventing the testing of any of the affected models. FSI also asserted generally that a denial of its waiver request would result in economic hardship.

With respect to the technical aspects of its petition, FSI asserted that its products could not be tested and rated for energy consumption on a basis representative of their true energy consumption characteristics. In particular, it asserted that the DOE test procedures for residential refrigeration products (both the current Appendix A1 and the new Appendix A that will be mandatory beginning on September 15, 2014) require that FSI's products be tested under conditions that would not, in its view, yield a fair and accurate representation of the actual energy use of its products. FSI stated that DOE's procedure (both current and future) require an ambient temperature of 90 °F, which would, in FSI's view, yield results that would not accurately reflect the energy use of its products during normal use.

The 90 °F ambient temperature condition simulates the effects of door openings and closings, which are not performed during testing. See 10 CFR 430.23(a)(10) (explaining that ''[t]he intent of the energy test procedure is to simulate typical room conditions (approximately 70 °F (21 °C)) with door openings, by testing at 90 °F (32.2 °C) without door openings.''). As FSI pointed out, this particular aspect of the procedure, which has been widely accepted by industry, has been in place for at least 30 years. See, e.g. FSI Petition at 3 (Dec. 12, 2013). FSI contended that the products addressed by its waiver petitions will be sold for uses where door openings and closings are highly infrequent. As a result, in its view, testing these products in accordance with the required DOE test procedure conditions, which are based on long-accepted industry-based testing standards, would result in measurements of energy use that are unrepresentative of the actual energy use of its products when considering the conditions of expected use by consumers.

As an alternative to the DOE test procedure, FSI submitted an alternate test procedure to account for the energy consumption of its products. That procedure would test these units at 70 °F or 72 °F over a 24-hour period instead of the required 90 °F ambient temperature condition. In FSI's view, using this alternate test procedure will allow for the accurate measurement of the energy use of its products.

On March 17, 2014, DOE published FSI's petitions for waiver in their entirety. That notice also denied FSI's request for an interim waiver from the test procedure. 79 FR 14686. In explaining its denial of FSI's interim waiver request, DOE indicated that FSI's petition provided insufficient information for DOE to determine whether the alternative test procedure that FSI proposed to use would be likely to provide a measurement of the energy use of these products that is representative of their operation under conditions of expected consumer use. Since DOE had found it unlikely that FSI's waiver petition would be granted and had determined that it was not desirable for public policy reasons to grant FSI with immediate relief, DOE declined to grant an interim waiver and sought additional information on the underlying basis for FSI's proposed alternative. In seeking comments on FSI's proposal, DOE noted that the existing test procedures in appendices A (refrigerators and refrigerator-freezers) and B (freezers) to subpart B of 10 CFR part 430, as well as recent test procedure waivers, contain a method for addressing certain types of products for which less frequent door openings occur. See 79 FR at 14688. Specifically, the test procedure for residential

[2] The caption to the December 12th petition stated that FSI is seeking a waiver from both appendix A1 and appendix A. However, the actual relief sought, as stated in the conclusion of FSI's petition, states that the company is seeking to waive the applicability of appendix A from its products. Regarding the products affected by this petition, DOE is viewing FSI's request as applying to both appendices A1 and A.

freezers, which continues to apply a 90 °F ambient temperature during testing, applies an adjustment factor to account for the relatively fewer expected door openings of upright and chest freezers, each of which has a corresponding adjustment factor for the overall energy use.

DOE received a single comment in response to the March 17th notice. That comment, a submission from FSI dated April 14, 2014, disagreed with DOE's decision to deny FSI's interim waiver. In support of its position, FSI restated the general position expressed in its petition regarding the less frequent door openings it expected its products to experience, which it believed justified its claim that testing at 90 °F would result in measurements of energy consumption that were not representative of its products' energy use. FSI further stated that if DOE were to deny FSI's waiver request, it would be less able to plan its product selection, marketing, and sales programs and would be placed at a competitive disadvantage compared with larger multinational appliance manufacturers. FSI also indicated that if its products were to be forced off the market, the hotel industry may increasingly turn to more consumptive products such as those that rely on thermoelectric or absorption cooling.

To support its view, FSI cited several studies preceding DOE's recent efforts to update and revise its test procedures that evaluated the representativeness of the 90 °F test condition. While some of the studies do indicate that the 90 °F test condition is an imperfect approximation of the additional thermal loading imposed by the door openings expected during typical consumer use, the extent to which the findings can be generalized to all products covered by DOE standards on a national basis is limited in several respects. For example, some studies were based on a relatively small sample of products (e.g., one study used only two units), others were based on *in situ* (i.e., on-site) test conditions that may not be representative at a national level (e.g., one study only evaluated homes in Florida), and not all studies relied on testing conducted in a manner consistent with the DOE test in respects other than that 90 °F test condition (e.g., one study tested the units with spacing to the wall behind the unit closer than DOE requires). FSI also cited results from its own testing of the products that are the subject of the petition. FSI claimed that its test data demonstrate that the 90 °F test condition is not appropriate. (FSI did not submit any of the reports from this testing.) These various pieces of information, however, do not substantiate FSI's claim that its products experience fewer door openings during actual use or that its suggested alternate temperature conditions would be appropriate in this context.

DOE notes that it first adopted the 90 °F ambient test condition in 1977 after conducting a public notice and comment proceeding to discuss the merits of a proposed test procedure that included the possibility of adopting the 90 °F ambient temperature condition or a higher one. See 42 FR 46140, 46142 (Sept. 14, 1977) (rejecting adoption of a 104 °F ambient test condition in favor of 90 °F). DOE explained the basis for selecting this temperature condition in its proposal leading to that final rule by noting in part that the selected temperature is designed to compensate for door openings when they occur and a correction factor can be applied ''when appropriate.'' 42 FR 21584, 21586 (April 27, 1977). Further, the industry's more recent efforts at revising and updating the test procedures for refrigerators, refrigerator-freezers, and freezers have continued to consistently apply the 90 °F ambient condition during testing. These industry efforts culminated in the development of the current version of the Association of Home Appliance Manufacturers' Energy and Internal Volume of Refrigerating Appliances, HRF–1–2008 (''HRF–1''), which DOE has incorporated by reference into its regulations. See 77 FR 3559 (Jan. 25, 2012) and 79 FR 22320 (April 21, 2014). That industry procedure continues to rely on the 90 °F ambient condition during testing. See HRF–1, sec. 1.2. The continued reliance on this ambient condition indicates that it continues to provide materially accurate comparative data that are representative of the true energy consumption characteristics of the various categories of refrigerators, refrigerator-freezers, and freezers.

In view of the substantial amount of effort and analysis conducted both by the industry and DOE regarding the appropriateness of applying a 90 °F ambient condition, the supporting information offered by FSI does not provide a sufficient basis for permitting the use of an alternative procedure for the particular products addressed in FSI's petition. Additionally, the limited information provided by FSI (i.e. summary results without supporting data) does not indicate that its alternative testing approach would be appropriate.

FSI also cited the requirement in EPCA that DOE's ''test procedures be reasonably designed to measure energy consumption representatively and not be unduly burdensome to conduct.'' DOE notes that the complete text of this section, found at 42 U.S.C. 6293(b)(3), states that ''any test procedures prescribed under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use, water use (in the case of showerheads, faucets, water closets and urinals), or estimated annual operating cost of a covered product during a representative average use cycle or period of use, *as determined by the Secretary.''* Emphasis added.

In DOE's view, adopting FSI's alternative testing method would prevent DOE from providing a test procedure that would meet the statutory requirement prescribed in 42 U.S.C. 6293. The already prescribed 90 °F ambient condition has been substantially vetted and accepted by the refrigeration industry for decades and is widely viewed as being reasonably designed to produce results that measure the energy use and efficiency of refrigerators, refrigerator-freezers, and freezers—such as those at issue in FSI's petitions—during a representative average use cycle or period of use. Given this background, and the limited supporting data offered by FSI in favor of an alternative test procedure, DOE cannot conclude that a waiver is appropriate with respect to FSI's request.

Lastly, FSI asserted that it would suffer unnecessary economic hardship and financial burdens if it is not granted a test procedure waiver. DOE notes that the criteria for granting a waiver, in contrast to an interim waiver, do not weigh the potential economic hardships that a particular applicant may claim are likely to occur. Notwithstanding this fact, FSI provided no financial details following the publication of its petition that would demonstrate the extent of any economic hardship or impact that would have enabled DOE to further evaluate the merits of FSI's claim. And as indicated in DOE's earlier notice denying FSI's request for an interim waiver, the company did not provide sufficient information for DOE to evaluate its claim. See 79 FR at 14688. Accordingly, DOE cannot provide FSI with the relief it seeks under its claims of economic hardship.

III. Conclusion

As DOE stated previously in its March 2014 notice, FSI's waiver petition did not provide DOE with sufficient information to establish that FSI's alternative test procedure would evaluate its models in a manner that is representative of their actual energy use

under conditions of expected consumer use. Since it did not appear likely that FSI's petition for waiver would be granted as submitted and that it is not desirable for public policy reasons to grant FSI immediate relief pending a determination on the petition for waiver, DOE declined to grant FSI's request for an interim waiver and sought comment from stakeholders and the public on the merits of FSI's proposed alternative test method. While FSI submitted comments disagreeing with DOE's decision, those comments did not provide sufficient justification for DOE to change its decision in light of the issues discussed above. However, should FSI or other interested stakeholders raise this issue in the context of a test procedure rulemaking or revised petition for waiver, DOE may consider the adoption of an alternative approach such as an appropriate adjustment factor to reassess the situation presented by FSI. At this time, however, given the absence of sufficient information, DOE cannot grant FSI's petition for waiver as requested.

Thus, by this decision and order, DOE denies FSI's waiver request from the applicable residential refrigerator and refrigerator-freezer test procedures found in 10 CFR part 430, subpart B, appendix A–1 and appendix A for the following basic models:

- Keg Beer Coolers (Models SBC590, SBC590OS, and SBC635M);
- Assisted Living Refrigerator-freezers (Models ALBF44 and ALBF68); and
- Hotel Refrigerators (Models HTL2 and HTL3).

DOE is also denying FSI's waiver request from the applicable residential refrigerator and refrigerator-freezer test procedures found in 10 CFR part 430, subpart B, appendix A for the following basic models:

- Keg Beer Coolers (Models SBC490B and SBC570R);
- Assisted Living Refrigerators (Models FF71TB, FF73, FF74, AL650R, ALB651BR, AL652BR, ALB653BR, CT66RADA, CT67RADA, AL750R, ALB751R, AL752BR, and ALB753LBR); and
- Ultra-Compact, Hotel Refrigerators (Models FF28LH, FF29BKH, FFAR21H, and FFAR2H).

Under today's decision and order, FSI must test its specific models of its Keg Beer Coolers, Assisted Living Refrigerator-freezers and Hotel Refrigerator variants using the DOE test procedure found in 10 CFR part 430, subpart B, appendix A–1 and, when, applicable, the test procedure found in 10 CFR part 430, subpart B, appendix A.

Issued in Washington, DC, on August 13, 2014.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Office of Technology Development, Energy Efficiency and Renewable Energy.

[FR Doc. 2014–19768 Filed 8–19–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI14–4–000]

Mahannah & Associates, LLC; Notice of Declaration of Intention and Soliciting Comments, Protests, and/or Motions To Intervene

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI14–04–000.

c. *Date Filed:* July 17, 2014.

d. *Applicant:* Mahannah & Associates, LLC.

e. *Name of Project:* John Wiseman Domestic Power Project.

f. *Location:* The existing John Wiseman Domestic Power Project will be located on a Thomas Creek, southwest of Reno, in Washoe County, Nevada, affecting T. 18N, R. 19E, S. 29 and 30, M.D.B.&M.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b) (2012).

h. *Applicant Contact:* John Wiseman, 18000 Logan Meadows Lane, Reno, NV 89511 telephone: (818) 402–1663, *johnw@chaosvisual.com*.

i. *FERC Contact:* Any questions on this notice should be addressed to Jennifer Polardino, (202) 502–6437, or Email address: *Jennifer.Polardino@ferc.gov*.

j. *Deadline for filing comments, protests, and/or motions is:* September 12, 2014, 30 days from the issuance of this notice by the Commission.

Comments, Motions to Intervene, and Protests may be filed electronically via the Internet. See 18 CFR 385.2001(a)(l)(iii) (2014) and the instructions on the Commission's Web site under the ''eFiling'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. For more information on how to submit these types of filings, please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*.

Please include the docket number (DI14–4–000) on any comments, protests, and/or motions filed.

k. *Description of Project:* The existing run-of-river John Wiseman Domestic Power Project will consist of: (1) An existing diversion box and headgate, which will divert water from Thomas Creek, (2) an approximately 500-foot-long, 10-inch pipe; (3) an existing three foot by three foot water collection box screen; (4) a 6-inch-diameter Pelton wheel; (5) a Harris 48V/15 Amp generator rated at 130 gallons per minute; 44 feet of total head; (6) and appurtenant facilities. The existing diversion box, headgate, and 115 feet of the pipe are located within the Humbolt-Toiyabe National Forest.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the project would affect the interests of interstate or foreign commerce. The Commission also determines whether or not the project: (1) would be located on a navigable waterway; (2) would occupy public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) would be located on a non-navigable stream over which Congress has Commerce Clause jurisdiction and would be constructed or enlarged after 1935.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Web 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. 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, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and

Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—All filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', AND/OR ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any Motion to Intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: August 12, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–19668 Filed 8–19–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–529–000]

Tennessee Gas Pipeline Company, L.L.C.; Notice of Application

Take notice that on July 31, 2014, Tennessee Gas Pipeline Company, L.L.C. (Tennessee), 1001 Louisiana Street, Suite 1000, Houston, Texas 77002, filed an application pursuant to section 7(c) of the Natural Gas Act to construct, install, modify and operate its Connecticut Expansion Project. The proposed Project involves the construction of two sections of new 36-inch pipeline looping totaling 1.35 miles in Albany County, New York, 3.81 miles in Berkshire and Hampden Counties, Massachusetts and one section of new 24-inch pipeline looping totaling 8.10 miles in Massachusetts and Hartford County, Connecticut and minor modifications to facilities at Tennessee's existing Agawam Compressor Station. The facilities will provide up to an additional 72.1 million cubic feet per day of incremental firm transportation capacity to Tennessee's existing 200 Line and 300 Line pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web 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 at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Jacqueline M. Rocan, Assistant General Counsel, (713)420–4544, or by email at *jacquelyne_rocan@kindermorgan.com,* Thomas G. Joyce, Manager, Certificates, (713)420–3299, or by email at *tom_joyce@kindermorgan.com,* or Richard A. Siegel, Manager, Certificates, (713) 420–5535, or by email at *Richard_siegel@kindermorgan.com.* All persons located at 1001 Louisiana Street, Suite 1000, Houston, Texas, 77002.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with he Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link. Persons unable to file electronically should submit original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Comment Date: 5:00 p.m. Eastern Time on September 4, 2014.

Dated: August 14, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–19749 Filed 8–19–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI14–5–000]

Cordova Electric Cooperative; Notice of Declaration of Intention and Soliciting Comments, Protests, and/or Motions To Intervene

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI14–05–000.

c. *Date Filed:* July 18, 2014.

d. *Applicant:* Cordova Electric Cooperative.

e. *Name of Project:* Cordova Water and Power Hydroelectric Project.

f. *Location:* The proposed Cordova Water and Power Project will be located on a Crater Lake outflow stream (Crater Creek), northeast of the city of Cordova, in the Valdez-Cordova Census Area, Alaska, affecting T. 15S, R. 3W, Copper River Meridian.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 USC 817(b) (2012).

h. *Applicant Contact:* Clay Koplin, P.E., CEO, Cordova Electric Cooperative, P.O Box 20, Cordova. Alaska, 99574–0020, telephone: (907) 424–5026, email: *ckoplin@cordovaelectric.com*.

i. *FERC Contact:* Any questions on this notice should be addressed to Jennifer Polardino, (202) 502–6437, or Email address: *Jennifer.Polardino@ferc.gov*.

j. *Deadline for filing comments, protests, and/or motions is:* September 12, 2014, 30 days from the issuance of this notice by the Commission.

Comments, Motions to Intervene, and Protests may be filed electronically via the Internet. See 18 CFR 385.2001(a)(l)(iii) (2014) and the instructions on the Commission's Web site under the ''eFiling'' link. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and eight copies should be mailed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. For more information on how to submit these types of filings, please go to the Commission's Web site located at *http://www.ferc.gov/filing-comments.asp*.

Please include the docket number (DI14–5–000) on any comments, protests, and/or motions filed.

k. *Description of Project:* The proposed Crater Lake Water and Power Hydroelectric Project will consist of: (1) The natural reservoir of water in Crater Lake, with a current estimated capacity of 400 acre-feet; (2) a 20-foot-high, concrete dam at an elevation of 1,580 feet above mean sea level; (3) a 3,800-foot-long, 1.05 diameter above-ground steel penstock; (4) a steel-frame powerhouse containing a single, one-megawatt generating unit rated at 1,450 feet of net head and a discharge of 2.85 cfs; (5) a tailrace that would extend approximately 20 yards south from the powerhouse to discharge into Crater Creek, a tributary of the Orca Inlet; (6) a short 1.47 kV three-phase transmission line conveying power to an existing 12.47 kV distribution line; (7) a pipe or channel conduit linking the powerhouse outflow with the water supply pipeline; (8) and appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the project would affect the interests of interstate or foreign commerce. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) would be located on a non-navigable stream over which Congress has Commerce Clause jurisdiction and would be constructed or enlarged after 1935.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Web 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. 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, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—All filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', AND/OR ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any Motion to Intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: August 12, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–19669 Filed 8–19–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2146–162]

Alabama Power Company; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Shoreline Management Plan.

b. *Project No:* 2146–162.

c. *Date Filed:* June 19, 2014.

d. *Applicant:* Alabama Power Company.

e. *Name of Project:* Coosa River Hydroelectric Project.

f. *Location:* Coosa River in Cherokee and Etowah Counties, Alabama and Floyd County, Georgia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* David K. Anderson, Hydro Licensing Specialist,

Alabama Power Company, 600 North 18th Street, P.O. Box 2641, Birmingham, AL 35291; Phone: (205) 257–1398.

i. *FERC Contact:* Jon E. Cofrancesco at (202) 502–8951, or email: *jon.cofrancesco@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* September 12, 2014.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–2146–162) on any comments, motions, or recommendations filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Description of Request: As required by article 414 of the license, Alabama Power Company requests Commission approval of a proposed shoreline management plan (SMP) for the project. The SMP defines shoreline management policies and classifications for the shorelines within the project boundary, identifies allowable uses within the shoreline areas, includes a shoreline use permitting and compliance program, and a public education and outreach program.

l. Locations of the Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing 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 (P–2146) to access the document. 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, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above. Agencies may obtain copies of the application directly from the applicant. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions To Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Documents: Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: August 13, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–19664 Filed 8–19–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG14–80–000.

Applicants: Mountain Creek Power, LLC.

Description: Mountain Creek Power, LLC's Notice of Self-Certification as an Exempt Wholesale Generator.

Filed Date: 8/11/14.

Accession Number: 20140811–5088.

Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: EG14–81–000.

Applicants: LaPorte Power, LLC.

Description: LaPorte Power, LLC's Notice of Self-Certification as an Exempt Wholesale Generator.

Filed Date: 8/11/14.

Accession Number: 20140811–5089.

Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: EG14–82–000.

Applicants: Handley Power, LLC.

Description: Handley Power LLC's Notice of Certification as an Exempt Wholesale Generator.

Filed Date: 8/11/14.

Accession Number: 20140811–5090.

Comments Due: 5 p.m. ET 9/2/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2881–015; ER10–2882–015; ER10–2883–015; ER10–2884–015; ER10–2885–015; ER10–2641–015; ER10–2663–015; ER10–2886–015; ER13–1101–010; ER13–1541–009; ER14–787–003.

Applicants: Alabama Power Company, Southern Power Company, Mississippi Power Company, Georgia Power Company, Gulf Power Company, Oleander Power Project, Limited Partnership, Southern Company-Florida LLC, Southern Turner Cimarron I, LLC, Spectrum Nevada Solar, LLC, Campo Verde Solar, LLC, Macho Springs Solar, LLC.

Description: Notification of Non-Material of Change in Status of Alabama Power Company, et al.

Filed Date: 8/11/14.

Accession Number: 20140811–5038.

Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER13–1194–000; ER12–1303–000.

Applicants: Entergy Services, Inc.
Description: Refund Report to be effective N/A.
Filed Date: 8/11/14.
Accession Number: 20140811–5054.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER13–1623–000.
Applicants: Entergy Services, Inc.
Description: Refund Report to be effective N/A.
Filed Date: 8/7/14.
Accession Number: 20140807–5067.
Comments Due: 5 p.m. ET 8/28/14.

Docket Numbers: ER13–2468–002.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–08–08_CMMPA Amended Compliance Filing—Att O to be effective 1/1/2014.
Filed Date: 8/7/14.
Accession Number: 20140807–5092.
Comments Due: 5 p.m. ET 8/28/14.

Docket Numbers: ER14–1348–003; ER14–1349–003.
Applicants: Dow Chemical Company, Union Carbide Corporation, The Dow Chemical Company.
Description: Compliance Filing of The Dow Chemical Company and Union Carbide Corporation.
Filed Date: 8/8/14.
Accession Number: 20140808–5044.
Comments Due: 5 p.m. ET 8/29/14.

Docket Numbers: ER14–2439–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–08–08_SA 2677 GRE-Pleasant Valley Wind GIA Amendment (J278) to be effective 7/17/2014.
Filed Date: 8/8/14.
Accession Number: 20140808–5085.
Comments Due: 5 p.m. ET 8/29/14.

Docket Numbers: ER14–2574–000.
Applicants: California Independent System Operator Corporation.
Description: 2014–08–07_Supplement_FlexibleRACriteriaRequirements to be effective N/A.
Filed Date: 8/7/14.
Accession Number: 20140807–5141.
Comments Due: 5 p.m. ET 8/28/14.

Docket Numbers: ER14–2611–000.
Applicants: Public Service Company of Colorado.
Description: 2014–8–7_PSCo WAPA-Rev Meter-320–0.1.0 to be effective 10/6/2014.
Filed Date: 8/7/14.
Accession Number: 20140807–5037.
Comments Due: 5 p.m. ET 8/28/14.

Docket Numbers: ER14–2612–000.
Applicants: Ohio Power Company, AEP Ohio Transmission Company, Inc., PJM Interconnection, L.L.C.
Description: AEP submits 43rd Revised Service Agreement No. 1336 to be effective 7/10/2014.
Filed Date: 8/7/14.
Accession Number: 20140807–5045.
Comments Due: 5 p.m. ET 8/28/14.
Docket Numbers: ER14–2613–000.
Applicants: Public Service Company of Colorado.
Description: 2014–8–7_PSCo CFA_87–LAO–285_350–0.1.0 to be effective 10/6/2014.
Filed Date: 8/7/14.
Accession Number: 20140807–5046.
Comments Due: 5 p.m. ET 8/28/14.

Docket Numbers: ER14–2614–000.
Applicants: PJM Interconnection, L.L.C.
Description: Queue Position X4–044, Original Service Agreement No. 3901 to be effective 7/8/2014.
Filed Date: 8/7/14.
Accession Number: 20140807–5064.
Comments Due: 5 p.m. ET 8/28/14.

Docket Numbers: ER14–2615–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–08–07_SA 6503 Gaylord SSR Termination Consumers to be effective 10/1/2014.
Filed Date: 8/7/14.
Accession Number: 20140807–5088.
Comments Due: 5 p.m. ET 8/28/14.

Docket Numbers: ER14–2616–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–08–07_Cancel Schedule 43D Gaylord to be effective 10/1/2014.
Filed Date: 8/7/14.
Accession Number: 20140807–5089.
Comments Due: 5 p.m. ET 8/28/14.

Docket Numbers: ER14–2617–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–08–07_SA 6504 Straits SSR Consumers Energy Termination to be effective 10/1/2014.
Filed Date: 8/7/14.
Accession Number: 20140807–5090.
Comments Due: 5 p.m. ET 8/28/14.

Docket Numbers: ER14–2618–000
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–08–07_Cancel Schedule 43E Straits to be effective 10/1/2014.
Filed Date: 8/7/14.
Accession Number: 20140807–5091.
Comments Due: 5 p.m. ET 8/28/14.

Docket Numbers: ER14–2619–000.
Applicants: Illinois Power Marketing Company.
Description: Revised Unexecuted Amended and Restated System Support Resources Agreement to be effective 1/1/2014.
Filed Date: 8/7/14.
Accession Number: 20140807–5126.
Comments Due: 5 p.m. ET 8/28/14.
Docket Numbers: ER14–2620–000.
Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.
Description: Cancellation of NiMo Beacon EPC Agreement No. 1630 to be effective 8/9/2014.
Filed Date: 8/8/14.
Accession Number: 20140808–5024.
Comments Due: 5 p.m. ET 8/29/14.

Docket Numbers: ER14–2621–000.
Applicants: Golden Spread Electric Cooperative, Inc.
Description: OATT Order No. 792 Compliance Filing to be effective 8/3/2014.
Filed Date: 8/8/14.
Accession Number: 20140808–5066.
Comments Due: 5 p.m. ET 8/29/14.

Docket Numbers: ER14–2622–000.
Applicants: Consumers Energy Company.
Description: Request for Limited Waiver of the MISO Open Access Transmission, Energy and Operating Reserve Markets Tariff by Consumers Energy Company.
Filed Date: 8/7/14.
Accession Number: 20140807–5167.
Comments Due: 5 p.m. ET 8/28/14.

Docket Numbers: ER14–2623–000.
Applicants: New York Independent System Operator, Inc.
Description: NYISO 205 filing tariff revision to eliminate NFTS provisions to be effective 10/9/2014.
Filed Date: 8/8/14.
Accession Number: 20140808–5096.
Comments Due: 5 p.m. ET 8/29/14.

Docket Numbers: ER14–2624–000.
Applicants: Southern California Edison Company.
Description: Amended and Restated SGIA & Amended and Restated Serv Agmt Lucerne Valley Solar to be effective 8/12/2014.
Filed Date: 8/11/14.
Accession Number: 20140811–5002.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER14–2625–000.
Applicants: AEP Texas North Company.
Description: TNC-Barilla Solar First Amend & Restated Interconnection Agr. to be effective 7/23/2014.
Filed Date: 8/11/14.
Accession Number: 20140811–5059.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER14–2626–000.
Applicants: Southern California Edison Company.
Description: SCE Amended WDAT GIP to be effective 10/1/2014.
Filed Date: 8/11/14.
Accession Number: 20140811–5143.
Comments Due: 5 p.m. ET 9/2/14.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES14–48–000.
Applicants: South Carolina Electric & Gas Company, South Carolina Generating Company, Inc.
Description: Application for Authorization under Federal Power Act Section 204 for South Carolina Electric & Gas Company and South Carolina Generating Company, Inc.
Filed Date: 8/8/14.
Accession Number: 20140808–5060.
Comments Due: 5 p.m. ET 8/29/14.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF14–640–000.
Applicants: Lent, Robert H.
Description: Form 556 of Robert H. Lent.
Filed Date: 7/3/14.
Accession Number: 20140703–5158.
Comments Due: None Applicable.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 11, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–19655 Filed 8–19–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP14–1172–000.
Applicants: Steckman Ridge, LP.
Description: SR—ConEd k920088 to be effective 8/6/2014.
Filed Date: 8/6/14.
Accession Number: 20140806–5101.
Comments Due: 5 p.m. ET 8/18/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR § 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP14–1111–001.
Applicants: Vector Pipeline L.P.
Description: Tariff Clean-Up Filing Amendment to be effective 8/18/2014.
Filed Date: 8/7/14.
Accession Number: 20140807–5007.
Comments Due: 5 p.m. ET 8/19/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR § 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated August 07, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–19657 Filed 8–19–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG14–83–000.
Applicants: Regulus Solar, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Regulus Solar, LLC.
Filed Date: 8/11/14.
Accession Number: 20140811–5179.
Comments Due: 5 p.m. ET 9/2/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER14–1242–002.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–08–11_SA 6506_ Presque Isle SSR Compliance Filing to be effective 2/1/2014.
Filed Date: 8/11/14.
Accession Number: 20140811–5169.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER14–1243–002.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–08–11_Presque Isle SSR Related Compliance Filing to be effective 4/3/2014.
Filed Date: 8/11/14.
Accession Number: 20140811–5167.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER14–1243–004.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–08–11_Presque Isle Schedule 43G Compliance Filing to be effective 4/3/2014.
Filed Date: 8/11/14.
Accession Number: 20140811–5185.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER14–2627–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: 2014–08–11_SA 2685 Ameren-SIPC Wholesale Umbrella Construction Agreement to be effective 7/10/2014.
Filed Date: 8/11/14.
Accession Number: 20140811–5147.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER14–2628–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: 2014–08–11_SA 2686 Ameren-SIPC Wholesale Connection Agreement to be effective 7/10/2014.
Filed Date: 8/11/14.
Accession Number: 20140811–5148.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER14–2629–000.
Applicants: California Independent System Operator Corporation.
Description: 2014–08–11_ SycamorePenasquitos APSA to be effective 10/11/2014.
Filed Date: 8/11/14.
Accession Number: 20140811–5159.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER14–2630–000.
Applicants: Regulus Solar, LLC.
Description: Market Based Rate Schedule to be effective 8/12/2014.
Filed Date: 8/11/14.
Accession Number: 20140811–5166.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER14–2631–000.
Applicants: Atlantic City Electric Company.
Description: Market-Based Rate Tariff Revisions to be effective 8/12/2014.

Filed Date: 8/12/14.
Accession Number: 20140812–5001.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER14–2632–000.
Applicants: Delmarva Power & Light Company.
Description: Market-Based Rate Tariff Revisions to be effective 8/12/2014.
Filed Date: 8/12/14.
Accession Number: 20140812–5002.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER14–2633–000.
Applicants: Potomac Electric Power Company.
Description: Market-Based Rate Tariff Revisions to be effective 8/12/2014.
Filed Date: 8/12/14.
Accession Number: 20140812–5003.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER14–2634–000.
Applicants: Potomac Power Resources, LLC.
Description: Market-Based Rate Tariff Revisions and Notice of Succession to be effective 8/12/2014.
Filed Date: 8/12/14.
Accession Number: 20140812–5004.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER14–2635–000.
Applicants: Bethlehem Renewable Energy, LLC.
Description: Market-Based Rate Tariff Revisions to be effective 8/12/2014.
Filed Date: 8/12/14.
Accession Number: 20140812–5005.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER14–2636–000.
Applicants: Fauquier Landfill Gas, LLC.
Description: Market-Based Rate Tariff Revisions to be effective 8/12/2014.
Filed Date: 8/12/14.
Accession Number: 20140812–5006.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER14–2637–000.
Applicants: Eastern Landfill Gas, LLC.
Description: Market-Based Rate Tariff Revisions to be effective 8/12/2014.
Filed Date: 8/12/14.
Accession Number: 20140812–5007.
Comments Due: 5 p.m. ET 9/2/14.

Docket Numbers: ER14–2638–000.
Applicants: Pepco Energy Services, Inc.
Description: Market-Based Rate Tariff Revisions to be effective 8/12/2014.
Filed Date: 8/12/14.
Accession Number: 20140812–5041.
Comments Due: 5 p.m. ET 9/2/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 12, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–19656 Filed 8–19–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR14–48–000.
Applicants: Kinder Morgan Keystone Gas Storage LLC.
Description: Tariff filing per 284.123(e) + (g): Name Change Filing to be effective 8/1/2014 TOFC: 1280.
Filed Date: 8/7/14.
Accession Number: 20140807–5130.
Comments Due: 5 p.m. ET 8/28/14.
284.123(g) Protests Due: 5 p.m. ET 10/6/14.

Docket Numbers: RP14–1173–000.
Applicants: Eastern Shore Natural Gas Company.
Description: Off Peak Firm Transportation to be effective 8/7/2014.
Filed Date: 8/7/14.
Accession Number: 20140807–5063.
Comments Due: 5 p.m. ET 8/19/14.

Docket Numbers: RP14–1174–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Report of Refund Transco's GSS LSS Customer Share of DTI Penalty Revenue 2014.
Filed Date: 8/7/14.
Accession Number: 20140807–5094.
Comments Due: 5 p.m. ET 8/19/14.

Docket Numbers: RP14–1175–000.
Applicants: Dauphin Island Gathering Partners.
Description: Negotiated Rate Filing 8–7–14 to be effective 9/1/2014.
Filed Date: 8/7/14.
Accession Number: 20140807–5148.
Comments Due: 5 p.m. ET 8/19/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the comment date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP14–1049–001.
Applicants: American Midstream (Midla), LLC.
Description: Midla Compliance Filing in RP14–1049 to be effective 7/17/2014.
Filed Date: 8/7/14.
Accession Number: 20140807–5129.
Comments Due: 5 p.m. ET 8/19/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR § 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 11, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–19658 Filed 8–19–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–90–000]

Seminole Electric Cooperative, Inc. Florida Municipal Power Agency v. Duke Energy Florida; Notice of Complaint

Take notice that on August 12, 2014, pursuant to Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, and sections 206, 306, and 309 of the Federal Power Act, 16 U.S.C. 824(e), 825(e), and 825(h), Seminole Electric Cooperative, Inc. and Florida Municipal Power Agency (Complainants) filed a formal complaint against Duke Energy

Florida (Respondent) alleging that the return on equity (ROE) in the Respondent's transmission formula rate is unjust and unreasonable and should be replaced with a just and reasonable ROE.

Complainants certify that copies of the complaint were served on the contacts for Respondent as listed on the Commission's list of Corporate Officials. In addition, as a courtesy, the Florida Public Service Commission was also served with a copy of the complaint.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on September 2, 2014.

Dated: August 13, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–19663 Filed 8–19–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–7500–000]

Harris, Kimberly J.; Notice of Filing

Take notice that on August 13, 2014, Kimberly J. Harris submitted for filing, an application for authority to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act (FPA), 16 U.S.C. 825d(b), Part 45 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR Part 45, and Order No. 664.[1]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on September 3, 2014.

[1] *Commission Authorization to Hold Interlocking Positions,* 112 FERC ¶ 61,298 (2005) (Order No. 664); *order on reh'g,* 114 FERC ¶ 61,142 (2006) (Order No. 664–A).

Dated: August 14, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–19751 Filed 8–19–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD14–14–000]

Price Formation in Energy and Ancillary Services Markets Operated by Regional Transmission Organizations and Independent System Operators; Supplemental Notice of Workshop on Price Formation and Issuance of Report on Uplift in RTO and ISO Markets

As announced in a Notice issued on July 9, 2014, the Federal Energy Regulatory Commission (Commission) will hold a workshop on Monday, September 8, 2014 to commence a discussion with industry on uplift payments in energy and ancillary service markets operated by the Regional Transmission Organizations and Independent System Operators (RTOs/ISOs). The workshop will commence at 8:45 a.m. and conclude at 5:15 p.m. and be held at the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. This workshop is free of charge and open to the public. Commission members may participate in the workshop.

The agenda and a list of participants for this workshop are attached. A report on uplift in RTO/ISO markets has been posted to the Commission Web site at: *http://www.ferc.gov/legal/staff-reports/2014/08-13-14-uplift.pdf.*

Those who plan to attend the workshop are encouraged to complete the registration form located at: *https://www.ferc.gov/whats-new/registration/09-08-14-form.asp.* There is no registration deadline.

The workshop will be transcribed. Transcripts of the workshop will be available for a fee from Ace-Federal Reporters, Inc. (202–347–3700 or 1–800–336–6646). Additionally, there will be a free webcast of the workshop. The webcast will allow persons to listen to the workshop but not participate. Anyone with Internet access who wants to listen to the workshop can do so by navigating to the Calendar of Events at *www.ferc.gov,* locating the technical workshop in the Calendar, and clicking on the webcast link. The Capitol Connection provides technical support for the webcast and offers the option of

listening to the meeting via phone-bridge for a fee. If you have any questions, visit *www.CapitolConnection.org* or call 703–993–3100.

While this workshop is not for the purpose of discussing specific cases, the workshop may address matters at issue in the following Commission proceedings that are pending: PJM Interconnection, L.L.C., Docket No. ER14–1144; Southwest Power Pool, Docket Nos. ER12–1179, ER13–1748, and ER14–2399; Midcontinent Independent System Operator (formerly Midwest Independent Transmission System Operator, Inc.), Docket Nos. ER04–691, EL07–86, EL07–88, EL07–92, ER09–411, ER11–2275, ER12–678, ER13–2124, EL14–58, ER14–2156, ER14–2445, and ER14–5677; and ISO-New England, Docket Nos. ER14–2376 and ER14–2407.

Commission workshops are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the requested accommodations.

For more information about the workshop, please contact:

William Sauer (Technical Information), Office of Energy Policy and Innovation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6639, *William.Sauer@ferc.gov*.

Sarah McKinley (Logistical Information), Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8368, *Sarah.McKinley@ferc.gov*.

Dated: August 14, 2014.

Kimberly D. Bose,

Secretary.

Price Formation in Energy and Ancillary Services Markets Operated by Regional Transmission Organizations and Independent System Operators

Uplift Workshop

Docket No. AD14–14–000

September 8, 2014.

Agenda

This workshop is part of the Commission's recently announced effort to explore improvements to market designs and operational practices in order to ensure appropriate price formation in energy and ancillary services markets. Specifically, the purpose of this workshop is to explore the technical, operational and market issues that give rise to uplift payments and the levels of transparency associated with uplift payments. The workshop will also preview the scope of the remaining price formation topics, which include offer price mitigation and price caps, scarcity and shortage pricing, and operator actions that affect prices.

8:45 a.m.–9:00 a.m.—Welcome and Opening Remarks

9:00 a.m.–10:45 a.m.—Panel 1: Causes of Uplift

Panel 1 will explore issues that give rise to uplift payments. Each panelist will have the opportunity to discuss drivers of uplift payments in its RTO/ISO and is encouraged to be prepared to discuss: (1) uplift payments that have been highly concentrated and persistent on a geographic or resource basis; (2) technical, operational and market issues driving uplift payments; and (3) the relationship between uplift payments and unit flexibility.

Panelists

- Guillermo Bautista Alderete, California Independent System Operator Corporation
- Peter Brandien, ISO-New England, Inc.
- Todd Ramey, Midcontinent Independent System Operator, Inc.
- Joseph Bowring, Monitoring Analytics
- Robert Pike, New York Independent System Operator, Inc.
- Stu Bresler, PJM Interconnection, L.L.C.
- David Patton, Potomac Economics
- Richard Dillon, Southwest Power Pool, Inc.

10:45 a.m.–11:00 a.m.—Break

11:00 a.m.–12:00 p.m.—Panel 2, Part 1: Impact on Market Participants

Panel 2 will explore the impact of uplift on market participants. Each panelist will have the opportunity to discuss how uplift payments and/or charges affect its participation in energy and ancillary service markets operated by the RTOs/ISOs. Possible discussion items could include how business decisions are impacted by: (1) Uplift transparency provided by RTOs/ISOs, the RTO/ISO market monitoring units, and Electric Quarterly Reports; (2) price distortions resulting from out-of-market payments; and (3) the level and volatility or unpredictability of uplift charges. The RTOs/ISOs and the RTO/ISO market monitoring units will be given an opportunity to discuss any issues raised by panelists. The first part of this panel will focus on the impact of uplift payments on market suppliers.

Panelists

- John Rohrbach, ACES
- Mark Smith, Calpine Corporation
- Brian Forshaw, Connecticut Municipal Electric Energy Cooperative
- Ivan Kimball, Consolidated Edison Co. of New York
- Jason Cox, Dynegy Inc.
- Michael Schnitzer, Entergy Nuclear Power Marketing, LLC
- Wesley Allen, Financial Marketers Coalition
- Peter Fuller, NRG Energy
- Elizabeth Whittle, Retail Energy Supply Association

12:00 p.m.–1:00 p.m.—Lunch

1:00 p.m.–2:00 p.m.—Panel 2, Part 2: Impact on Market Participants

This continuation of Panel 2 from the morning session will focus on the impact of uplift payments on load-serving entities and financial marketers.

Panelists (Same Panelists as Part 1)

2:00 p.m.–2:15 p.m.—Break

2:15 p.m.–4:00 p.m.—Panel 3: Price Transparency and Evolving Market Designs

Panel 3 will explore the adequacy of and the potential to enhance uplift transparency and recent market design changes that may address some of the causes of uplift. Discussion will include whether and how to include uplift related costs into locational marginal prices and improve the usefulness of publicly available uplift information. Panelists should be prepared to discuss current initiatives and ideas for potential future market design changes that would further enhance transparency and price formation.

Panelists

- Bradford Cooper, California Independent System Operator Corporation
- Brian Forshaw, Connecticut Municipal Electric Energy Cooperative
- Susan Pope, Electric Power Supply Association
- William Berg, Exelon Corporation
- Matthew White, ISO-New England, Inc.
- Todd Ramey, Midcontinent Independent System Operator, Inc.
- Joseph Bowring, Monitoring Analytics
- Robert Pike, New York Independent System Operator, Inc.
- Stu Bresler, PJM Interconnection, L.L.C. Richard Dillon, Southwest Power Pool, Inc.

4:00 p.m.–5:00 p.m.—Panel 4: Broader Price Formation Issues

Panel 4 will explore broader price formation issues and discuss next steps.

In the Notice issued on June 19, 2014, four price formation topics were outlined: (1) Use of uplift payments; (2) offer price mitigation and offer price caps; (3) scarcity and shortage pricing; and (4) operator actions that affect prices. This exploratory session will assist staff in examining the relationship among these four topics, whether other price formation topics, not included in the June 19, 2014 Notice, should be explored, and the appropriate next steps in this staff exploration of price formation.

Panelists

- Susan Pope, Electric Power Supply Association
- Judith Judson, Energy Storage Association
- Harry Singh, J. Aron & Company
- David Mohre, National Rural Electric Cooperative Association
- Elizabeth Whittle, Retail Energy Supply Association
- David Patton, Potomac Economics
- Bob Weishaar, PJM Industrial Coalition and PJM Load Coalition

5:00 p.m.–5:15 p.m.—Closing

[FR Doc. 2014–19748 Filed 8–19–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–91–000]

NextEra Energy Partners, LP, Elk City Wind, LLC, Genesis Solar, LLC, Northern Colorado Wind Energy, LLC, Perrin Ranch Wind, LLC, Tuscola Bay Wind, LLC; Notice of Petition for Declaratory Order

Take notice that on August 12, 2014, pursuant to Rule 207 and 212 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207 and 385.212, NextEra Energy Partners, LP (NEP), Elk City Wind, LLC, Genesis Solar, LLC, Northern Colorado Wind Energy, LLC, Perrin Ranch Wind, LLC, and Tuscola Bay Wind, LLC (collectively, the Petitioners) filed a petition for declaratory order requesting that the Commission disclaim jurisdiction, or alternatively request approval under section 203 of the Federal Power Act, in connection with the issuance of public securities by NEP and related transactions, as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on September 11, 2014.

Dated: August 14, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–19750 Filed 8–19–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL14–78–000;QF14–91–001]

Beaver Falls Municipal Authority; Notice of Amendment to Petition for Declaratory Order

Take notice that on August 11, 2014, Beaver Falls Municipal Authority filed an amendment to its June 26, 2014 filing of Petition for Declaratory Order, regarding the extension of the waiver period for QF status.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on September 2, 2014.

Dated: August 12, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–19670 Filed 8–19–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR14–38–000]

Hiland Crude, LLC; Notice of Petition for Declaratory Order

Take notice that on August 8, 2014, pursuant to Rule 207(a)(2) of the Commission's Rules of Practices and Procedure, 18 CFR 385.207(a)(2) (2014), Hiland Crude, LLC (Hiland) filed a petition for declaratory order seeking approval of the overall rate structures and prorationing procedures (including priority capacity) for Hiland's proposed Double H pipeline expansion project, as more fully explained in the petition.

Any person desiring to intervene or to protest in this proceedings must file in

accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

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 St. NE., Washington, DC 20426.

The filings in the above proceedings 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.

Comment Date: 5:00 p.m. Eastern time on August 29, 2014.

Dated: August 12, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–19671 Filed 8–19–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e) (1) (v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may 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, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866)208–3676, or for TTY, contact (202)502–8659.

Docket No.	File date	Presenter or requester
Prohibited:		
1. RD14–6–000	8–5–14	Society of Former Special Agents of the Federal Bureau of Investigation, Inc.
Exempt:		
1. P–10808–000	7–28–14	Hon. Dave Camp.
2. ER13–1380–000	7–28–14	Members of Congress.[1]
3. CP12–509–000	7–28–14	Hon. Mary L. Landrieu.
4. CP13–193–000	7–31–14	Hon. Joe Garcia.
5. CP14–96–000	8–5–14	State of Maine Representative Kenneth Wade Fredette.
6. CP14–96–000	8–5–14	State of Maine Representative Alex Willette.
7. CP14–96–000	8–7–14	Members of Congress.[2]

[1] Hons. Chris Gibson and Sean Patrick Maloney.
[2] Hons. Sheldon Whitehouse and Jack Reed.

Dated: August 13, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–19665 Filed 8–19–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–530–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Request Under Blanket Authorization

Take notice that on August 6, 2014, Southern Star Central Gas Pipeline, Inc. (Southern Star), pursuant to its blanket certificate authorization granted on September 30, 1982, in Docket No. CP82–479–000,[1] filed an application in accordance to sections 157.205, 157.210, 157.211 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (NGA) as amended, requesting authority to replace approximately 6.01 miles of existing 12-inch XT pipeline by constructing approximately 6.01 miles of 20-inch XM pipeline in Johnson County, Missouri. The proposed pipeline is a part of a project that Southern Star proactively committed in 2008 to a multi-year plan to replace the approximately 18.93 remaining miles of 1930s-vintage 12-inch XT pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The existing 12-inch XT pipeline was constructed in 1930s for the purpose of providing natural gas service to market areas between Ottawa, Kansas and Sedalia, Missouri and to the communities of Carrollton and Marshall in Missouri. Sections of the pipeline have been replaced over a period of years for various reasons including when required by the Department of Transportation (DOT) and as needed to eliminate obsolete, acetylene-welded pipe. The proposed 6.01 miles of 20-inch XM pipeline is the final component in the multi-year program of replacing the entire 12-inch XT pipeline. Southern Star plans to abandon the existing 12-inch XT pipeline in-place. The proposed pipeline will be constructed approximately 25 feet from and parallel to the existing pipeline. Southern Star proposes to operate the 20-inch XM pipeline to a maximum operating pressure (MOP) of 720 psig.[2] Southern Start states that the entire 20-inch XM pipeline does not provide any additional firm capacity upstream due to constrains through the Ottawa and Peculiar compressor stations. The total estimated cost of the proposed project is $21,007,847.

Any questions concerning this application may be directed to Phyllis K. Medley, Senior Analyst, Regulatory Compliance, Southern Star Central Gas Pipeline, Inc., 4700 State Highway 56, Owensboro, Kentucky 42301, by phone at (270) 852–4653, or fax at (270) 852–5010, or by email to *phyllis.k.medley@sscgp.com* .

This filing is available for review at the Commission or may 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 filed to access the document. For assistance, please contact FERC Online Support at FERC *OnlineSupport@ferc.gov* or call toll-free at (866)206–3676, or, for TTY, contact (202)502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages intervenors to file electronically.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice, the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Dated: August 13, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–19667 Filed 8–19–14; 8:45 am]

BILLING CODE 6717–01–P

[1] 20 FERC ¶ 62,592 (1982).

[2] The proposed 20-inch XM pipeline will be hydrostatically tested at a maximum allowable operating pressure (MAOP) of 960 psig.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP14–1083–000]

Texas Gas Transmission, LLC; Notice of Technical Conference

The Commission's July 31, 2014 Order in the above-captioned proceeding[1] directed that a technical conference be held to address all issues raised by Texas Gas Transmission, LLC's (Texas Gas) July 1, 2014 filing.

Take notice that a technical conference will be held on Tuesday, September 30, 2014, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

At the technical conference, Texas Gas should be prepared to discuss all issues raised by its filing, including but not limited to the concerns raised in the protests and comments.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or 202–502–8659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

All interested persons are permitted to attend. For further information please contact Andrew Knudsen at (202) 502–6527 or email *Andrew.Knudsen@ferc.gov.*

[1] *Texas Gas Transmission, LLC,* 148 FERC ¶ 61,081 (2014) (July 31, 2014 Order).

Dated: August 13, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–19666 Filed 8–19–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Boulder Canyon Project—Post-2017 Resource Pool

Correction

In notice document 2014–18797 appearing on pages 46432–46434 in the issue of Friday, August 8, 2014, make the following correction:

On page 46433, in the table, in the first column, in the fourth line of text, ''Ann Electric Cooperative, Inc.'' should read ''Anza Electric Cooperative, Inc.''.

[FR Doc. C1–2014–18797 Filed 8–19–14; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9915–44–Region 3]

Notice of Administrative Settlement Agreement for Recovery of Past Response Costs Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), notice is hereby given that a proposed administrative settlement agreement for recovery of past response costs (''Proposed Agreement'') associated with Allied Terminals Ammonium Nitrate Release Site, Chesapeake, Virginia was executed by the Environmental Protection Agency (''EPA'') and is now subject to public comment, after which EPA may modify or withdraw its consent if comments received disclose facts or considerations that indicate that the Proposed Agreement is inappropriate, improper, or inadequate. The Proposed Agreement would resolve potential EPA claims under Section 107(a) of CERCLA, against Allied Terminals, Inc. (''Settling Party''). The Proposed Agreement would require Settling Party to reimburse EPA $186,000.00 for past response costs incurred by EPA for the Site.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the Proposed Agreement. EPA's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street Philadelphia, PA 19103.

DATES: Comments must be submitted on or before September 19, 2014.

ADDRESSES: The Proposed Agreement and additional background information relating to the Proposed Agreement are available for public inspection at the U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. A copy of the Proposed Agreement may be obtained from Thomas A. Cinti (3RC42), Senior Assistant Regional Counsel, U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103. Comments should reference the ''Allied Terminals Ammonium Nitrate Release Site, Proposed Administrative Settlement Agreement for Recovery of Past Response Costs'' and ''EPA Docket No. CERCLA–03–2014–0216–CR,'' and should be forwarded to Thomas A. Cinti at the above address.

FOR FURTHER INFORMATION CONTACT: Thomas A. Cinti (3RC42), U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103, Phone: (215) 814–2634; *cinti.thomas@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a notice of an administrative settlement agreement for recovery of past response costs pursuant to section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

Dated: July 14, 2014.

Cecil Rodrigues,

Director, Hazardous Site Cleanup Division, U.S. Environmental Protection Agency, Region III.

[FR Doc. 2014–19745 Filed 8–19–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9915–43–ORD]

Office of Research and Development; Ambient Air Monitoring Reference and Equivalent Methods: Designation of One New Reference Method for PM_{10}

AGENCY: Environmental Protection Agency.

ACTION: Notice of designation of a new reference method for monitoring ambient air quality.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has designated, in accordance with 40 CFR Part 53, a new reference method for measuring concentrations of PM_{10} in the ambient air.

FOR FURTHER INFORMATION CONTACT: Robert Vanderpool, Human Exposure and Atmospheric Sciences Division (MD–D205–03), National Exposure Research Laboratory, U.S. EPA, Research Triangle Park, North Carolina 27711. Email: *Vanderpool.Robert@epa.gov.*

SUPPLEMENTARY INFORMATION: In accordance with regulations at 40 CFR Part 53, the EPA evaluates various methods for monitoring the concentrations of those ambient air pollutants for which EPA has established National Ambient Air Quality Standards (NAAQSs), as set forth in 40 CFR Part 50. Monitoring methods that are determined to meet specific requirements for adequacy are designated by the EPA as either reference methods or equivalent methods (as applicable), thereby permitting their use under 40 CFR Part 58 by States and other agencies for determining compliance with the NAAQSs.

The EPA hereby announces the designation of a new reference method for measuring pollutant concentrations of particulate matter as PM_{10} in the ambient air. This designation is made under the provisions of 40 CFR Part 53, as amended on August 31, 2011(76 FR 54326–54341).

The new reference method for PM_{10} is a manual monitoring method based on a particular, commercially available PM_{10} sampler, as specified in appendix J 40 CFR part 50. The newly designated reference method is identified as follows:

RFPS–0714–216, ''Tisch Environmental Model TE-Wilbur10 PM_{10} Low-Volume Air Particulate Sampler,'' configured as a PM_{10} reference method, with firmware version 1.70 or later and a TE-PM_{10}-D PM_{10} size-selective inlet, as specified in 40 CFR 50 Appendix L Figs. L–2 thru L–19, and operated for 24 sample periods at a flow rate of 16.67 L/min, using 47 mm PTFE membrane filter media, and in accordance with the Tisch Environmental Model TE-Wilbur10 PM_{10} Low-Volume Air Particulate Sampler instruction manual and with the requirements and sample collection filters as specified in 40 CFR Part 50, Appendix J.

The application for reference method determination for the PM_{10} method was received by the Office of Research and Development on May 28, 2014. This monitor is commercially available from the applicant, Tisch Environmental,

Inc., 145 S. Miami Avenue, Village of Cleves, OH 45002.

Test monitors representative of this method have been tested in accordance with the applicable test procedures specified in 40 CFR Part 53, as amended on August 31, 2011. After reviewing the results of those tests and other information submitted in the application, EPA has determined, in accordance with Part 53, that this method should be designated as a reference method. The information in the application will be kept on file, either at EPA's National Exposure Research Laboratory, Research Triangle Park, North Carolina 27711 or in an approved archive storage facility, and will be available for inspection (with advance notice) to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As a designated reference method, this method is acceptable for use by states and other air monitoring agencies under the requirements of 40 CFR Part 58, Ambient Air Quality Surveillance. For such purposes, the method must be used in strict accordance with the operation or instruction manual associated with the method and subject to any specifications and limitations (e.g., configuration or operational settings) specified in the applicable designated method description (see the identification of the method above).

Use of the method also should be in general accordance with the guidance and recommendations of applicable sections of the ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume I,'' EPA/600/R–94/038a and ''Quality Assurance Handbook for Air Pollution Measurement Systems, Volume II, Ambient Air Quality Monitoring Program'' EPA–454/B–08–003, December, 2008. Provisions concerning modification of such methods by users are specified under Section 2.8 (Modifications of Methods by Users) of Appendix C to 40 CFR Part 58.

Consistent or repeated noncompliance should be reported to: Director, Human Exposure and Atmospheric Sciences Division (MD–E205–01), National Exposure Research Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this new reference method is intended to assist the States in establishing and operating their air quality surveillance systems under 40 CFR Part 58. Questions concerning the commercial availability or technical aspects of the method should be directed to the applicant.

Dated: August 12, 2014.

Jennifer Orme-Zavaleta,

Director, National Exposure Research Laboratory.

[FR Doc. 2014–19777 Filed 8–19–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2012–0219; FRL–9914–15]

Notice of Intent To Suspend Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice, pursuant the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), publishes a Notice of Intent to Suspend (NOITS) certain pesticide registrations issued by EPA. The NOITS was issued following the Agency's issuance of a Data Call-In Notice (DCI), which required the registrant of the affected pesticide products containing a certain pesticide active ingredient to take appropriate steps to secure certain data, and following the registrant's failure to submit these data or to take other appropriate steps to secure the required data. The subject data were determined to be required to maintain in effect the existing registrations of the affected products. Failure to comply with the data requirements of a DCI is a basis for suspension of the affected registrations under FIFRA.

DATES: The NOITS included in this **Federal Register** notice will become a final and effective suspension order automatically by operation of law 30 days after the date of the registrant's receipt of the mailed NOITS or, if the mailed NOITS is returned to the EPA Administrator as undeliverable, if delivery is refused, or if the EPA Administrator otherwise is unable to accomplish delivery to the registrant after making reasonable efforts to do so, the NOITS becomes effective 30 days after the date of publication of this notice in the **Federal Register**, unless, during that time, a timely and adequate request for a hearing is made by a person adversely affected by the NOITS, or the registrant has satisfied the EPA Administrator that the registrant has complied fully with the requirements that served as a basis for the NOITS.[1] Unit IV. explains what must be done to avoid suspension under this notice (i.e., how to request a hearing or how to comply fully with the requirements that served as a basis for the NOITS).

FOR FURTHER INFORMATION CONTACT: Khue Nguyen, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0248; email address: *nguyen.khue@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.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0219, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. 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 OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

II. Registrant Issued Notice of Intent To Suspend, Active Ingredient, Products Affected, and Date Issued

The registrant and products subject to this NOITS are listed in Table 1. A NOITS was sent to each registrant of the affected products via the U.S. Postal Service (USPS), first class mail, return receipt requested. The NOITS was received by Repar Corporation on or before May 19, 2014, as evidenced by a USPS Return Receipt Card. Based on

[1] The NOITS was received by Repar Corporation on or before May 19, 2014, as evidenced by a USPS Return Receipt Card. Based on that receipt date, the 30-day deadline for Repar making a timely hearing request was June 18, 2014. The deadline passed without Repar filing a hearing request in response to the NOITS. As a result, Repar's affected product registrations were suspended by operation of law.

that receipt date, the 30-day deadline for Repar making a timely hearing request was June 18, 2014. The June 18, 2014 deadline passed without Repar filing a hearing request in response to the NOITS. As a result, Repar's affected product registrations were suspended by operation of law.

TABLE 1—LIST OF REGISTRANTS AND PRODUCTS SUBJECT TO SUSPENSION

Registrant affected	Active ingredient	EPA Registration No.	Product name	Date EPA Issued notice of intent to suspend
Repar Corporation	Pendimethalin	69361–29	Pendimethalin Weed and Feed	5/9/14
Repar Corporation	Pendimethalin	69361–30	Pendimethalin Technical	5/9/14
Repar Corporation	Pendimethalin	69361–31	Pendimethalin 3.3 EC Herbicide	5/9/14
Repar Corporation	Pendimethalin	69361–32	Pendimethalin H_2O Herbicide	5/9/14

III. Basis for Issuance of Notice of Intent To Suspend; Requirement List

The registrant failed to submit the data or information required by the Data-Call In Notice, or to take other appropriate steps to secure the required data for their pesticide products listed in Table 2 of this unit.

TABLE 2—LIST OF REQUIREMENTS

EPA Registration numbers	Guideline numbers as listed in applicable DCI	Requirement name	Date EPA issued DCI	Date registrant received DCI	Final data due date	Reason for notice of intent to suspend
69361–29, 69361–30, 69361–31, and 69361–32.	835.4100	Aerobic soil metabolism	5/31/13	5/31/13	5/31/15	(1)
	835.6100	Terrestrial field dissipation.				
	835.6200	Aquatic field dissipation.				
	850.1350	Mysid chronic toxicity.				
	850.1400	Fish early-life stage toxicity.				
	850.2100	Avian acute oral toxicity.				
	850.4100	Terrestrial plant toxicity (seedling emergence).				
	850.4150	Terrestrial plant toxicity (vegetative vigor).				
	Non-guideline	Whole sediment: chronic invertebrates (freshwater and marine).				

[1] Inadequate 90-day response received.

IV. How to avoid suspension under this notice?[2]

1. You may avoid suspension under this notice if you or another person adversely affected by this notice properly request a hearing within 30 days of your receipt of the NOITS by mail or, if you did not receive the notice that was sent to you via USPS first class mail return receipt requested, then within 30 days from the date of publication of this **Federal Register** notice (see **DATES**). If you request a hearing, it will be conducted in accordance with the requirements of FIFRA section 6(d) and the Agency's procedural regulations in 40 CFR part 164. Section 3(c)(2)(B) of FIFRA, however, provides that the only allowable issues which may be addressed at the hearing are whether you have failed to take the actions which are the bases of this notice and whether the Agency's decision regarding the disposition of existing stocks is consistent with FIFRA. Therefore, no substantive allegation or legal argument concerning other issues, including but not product, may be considered in the proceeding. The Administrative Law Judge shall by order dismiss any objections which have no bearing on the allowable issues which may be considered in the proceeding. Section 3(c)(2)(B)(iv) of FIFRA provides that any hearing must be held and a determination issued within 75 days after receipt of a hearing limited to the Agency's original decision to require the submission of data or other information, the need for or utility of any of the required data or other information or deadlines imposed, any allegations of errors or unfairness in any proceedings before an arbitrator, and the risks and benefits associated with continued registration of the affected request. This 75-day period may not be extended unless all parties in the proceeding stipulate to such an extension. If a hearing is properly requested, the Agency will issue a final order at the conclusion of the hearing governing the suspension of your products. A request

[2] See footnote 1.

for a hearing pursuant to this notice must:

- Include specific objections which pertain to the allowable issues which may be heard at the hearing.
- Identify the registrations for which a hearing is requested.
- Set forth all necessary supporting facts pertaining to any of the objections which you have identified in your request for a hearing.

If a hearing is requested by any person other than the registrant, that person must also state specifically why he/she asserts that he/she would be adversely affected by the suspension action described in this notice. Three copies of the request must be submitted to: Hearing Clerk, 1900, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

An additional copy should be sent to the person who signed this notice. The request must be received by the Hearing Clerk by the applicable 30-day deadline as measured from your receipt of the NOITS by mail or publication of this notice, as set forth in **DATES** and in Unit IV.1., in order to be legally effective. The 30-day time limit is established by FIFRA and cannot be extended for any reason. Failure to meet the 30-day time limit will result in automatic suspension of your registration(s) by operation of law and, under such circumstances, the suspension of the registration for your affected products will be final and effective at the close of business on the applicable 30-day deadline as measured from your receipt of the NOITS by mail or publication of this notice, as set forth in **DATES** and in Unit IV.1., and will not be subject to further administrative review. The Agency's rules of practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. Accordingly, the following EPA offices, and the staffs thereof, are designated as judicial staff to perform the judicial function of EPA in any administrative hearings on this NOITS: The Office of the Administrative Law Judges, the Office of the Environmental Appeals Board, the EPA Administrator, the EPA Deputy Administrator, and the members of the staff in the immediate offices of the EPA Administrator and EPA Deputy Administrator. None of the persons designated as the judicial staff shall have any *ex parte* communication with trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

2. You may also avoid suspension if, within the applicable 30-day deadline period as measured from your receipt of the NOITS by mail or publication of this notice, as set forth in **DATES** and in Unit IV.1., the Agency determines that you have taken appropriate steps to comply with the FIFRA section 3(c)(2)(B) DCI notice. In order to avoid suspension under this option, you must satisfactorily comply with Table 2.—List of Requirements in Unit II., for each product by submitting all required supporting data/information described in Table 2 of Unit. II. and in the Explanatory Appendix (in the docket for this **Federal Register** notice) to the following address (preferably by certified mail): Office of Pesticide Programs, Pesticide Re-evaluation Division, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

For you to avoid automatic suspension under this notice, the Agency must also determine within the applicable 30-day deadline period that you have satisfied the requirements that are the bases of this notice and so notify you in writing. You should submit the necessary data/information as quickly as possible for there to be any chance the Agency will be able to make the necessary determination in time to avoid suspension of your products. The suspension of the registrations of your company's products pursuant to this notice will be rescinded when the Agency determines you have complied fully with the requirements which were the bases of this notice. Such compliance may only be achieved by submission of the data/information described in Table 2 of Unit II.

V. Status of Products That Become Suspended

Your products will remain suspended, however, until the Agency determines you are in compliance with the requirements which are the bases of this notice and so informs you in writing.

After the suspension becomes final and effective, the registrant subject to this notice, including all supplemental registrants of products listed in Table 1 of Unit II., may not legally distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the products listed in Table 1 of Unit II. Persons other than the registrant subject to this notice, as defined in the preceding sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the products listed in Table 1 of Unit II. Nothing in this notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the products listed in Table 1 of Unit II. in any manner which would have been unlawful prior to the suspension.

If the registrations for your products, listed in Table 1 of Unit II., are currently suspended as a result of failure to comply with another FIFRA section 3(c)(2)(B) DCI notice or Section 4 Data Requirements notice, this notice, when it becomes a final and effective order of suspension, will be in addition to any existing suspension, i.e., all requirements which are the bases of the suspension must be satisfied before the registration will be reinstated.

It is the responsibility of the basic registrant to notify all supplementary registered distributors of a basic registered product that this suspension action also applies to their supplementary registered products. The basic registrant may be held liable for violations committed by their distributors.

Any questions about the requirements and procedures set forth in this notice or in the subject FIFRA section 3(c)(2)(B) DCI notice, should be addressed to the person listed under **FOR FURTHER INFORMATION CONTACT**.

VI. What is the Agency's authority for taking this action?

The Agency's authority for taking this action is contained in FIFRA sections 3(c)(2)(B) and 6(f)(2), 7 U.S.C. 136 *et seq.*

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 6, 2014.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-evaluation Division, Office of Pesticide Programs.

[FR Doc. 2014–19780 Filed 8–19–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2010–0014; FRL–9914–46]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw their requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registration has been cancelled only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before February 17, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2010–0014, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

Submit written withdrawal request by mail to: Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. ATTN: John W. Pates, Jr.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: John W. Pates, Jr., Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 308–8195; email address: *pates.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. What action is the Agency taking?

This notice announces receipt by the Agency of requests from registrants to cancel 4 pesticide products registered under FIFRA section 3 or 24(c). These registrations are listed in sequence by registration number (or company number and 24(c) number) in Table 1 of this unit.

Unless the Agency determines that there are substantive comments that warrant further review of the requests or the registrants withdraw their requests, EPA intends to issue an order in the **Federal Register** canceling all of the affected registrations.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product name	Chemical name
042750–00259	Glufosinate-Ammonium TGAI	Glufosinate.
AR–130001	Raptor Herbicide	Imazamox.
MI–030002	Velocity Herbicide	Bispyribac-sodium.
PR–090001	Dupont Coragen Insect Control	Chlorantraniliprole.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in this unit.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA company No.	Company name and address
42750	Albaugh, LLC., P.O. Box 2127, Valdosta, GA 31604–2127.
AR–130001	BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528.
MI–030002	Valent U.S.A. Corporation, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596.
PR–090001	E. I. du Pont de Nemours and Company (S300/419), 1007 Market Street, Wilmington, DE 19898–0001.

III. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**.

Section 6(f)(1)(B) of FIFRA requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or
2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

The registrants in Table 2 of Unit II. have not requested that EPA waive the 180-day comment period. Accordingly, EPA will provide a 180-day comment period on the proposed requests.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation should submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Because the Agency has identified no significant potential risk concerns associated with these pesticide products, upon cancellation of the products identified in Table 1 of Unit II., EPA anticipates allowing registrants to sell and distribute existing stocks of these products for 1 year after publication of the Cancellation Order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: August 11, 2014.

Richard P. Keigwin, Jr.,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2014–19779 Filed 8–19–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9915–41–OW]

The National Drinking Water Advisory Council: Request for Nominations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for nominations.

SUMMARY: The U.S. Environmental Protection Agency (EPA) invites nominations of qualified candidates to be considered for a three-year appointment to the National Drinking Water Advisory Council (NDWAC or Council). The 15-member Council was established by the Safe Drinking Water Act (SDWA) to provide practical and independent advice, consultation and recommendations to the EPA Administrator on the activities, functions, policies and regulations required by the SDWA. This notice solicits nominations to fill six new vacancies from December 2014 through December 2017. To maintain the representation required by statute, nominees will be selected to represent: State and local agencies concerned with water hygiene and public water supply (one vacancy); private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply—of which two such members shall be associated with small, rural public water systems (two vacancies); and the general public (three vacancies).

DATES: Nominations should be submitted on or before October 6, 2014.

ADDRESSES: Submit nominations to Roy Simon, Designated Federal Officer (DFO), The National Drinking Water Advisory Council, U.S. Environmental Protection Agency, Office of Ground Water and Drinking Water, William Jefferson Clinton East (Mail Code 4601–M), 1200 Pennsylvania Avenue NW., Washington, DC 20460. You may also email nominations with the subject line NDWACResume2014 to *Simon.Roy@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Email your questions to Roy Simon or call him at 202–564–3868.

SUPPLEMENTARY INFORMATION:

National Drinking Water Advisory Council: The Council was created by Congress on December 16, 1974, as part of the Safe Drinking Water Act of 1974, Public Law 93–523, 42 U.S.C. 300j–5 and is operated in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App.2. The Council consists of 15 members, including a Chairperson, all of whom are appointed by the EPA's Administrator. Five members represent appropriate State and local agencies concerned with water hygiene and public water supply; five members represent private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply—of which two such members shall be associated with small, rural public water systems; and five members represent the general public. The current list of members is available

on the EPA Web site at: *http://water.epa.gov/drink/ndwac/.*

The Council will meet in person once each year and may hold a second meeting during the year either in person or by video/teleconferencing. These meetings generally occur in the spring and fall. Additionally, members may be asked to participate in ad hoc workgroups to develop policy recommendations, advice letters and reports to address specific program issues.

Member Nominations: Any interested person and/or organization may nominate qualified individuals for membership. The EPA values and welcomes diversity. In an effort to obtain nominations of diverse candidates, the agency encourages nominations of women and men of all racial and ethnic groups.

All nominations will be fully considered, but applicants need to be aware of the specific representation required by the SDWA for the current vacancies: State and local agencies concerned with water hygiene and public water supply (one vacancy); private organizations or groups demonstrating an active interest in the field of water hygiene and public water supply—of which two such members shall be associated with small, rural public water systems (two vacancies with at least one associated with small, rural public water systems); and the general public (three vacancies). Other criteria used to evaluate nominees will include:

- Demonstrated experience with drinking water issues at the national, State or local level;
- Excellent interpersonal, oral and written communication and consensus-building skills;
- Willingness to commit time to the Council and demonstrated ability to work constructively on committees;
- Absence of financial conflicts of interest;
- Absence of appearance of a lack of impartiality; and
- Background and experiences that would help members contribute to the diversity of perspectives on the Council, e.g., geographic, economic, social, cultural, educational backgrounds, professional affiliations and other considerations.

Nominations must include a resume, which provides the nominee's background, experience and educational qualifications, as well as a brief statement (one page or less) describing the nominee's interest in serving on the Council and addressing the other criteria previously described. Nominees are encouraged to provide any additional information that they feel would be useful for consideration, such as: availability to participate as a member of the Council; how the nominee's background, skills and experience would contribute to the diversity of the Council; and any concerns the nominee has regarding membership. Nominees should be identified by name, occupation, position, current business address, email and telephone number. Interested candidates may self-nominate. The DFO will acknowledge receipt of nominations.

Persons selected for membership will receive compensation for travel and a nominal daily compensation (if appropriate) while attending meetings. Additionally, all selected candidates will be designated as Special Government Employees (SGEs) and will be required to fill out the ''Confidential Financial Disclosure Form for Environmental Protection Agency Special Government Employees'' (EPA Form 3310–48). This confidential form provides information to the EPA ethics officials to determine whether there is a conflict between the SGE's public duties and their private interests, including an appearance of a loss of impartiality as defined by Federal laws and regulations. The form may be viewed and downloaded through the ''Ethics Requirements for Advisors'' link on the EPA NDWAC Web site, *http://water.epa.gov/drink/ndwac/fact.cfm.*

Other sources, in addition to this **Federal Register** notice, may also be utilized in the solicitation of nominees. To help the EPA in evaluating the effectiveness of its outreach efforts, please tell us how you learned of this opportunity.

Dated: August 12, 2014.

Peter Grevatt,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 2014–19772 Filed 8–19–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Docket Number: CERCLA–08–2014–0007; FRL–9915–31–Region–8]

Notice of Ability To Pay Settlement Agreement for the Murray Laundry Superfund Site (Site) Under the Comprehensive Environmental Response, Compensation and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for comment.

SUMMARY: As required by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), notice is hereby given that a Section 122 (h)(l) settlement for an ability to pay party is proposed by the United States, on behalf of the Environmental Protection Agency (EPA), and Murray Towers, L.C. (Murray Towers), a Utah limited liability company, for the payment of certain response costs incurred at the Murray Laundry Site in unincorporated Salt Lake County, Utah (Site).

The Site encompasses approximately 3.5 acres in unincorporated Salt Lake County, Utah. Murray Towers owns property within the Site, located at 4220 South State Street in unincorporated Salt Lake County, Utah (Property). From 1913–1977, a laundry facility operated at the Site. All the buildings associated with the historic Murray Laundry facility were demolished in 1982. Thereafter, the Site was used as a dumping ground for waste dirt, asphalt, and concrete. In 1999, underground storage tanks and perchloroethene (PCE) contaminated water were discovered. The tanks were removed, however contaminated soils remained on-Site. The EPA conducted a time-critical removal action in 2013 to address the release or threatened release of hazardous substances. The action consisted of removing contaminated soils and replacing the excavated materials with clean backfill. The Site is currently in a mixed use area, with businesses and residences.

Under the proposed settlement, Murray Towers must use best efforts to transfer the Property, and relinquish 90% of the net sales proceeds, less certain agreed upon fees, to the EPA. Should the Property not be sold within three years, the Property must be auctioned and sold to the highest bidder, with the EPA still receiving 90% of the net sales proceeds. In exchange for the proceeds, the EPA will release the CERCLA lien on the Property. The proposed settlement also contains a covenant not to sue under Sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a).

DATES: Comments must be received on or before September 19, 2014.

ADDRESSES: Please send all comments to Sharon Abendschan, Enforcement Specialist (Mail Code 8ENF–RC), Environmental Protection Agency—Region 8, 1595 Wynkoop Street, Denver, CO 80202–1129; (303) 312–6957. Email: *Abendschan.sharon@epa.gov.*

FOR FURTHER INFORMATION CONTACT: For requests for copies of the Settlement

Agreement please contact Sharon Abendschan, Enforcement Specialist (Mail Code 8ENF–RC), Environmental Protection Agency—Region 8, 1595 Wynkoop Street, Denver, CO 80202–1129; (303) 312–6957. Email: *Abendschan.sharon@epa.gov.*

Dated: August 1, 2014.

Eddie A. Sierra,

Acting Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, EPA, Region 8.

[FR Doc. 2014–19773 Filed 8–19–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request

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 an existing information collection, 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 collection 3064–0082, described below.

DATES: Comments must be submitted on or before October 20, 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 collection of information:

Title: Recordkeeping and Disclosure Requirements in Connection With Regulation Z (Truth in Lending).

OMB Number: 3064–0082.

Frequency of Response: On occasion.

Affected Public: State nonmember banks and state savings associations.

Estimated Number of Respondents: 8796.

Total Annual Burden: 2,371,008 hours.

General Description of Collection: Regulation Z, issued by the Board of Governors of the Federal Reserve System, prescribes uniform methods of computing the cost of credit, disclosure of credit terms, and procedures for resolving billing errors on certain credit accounts.

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 14th day of August, 2014.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2014–19638 Filed 8–19–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

[Notice 2014–08]

Filing Dates for the Virginia Special Elections in the 7th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special elections.

SUMMARY: Virginia has scheduled a special general election on November 4, 2014, to fill the U.S. House of Representatives seat being vacated by Representative Eric I. Cantor.

Committees required to file reports in connection with the Special General Election shall file a 12-day Pre-General Report and a Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 999 E Street NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Virginia Special General Election shall file a 12-day Pre-General Report on October 23, 2014; and a Post-General Report on December 4, 2014. (See chart below for the closing date for each report.)

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a quarterly basis in 2014 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Virginia Special General Election by the close of books for the applicable report(s). (See chart below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the Virginia Special General Election will continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the Virginia Special Election may be found on the FEC Web site at *http://www.fec.gov/info/report_dates.shtml.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and Leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of $17,300 during the special election reporting periods (see chart below for closing date of each period). 11 CFR 104.22(a)(5)(v) and (b).

CALENDAR OF REPORTING DATES FOR VIRGINIA SPECIAL ELECTION COMMITTEES INVOLVED IN THE SPECIAL GENERAL (11/04/14) MUST FILE

Report	Close of books [1]	Reg./cert. & overnight mailing deadline	Filing deadline
Pre-General	10/15/14	10/20/14	10/23/14
Post-General	11/24/14	12/04/14	12/04/14
Year-End	12/31/14	01/31/15	[2] 01/31/15

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

[2] Notice that this filing deadline falls on a weekend or federal holiday. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than Registered, Certified or Overnight Mail, or electronically, must be received before the Commission's close of business on the last business day before the deadline.

Dated: August 14, 2014.

On behalf of the Commission.

Lee E. Goodman,

Chairman, Federal Election Commission.

[FR Doc. 2014–19701 Filed 8–19–14; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Rescission of Order of Revocation

The Commission gives notice that the Order revoking the following Ocean Transportation Intermediary license has been rescinded pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101).

License Number: 017466N.

Name: Compass Shipping, Inc.

Address: 730 Chester Street, Brooklyn, NY 11236.

Order Published: August 5, 2014 (79 FR 45807 DOC No. 2014–18566).

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2014–19723 Filed 8–19–14; 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.: 10355N.

Name: Finlay's Import-Export, Inc. dba Finlay's Ship to Jamaica.

Address: 2712 NW 31st Avenue, Lauderdale Lakes, FL 33311.

Date Revoked: August 3, 2014.

Reason: Failed to maintain a valid bond.

License No.: 019482NF.

Name: Worldwide Integrated Logistics, LLC dba Wil Lines.

Address: 520 Enclave Circle West, Pembroke Pines, FL 33027.

Date Surrendered: August 4, 2014.

Reason: Voluntary surrender of license.

License No.: 021611NF.

Name: Toll Global Forwarding (Americas) Inc.

Address: 800 Federal Boulevard, Carteret, NJ 07008.

Date Surrendered: August 7, 2014.

Reason: Voluntary surrender of license.

License No.: 022283N.

Name: Magic Freight Systems, Inc.

Address: 2410 S. Sierra Drive, Suite 202, Compton, CA 90220.

Date Revoked: August 5, 2014.

Reason: Failed to maintain a valid bond.

License No.: 022956NF.

Name: Everplus Logistics Inc.

Address: 80 Old Tappan Road, Old Tappan, NJ 07675.

Date Surrendered: August 7, 2014.

Reason: Voluntary surrender of license.

License No.: 023672N.

Name: Straight Line Logistics, LLC.

Address: 2250 NW 96th Avenue, Suite 209, Doral, FL 33172.

Date Surrendered: August 7, 2014.

Reason: Voluntary surrender of license.

License No.: 024767N.

Name: BAR Global Logistics, Inc.

Address: 1670 Alvarado Street, Suite 1, San Leandro, CA 94577.

Date Surrendered: August 5, 2014.

Reason: Voluntary surrender of license.

Sandra L. Kusumoto,

Director, Bureau of Certification and Licensing.

[FR Doc. 2014–19724 Filed 8–19–14; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 14–11]

Petition of LCL Logistix (India) Pvt. Ltd dba LCL Lines (''LCL'') for a Declaratory Order; Notice of Filing of Petition

Notice is hereby given that LCL Logistix(India) Pvt. Ltd dba LCL Lines (''LCL'') has petitioned the Federal Maritime Commission (''Commission'') pursuant to 46 CFR 502.68 (sic), for a declaratory order ''to remove uncertainty and terminate a controversy in regard to the justness and reasonableness of the demurrage practices of Mediterranean Shipping Company (''MSC'').'' (Petitioner's citation to 46 CFR 502.68 appears to be a reference to the Commission's rule concerning Declaratory Orders and Fees, which rule was moved and is now found at 46 CFR 502.75, see 78 FR 45071, July 26, 2013.) Petitioner, a licensed non-vessel-operating common carrier, asks the Commission to declare ''whether it is a reasonable practice for MSC to wait to assert a claim for demurrage on containers for more than three years after the parties with an interest in the goods abandoned the cargo in those containers and authorized MSC to dispose of it, when MSC's delay resulted in the accrual of demurrage charges exceeding $230,000.00, which is many times greater than the value of the containers themselves.''

Mediterranean Shipping Company is named in the petition and is requested, pursuant to 46 CFR 502.75(f)(2), to submit views or arguments in reply to the Petition no later than September 12, 2014. Replies shall consist of an original and five (5) copies, be directed to the Secretary, Federal Maritime Commission, 800 North Capitol Street NW., Washington, DC 20573–0001, and be served on Petitioners' counsel, David P. Street, GKG Law, P.C., 1054 Thirty-first Street NW., Washington, DC 20007. A copy of the reply shall be submitted

in PDF by email to *secretary@fmc.gov.* The Petition in its entirety can be found on the Commission's Web site at *http://www.fmc.gov/14-11.*

Karen V. Gregory,

Secretary.

[FR Doc. 2014–19722 Filed 8–19–14; 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 September 4, 2014.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Capital Z Partners III, L.P., Capital Z Partners III GP, L.P., Capital Z Partners III GP, Ltd., Capital Z Partners Management, LLC, Bradley E. Cooper, all of New York, New York, and Robert A. Spass,* Westfield, New Jersey; to acquire voting shares of Centrue Financial Corporation, Ottawa, Illinois, and thereby indirectly acquire voting shares of Centrue Bank, Streator, Illinois.

Board of Governors of the Federal Reserve System, August 15, 2014.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2014–19709 Filed 8–19–14; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0037; Docket 2014–0055; Sequence 19]

Federal Acquisition Regulation; Information Collection; Presolicitation Notice and Response

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division (MVCB) will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning pre-solicitation notice and response.

DATES: Submit comments on or before October 20, 2014.

ADDRESSES: Submit comments identified by Information Collection 9000–0037, Presolicitation Notice and Response, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB Control number 9000–0037. Select the link ''Comment Now'' that corresponds with ''Information Collection 9000–0037, Presolicitation Notice and Response''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 9000–0037, Presolicitation Notice and Response'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0037, Presolicitation Notice and Response.

Instructions: Please submit comments only and cite Information Collection 9000–0037, Presolicitation Notice and Response, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Cecelia Davis, Procurement Analyst, Acquisition Policy Division, GSA 202–219–0202 or *Cecelia.davis@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Presolicitation notices are used by the Government for several reasons, one of which is to aid prospective contractors in submitting proposals without undue expenditure of effort, time, and money. The Government also uses the presolicitation notices to control printing and mailing costs. The presolicitation notice response is used to determine the number of solicitation documents needed and to assure that interested offerors receive the solicitation documents. The responses are placed in the contract file and referred to when solicitation documents are ready for mailing. After mailing, the responses remain in the contract file and become a matter of record.

B. Annual Reporting Burden

Respondents: 5,310.
Responses per Respondent: 8.
Annual Responses: 42,480.
Hours per Response: .08.
Total Burden Hours: 3,398.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0037, Presolicitation Notice and Response, in all correspondence.

Dated: August 15, 2014.

Karlos Morgan,

Acting Director, Federal Acquisition Policy Division, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

[FR Doc. 2014–19816 Filed 8–19–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–00XX: Docket 2014–0055; Sequence 26]

Federal Acquisition Regulation; Submission for OMB Review; Combating Trafficking in Persons

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding a new OMB information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Regulatory Secretariat Division (MVCB) will be submitting to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement regarding Combating Trafficking in Persons. A notice was published in the **Federal Register** at 78 FR 59317 on September 26, 2013. Three comments were received.

DATES: Submit comments on or before September 19, 2014.

ADDRESSES: Submit comments identified by Information Collection 9000–00XX, Combating Trafficking in Persons by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number 9000–00XX. Select the link ''Comment Now'' that corresponds with ''Information Collection 9000–00XX, Combating Trafficking in Persons. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 9000–00XX, Combating Trafficking in Persons, on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–00XX, Combating Trafficking in Persons.

Instructions: Please submit comments only and cite Information Collection 9000–00XX, Combating Trafficking in Persons, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Marissa Petrusek, Procurement Analyst, Acquistion Policy Division, via telephone 202–510–3069 or via email *marissa.petrusek@gsa.gov*.

SUPPLEMENTARY INFORMATION:

A. Purpose

Executive Order (E.O.) 13627, entitled Strengthening Protections Against Trafficking in Persons in Federal Contracts, dated September 25, 2012 (77 FR 60029, October 2, 2012) and Title XVII of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112–239, enacted January 2, 2013) strengthen the long standing zero-tolerance policy of the United States regarding Government employees and contractor personnel engaging in any form of trafficking in persons.

Additional protections are required where the estimated value of the supplies (other than commercially available off-the-shelf (COTS) items) to be acquired outside the United States, or the services to be performed, outside the United States has an estimated value that exceeds $500,000. These protections include the following: (a) The contractor is required to implement and maintain a compliance plan during the performance of the contract that includes an awareness program, a process for employees to report activity inconsistent with the zero-tolerance policy, a recruitment and wage plan, a housing plan, and procedures to prevent subcontractors from engaging in trafficking in persons; and (b) The contractor is required to submit a certification to the contracting officer prior to receiving an award, and annually thereafter, asserting that it has the required compliance plan in place and that there have been no abuses, or that appropriate actions have been taken if abuses have been found. The compliance plan must be provided to the contracting officer upon request, and relevant portions of it must be posted at the workplace and on the contractor's Web site. Additionally, contractors are required to flow these requirements down to any subcontracts where the estimated value of the supplies acquired or the services required to be performed outside the United States exceeds $500,000.

B. Analysis of Public Comments

Three respondents submitted public comments on the new information collection. The analysis of the public comments is summarized as follows:

Comment: Several respondents commented that the four hour estimate per contract to prepare and submit an annual certification underestimates the burden because it does not take into consideration the time required to monitor, detect and terminate any agent subcontractors or subcontractor employees who have engaged in trafficking in persons at all tiers.

Response. The Councils performed a detailed analysis and believe that the certification process should require minimal additional attention if a company is taking the time required to maintain a sound compliance plan. Therefore, the Councils have not increased the estimated number of burden hours.

Comment. One respondent commented that the 24 hour estimate to prepare the compliance plan underestimates the burden.

Response. The Councils performed detailed analysis taking into account many factors. The estimated burden associated with writing the compliance plan takes into consideration that this is one-time, to be updated, as necessary, to align with the size, scope and complexity of later procurements. The Councils have not increased the estimate.

C. Annual Reporting Burden

Respondents: 120.

Responses per Respondent: 1.

Total Responses: 120.

Hours per Response: 1.

Total Burden Hours: 120.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–00XX, in all correspondence.

Dated: August 15, 2014.

Karlos Morgan,

Acting Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

[FR Doc. 2014–19812 Filed 8–19–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0180; Docket No. 2014–0055; Sequence 20]

Information Collection; Biobased Procurements

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the Regulatory Secretariat Division (MVCB) will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding Biobased Procurements.

DATES: Submit comments on or before October 20, 2014.

ADDRESSES: Submit comments identified by Information Collection 9000–0180, Biobased Procurements, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number 9000–0180. Select the link ''Comment Now'' that corresponds with ''Information Collection 9000–0180, Prohibition on Acquisition of Products Produced by Forced or Indentured Child Labor''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 9000–0180, Prohibition on Acquisition of Products Produced by Forced or Indentured Child Labor'' on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Hada Flowers/IC 9000–0180, Prohibition on Acquisition of Products Produced by Forced or Indentured Child Labor.

Instructions: Please submit comments only and cite Information Collection 9000–0180, Prohibition on Acquisition of Products Produced by Forced or Indentured Child Labor, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Marissa Petrusek, Procurement Analyst, Office of Governmentwide Acquisition Policy, at telephone 202–501–0136 or email *marissa.petrusek@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

Federal Acquisition Regulation clause 52.223–2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts, requires prime contractors to report annually the product types and dollar values of U.S. Department of Agriculture (USDA)-designated biobased products purchased to the System for Award Management (SAM) Web site. The information reported by prime contractors enables Federal agencies to report annually to the Office of Federal Procurement Policy (OFPP) concerning actions taken to implement and measure progress in carrying out the preference for biobased products required under section 9002 of the Farm Security and Rural Investment Act of 2002, codified at 7 U.S.C. 8102.

B. Annual Reporting Burden

A reassessment of 52.223–2 was preformed. Based on the comprehensive reassessment performed, this information collection resulted in an increase in the total burden hours from the previous information collection that was published in the **Federal Register** at 76 FR 81940 on December 29, 2011. Federal Procurement Data System (FPDS) was searched to determine the number of unique DUNS numbers for the following selected Product Services Codes: A-Research and Development; F-Natural Resources Management; J-Maintenance, Repair, and Rebuilding of Equipment; M-Operation of Government-Owned Facility; S-Utilities and Housekeeping Services; T-Photographic, Mapping, Printing, and Publication Services; Y-Construction of Structures and Facilities; and Z-Maintenance, Repair or Alteration of Real Property. The clause will apply to the majority of the contract actions in the selected PSCs. The increase is likely a result of increased awareness of the biobased requirements and use of the contract clause in service and construction contracts.

Respondents: 64,123.
Responses per Respondent: 5.
Hours per Response: 5.
Total Burden Hours: 1,603,075.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0180, Biobased Procurements, in all correspondence.

Dated: August 15, 2014.

Karlos Morgan,

Acting Director, Federal Acquisition Policy Division, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

[FR Doc. 2014–19814 Filed 8–19–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0144; Docket 2014–0055; Sequence 22]

Federal Acquisition Regulation; Submission for OMB Review; Payment by Electronic Fund Transfer

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning payment by electronic fund transfer. A notice was published in the **Federal Register** at 79 FR 33556 on June 11, 2014. No comments were received.

DATES: Submit comments on or before September 19, 2014.

ADDRESSES: Submit comments identified by Information Collection 9000–0144, Payment by Funds Transfer, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number 9000–0144. Select the link that corresponds with ''Information Collection 9000–0144, Payment by Funds Transfer''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 9000–0144, Payment by Funds Transfer'', on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 9000–0144, Payment by Funds Transfer.

Instructions: Please submit comments only and cite Information Collection 9000–0144, Payment by Funds Transfer, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Chambers, Procurement Analyst, Acquisition Policy Division, GSA 202–501–3221, or *Edward.chambers@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The FAR requires certain information to be provided by contractors which would enable the Government to make payments under the contract by electronic fund transfer (EFT). The information necessary to make the EFT transaction is specified in clause 52.232–33, Payment by Electronic Funds Transfer—Central Contractor Registration, which the contractor is required to provide prior to award, and clause 52.232–34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration, which requires EFT information to be provided as specified by the agency to enable payment by EFT.

B. Annual Reporting Burden

Respondents: 14,000.
Responses per Respondent: 10.
Annual Responses: 140,000.
Hours per Response: .5.
Total Burden Hours: 70,000.

C. Public Comment

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0144, Payment by Electronic Funds Transfer, in all correspondence.

Dated: August 15, 2014.

Karlos Morgan,

Acting Director, Federal Acquisition Policy Division, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

[FR Doc. 2014–19811 Filed 8–19–14; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Justification for a Single Source Cooperative Agreement Award for the National Academy of Science

AGENCY: Office of the Assistant Secretary for Preparedness and Response, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) Office of the Assistant Secretary for Preparedness and Response (ASPR) intends to provide a Single Source Cooperative Agreement Award to the National Academy of Science to establish a rapid and agile process for convening subject matter experts to address adverse health effects of public health emergencies and disasters when they occur. The goal of the process will be to prioritize scientific research needs in the immediate aftermath of a disaster that culminates in a summary report of the strategic science research questions most relevant to promote better response, recovery or enhanced resilience in the affect community. Research results would also inform response to the next disaster event. Subject matter expertise would vary, depending on the nature of the emergency/disaster. This could include experts with background in public health, epidemiology, environmental health, emergency management, first response, emergency medicine, infectious diseases, nursing, emergency management, bioethics, medical countermeasures, state and local government, operations research national civic organizations, and risk communication. The process convened by the Institute of Medicine (IOM) would also provide a connection to the local communities affected by the disaster, and include important stakeholders, such as non-government funders or other organizations. This cooperative Agreement will support ASPR's Government Performance and Results Act goals that ''HHS will work with its Federal, state, local, tribal, and international partners to build community resilience and strengthen health and emergency response systems. Robust systems are essential to a secure and resilient. Nation with required capabilities to prevent, protect against, mitigate, respond to, and recover from the threats and hazards that pose the greatest risk. This includes strengthening the Federal medical and public health response capability''. Scientific research involved with preparedness and response is a key component of this endeavor.

DATES: *Period of Performance:* September 30, 2014 to September 29, 2015.

FOR FURTHER INFORMATION CONTACT: Please submit an inquiry via the ASPR Division of Grants Management at *asprgrants@hhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Sections 301. The Office of Policy and Planning is the program office for this award.

Justification: IOM is a nonprofit organization and is part of the National Academy of Sciences. IOM undertakes studies that may be specific mandates from Congress or requested by federal agencies and independent organizations.

IOM has an established Forum on Medical and Public Health Preparedness for Catastrophic Events. The Forum held a panel on Long-term Recovery of the Healthcare Service Delivery Infrastructure in February 2012 during the 2012 Public Health Preparedness Summit in Anaheim, California. The Forum's purpose is to foster dialogue

among stakeholders, identify opportunities for public/private collaboration, and identify and address issues relevant to public health and medical preparedness. IOM is part of the National Academies, which also has an established Disasters Roundtable. The Disasters Roundtable holds workshops three times per year on topics often relevant to recovery partners. IOM is uniquely positioned to be able to not only identify relevant partners and stakeholders but also garner their participation in the proposed activities because of their existing structures and established reputation.

Procedures for Providing Public Input: All written comments must be 15 days after posting of this announcement. Please submit comments at *asprgrants@hhs.gov*.

Dated: August 13, 2014.

Nicole Lurie,

Assistant Secretary for Preparedness and Response.

[FR Doc. 2014–19737 Filed 8–19–14; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health (ABRWH or the Advisory Board), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting:

Time and Date: 11:00 a.m.–2:00 p.m. EDT, Wednesday, September 17, 2014.

Place: Audio Conference Call via FTS Conferencing. The USA toll-free, dial-in number is 1–866–659–0537 and the pass code is 9933701.

Status: Open to the public. The public is welcome to submit written comments in advance of the meeting, to the contact person below. Written comments received in advance of the meeting will be included in the official record of the meeting. The public is also welcome to listen to the meeting by joining the teleconference at the USA toll-free, dial-in number, 1–866–659–0537 and the passcode is 9933701.

Background: The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines, which have been promulgated by the Department of Health and Human Services (HHS) as a final rule; advice on methods of dose reconstruction, which have also been promulgated by HHS as a final rule; advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program; and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC).

In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC. The charter was issued on August 3, 2001, renewed at appropriate intervals, most recently, August 3, 2013, and will expire on August 3, 2015.

Purpose: This Advisory Board is charged with a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters for Discussion: The agenda for the conference call includes: Final Vote Tally for Simonds Saw and Steel Co. and General Atomics SEC Petition Actions; NIOSH Update on Implementation of 10-Year Program Review Recommendations, Work Group and Subcommittee Reports; SEC Petitions Update for the November 2014 Advisory Board Meeting; Plans for the November 2014 Advisory Board Meeting; and Advisory Board Correspondence.

Contact Person for More Information: Theodore M. Katz, M.P.A., Designated Federal Official, NIOSH, CDC, 1600 Clifton Rd. NE., Mailstop: E–20, Atlanta, GA 30333, Telephone (513) 533–6800, Toll Free 1–800–CDC–INFO, Email *ocas@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Gary Johnson,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2014–19755 Filed 8–19–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Request for Nominations of Candidates To Serve on the Healthcare Infection Control Practices Advisory Committee (HICPAC)

The Centers for Disease Control and Prevention (CDC) is soliciting nominations for possible membership on the Healthcare Infection Control Practices Advisory Committee (HICPAC).

The Committee provides advice and guidance to the Secretary, Department of Health and Human Services (HHS); the Director, Centers for Disease Control and Prevention (CDC); Deputy Director, Office of Infectious Diseases (OID), CDC; the Director, National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), CDC; and the Director, Division of Healthcare Quality Promotion (DHQP), NCEZID, CDC, regarding the practice of infection control and strategies for surveillance, prevention, and control of health care-associated infections, antimicrobial resistance and related events in settings where healthcare is provided, including hospitals, outpatient settings, long-term-care facilities, and home health agencies.

Nominations are sought for individuals with expertise and qualifications necessary to contribute to the accomplishment of HICPAC objectives.

The Secretary, HHS, acting through the Director, CDC, shall appoint to the advisory committee nominees with expertise to provide advice regarding the practice of health care infection control, strategies for surveillance and prevention and control of health care associated infections in United States health care facilities. Consideration is given to professional training and background, points of view represented, and upcoming issues to be addressed by the committee. Nominees may be

invited to serve for four-year terms. The next cycle of selection of candidates will begin in the Winter of 2014, for selection of potential nominees to replace members whose terms will end on June 30, 2015.

Selection of members is based on candidates' qualifications to contribute to the accomplishment of HICPAC's objectives (*http://www.cdc.gov/hicpac/about.html*). The U.S. Department of Health and Human Services will give close attention to balanced geographic distribution and to minority and female representation so long as the effectiveness of the Committee is not impaired.

Appointments shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, HIV status, disability, and cultural, religious, or socioeconomic status. Consideration is given to a broad representation of geographic areas within the U.S., with diverse representation of both genders, ethnic and racial minorities, and persons with disabilities. Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Candidates should submit the following items:

- Current curriculum vitae, including complete contact information (name, affiliation, mailing address, telephone numbers, email address).
- At least one letter of recommendation stating the qualifications of the candidate from a person not employed by the U.S. Department of Health and Human Services. Candidates may submit letter(s) from current HHS employees if they wish, but at least one letter must be submitted by a person not employed by HHS.

Nominations should be submitted (postmarked or received) by September 30, 2014.

Electronic submissions: You may submit nominations, including attachments, electronically to *hicpac@cdc.gov.*

Regular, Express or Overnight Mail: Written nominations may be submitted to the following addressee only: Erin Stone, M.S., HICPAC, Division of Healthcare Quality Promotion, NCEZID, CDC, 1600 Clifton Road NE., Mailstop A–07, Atlanta, Georgia 30333.

Telephone and facsimile submissions cannot be accepted. Nominations may be submitted by the candidate him- or herself, or by the person/organization recommending the candidate.

The Director, Management Analysis and Services Office, has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Gary Johnson,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2014–19756 Filed 8–19–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Announcement of Requirements and Registration for Million Hearts® Hypertension Control Challenge

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) located within the Department of Health and Human Services (HHS) announces the launch of the Million Hearts® Hypertension Control Challenge on August 20, 2014. The challenge will be open until October 10, 2014.

Million Hearts® is a national initiative to prevent 1 million heart attacks and strokes by 2017. Achieving this goal means that 10 million more Americans must have their blood pressure under control. Million Hearts® is working to control high blood pressure through clinical approaches, such as using health information technology to its fullest potential and integrating team-based approaches to care, as well as community approaches, such as strengthening tobacco control, and lowering sodium consumption. For more information about the initiative, visit *www.millionhearts.hhs.gov.*

To support improved blood pressure control, HHS/CDC is announcing the 2014 Million Hearts® Hypertension Control Challenge. The challenge will bring prestige to organizations that invest in hypertension control, improve understanding of successful implementation strategies at the health system level, and motivate practices and health systems to strengthen their hypertension control efforts.

The challenge will identify clinicians, clinical practices, and health systems that have exceptional rates of hypertension control and recognize them as Million Hearts® Hypertension Control Champions. To support improved quality of care delivered to patients with hypertension, Million Hearts® will document the systems, processes, and staffing that contribute to the exceptional blood pressure control rates achieved by Champions. Champions will receive a cash prize and local and national recognition.

DATES: Contest begins on August 20, 2014 and ends on October 10, 2014. Office of Management and Budget control number 0920–0976 expires 7/31/2016.

FOR FURTHER INFORMATION CONTACT: Susan Ladd, Division for Heart Disease and Stroke Prevention, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Hwy NE., Mailstop F–72, Atlanta, GA 30341, Telephone: 770–488–2424, Fax: 770–488–8151, Attention: Hypertension Control Challenge, Email: *millionhearts@cdc.gov.*

SUPPLEMENTARY INFORMATION: The challenge is authorized by Public Law 111–358, the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education and Science Reauthorization Act of 2010 (COMPETES Act).

Subject of Challenge Competition:

Entrants of the Million Hearts Hypertension Control Challenge will be asked to submit two point-in-time measures of the hypertension control rate for the practice's or health system's hypertensive population. One measure is for the previous 12 month period and the second for the previous 12 to 24 months. Entrants will also be asked to provide the prevalence of hypertension in their population and describe the sustainable systems used by the practice or health system that support continued improvements in blood pressure control and some population characteristics.

Eligibility Rules for Participating in the Competition:

To be eligible to win a prize under this challenge, an individual or entity—

(1) Shall have completed the nomination form in its entirety to participate in the competition under the rules promulgated by HHS/CDC;

(2) Shall have complied with all the requirements in this section and;

a. Be a U.S. licensed clinician, practicing in any U.S. setting, who provides continuing care for adult patients with hypertension. The individual must be a citizen or permanent resident of the U.S.

b. Or be a U.S. incorporated medical practice, defined as any practice with two or more U.S. licensed clinicians who by formal arrangement share responsibility for a common panel of

patients, practice at the same physical location or street address, and provide continuing medical care for adult patients with hypertension;

c. Or be a health system, incorporated in and maintaining a primary place of business in the U.S. that provides continuing medical care for adult patients with hypertension. We encourage large health systems (those that are comprised of a large number of geographically dispersed clinics and/or have multiple hospital locations) to consider having one or a few of the highest performing clinics or regional affiliates apply individually instead of the health system applying as a whole;

(3) Must treat all adult patients with hypertension in the practice seeking care, not a selected subgroup of patients;

(4) Must have a data management system (electronic or paper) that allows HHS/CDC or their contractor to check data submitted;

(5) Must treat a minimum of 500 adult patients annually and have a hypertension control rate of at least 70%;

(6) May not be a Federal entity or Federal employee acting within the scope of their employment;

(7) Shall not be an HHS employee working on their applications or submissions during assigned duty hours;

(8) Shall not be an employee or contractor at CDC;

(9) Federal grantees may not use Federal funds to develop COMPETES Act challenge applications unless consistent with the purpose of their grant award and specifically requested to do so due to competition design;

(10) Federal contractors may not use Federal funds from a contract to develop COMPETES Act challenge applications or to fund efforts in support of a COMPETES Act challenge;

(11) Must agree to participate in a data validation process to be conducted by a reputable independent contractor. To the extent applicable law allows, data will be kept confidential by the contractor and will be shared with the CDC in aggregate form only i.e., the hypertension control rate for the practice not individual hypertension values;

(12) Individual nominees and individuals in a group practice must be free from convictions or pending investigations of criminal and health care fraud offenses such as felony health care fraud, patient abuse or neglect; felony convictions for other health care-related fraud, theft, or other financial misconduct; and felony convictions relating to unlawful manufacture, distribution, prescription, or dispensing of controlled substances as verified through the Office of the Inspector General List of Excluded Individuals and Entities. *http://oig.hhs.gov/exclusions/background.asp.* Individual nominees must be free from serious sanctions, such as those for misuse or mis-prescribing of prescription medications. Such serious sanctions will be determined at the discretion of the agency consistent with CDC's public health mission. CDC's contractor may perform background checks on individual clinicians or medical practices.

(13) Health systems must have a written policy in place that conducts periodic background checks as described in (12) on all providers and takes appropriate action accordingly. In addition, a health system background check will be conducted by CDC or a CDC contractor that includes a search for The Joint Commission sanctions and current investigations for serious institutional misconduct (e.g., attorney general investigation). CDC's contractor may also request the policy and any supporting information deemed necessary.

(14) Champions previously recognized through the 2013 Million Hearts Hypertension Control Challenge retain their designation as a ''Champion'' and are not eligible to be named a Champion in the 2014 challenge.

(15) Must agree to accept the prize and be recognized if selected and agree to participate in an interview to develop a success story that describes the systems and processes that support hypertension control among patients. Champions will be recognized on the Million Hearts® Web site. Strategies used by Champions that support hypertension control may be written into a success story, placed on the Million Hearts® Web site, and attributed to Champions.

An individual or entity shall not be deemed ineligible because the individual or entity used Federal facilities or consulted with Federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equal basis.

By participating in this challenge, an individual or organization agrees to assume any and all risks related to participating in the challenge. Individuals or organizations also agree to waive claims against the Federal Government and its related entities, except in the case of willful misconduct, when participating in the challenge, including claims for injury; death; damage; or loss of property, money, or profits, and including those risks caused by negligence or other causes.

By participating in this challenge, individuals or organizations agree to protect the Federal Government against third party claims for damages arising from or related to challenge activities.

Individuals or organizations are not required to hold liability insurance related to participation in this challenge.

Federal organizations will be offered a simultaneous opportunity to participate in a separate but similar challenge, and will be eligible for recognition only. No cash prize will be awarded.

Registration Process for Participants:

To participate, interested parties will navigate to *www.millionhearts.hhs.gov.* On this site, nominees will find the rules and guidelines for participating as well as access to the entry form. Information required of the nominees on the nomination form includes:

- The size of the nominee's adult patient population, a summary of known patient demographics (e.g., age distribution), and any noteworthy patient population characteristics.
- The number of the nominee's adult patients who were seen during the past year and had a hypertension diagnosis (i.e., hypertension prevalence).
- The nominee's current hypertension control rate for their hypertensive population. In addition, the hypertension control rate during the previous year is required. In determining the hypertension control rate, CDC defines ''hypertension control'' as a blood pressure reading <140 mmHg systolic and <90 mmHg diastolic among patients with a diagnosis of hypertension. Million Hearts® supports use of the National Quality Forum (NQF) Measure #0018 for controlling high blood pressure or similar definitions. Details about NQF 0018 can be found at *http://www.qualityforum.org/QPS/0018.*
- Sustainable clinic systems or processes that support hypertension control. These may include provider or patient incentives, dashboards, staffing characteristics, electronic record keeping systems, reminder or alert systems, clinician reporting, service modifications, etc.

The hypertension control rate should be for the provider's or health system's entire adult hypertensive patient population, not limited to a sample. Examples of ineligible data submissions include hypertension control rates that are limited to treatment cohorts from research studies or pilot studies, patients limited to a specific age range

(such as 18–35), or patients enrolled in limited scale quality improvement projects.

The estimated burden for completing the nomination form is 30 minutes.

Amount of the Prize:

Up to a total of 20 of highest scoring individual clinicians, clinical practices or health systems will be recognized as Million Hearts® Hypertension Control Champions and will receive a cash award of $2,000. A maximum of $40,000 will be awarded in this challenge.

Payment of the Prize:

Prizes awarded under this challenge will be paid by electronic funds transfer and may be subject to Federal income taxes. HHS will comply with the Internal Revenue Service withholding and reporting requirements, where applicable.

Basis Upon Which Winner Will Be Selected:

The nomination will be scored based on hypertension control rate (95% of score); and sustainable systems in the practice that support hypertension control (5% of score).

Nominees with the highest score will be required to participate in a two-phase process to verify their data. Nominees who are non-compliant or non-responsive with the data requests or timelines will be removed from further consideration. Phase 1 includes verification of the hypertension prevalence and blood pressure control rate data submitted and a background check. For nominees whose Phase 1 data is verified as accurate, phase 2 consists of a medical chart review. National Quality Forum Measure #0018 for controlling high blood pressure will be used to evaluate the submitted data. Details about NQF 0018 can be found at *http://www.qualityforum.org/QPS/0018.*

A CDC-sponsored panel of three to five experts consisting of HHS/CDC staff will review the nominations that pass the verification to select Champions. Final selection will take into account all the information from the nomination form, the background check, and data verification. Geographic location and population treated may be used to break ties in the event of tie scores at any point in the selection process.

Some Champions will participate in a post-challenge telephone interview. The interview will include questions about the strategies employed by the individual or organization to achieve high rates of hypertension control, including barriers and facilitators for those strategies. The interview will focus on systems and processes and should not require preparation time by the Champion. The estimated time for the interview is two hours, which includes time to review the interview protocol with the interviewer, respond to the interview questions, and review a summary data about the Champion's practices. The summary will be written as a success story and will be posted on the Million Hearts® Web site.

Additional Information:

Information received from nominees will be stored in a password protected file on a secure server. The challenge Web site may post the number of nominations received but will not include information about individual nominees. The database of information submitted by nominees will not be posted on the Web site. Information collected from nominees will include general details, such as the business name, address, and contact information of the nominee. This type of information is generally publically available. The nomination will collect and store only aggregate clinical data through the nomination process; no individual identifiable patient data will be collected or stored. Confidential or propriety data, clearly marked as such, will be secured to the full extent allowable by law.

Information for selected Champions, such as the provider, practice, or health system's name, location, hypertension control rate, and clinic practices that support hypertension control will be shared through press releases, the challenge Web site, and Million Hearts® and HHS/CDC resources.

Summary data on the types of systems and processes that all nominees use to control hypertension may be shared in documents or other communication products that describe generally used practices for successful hypertension control. HHS/CDC will use the summary data only as described.

Compliance With Rules and Contacting Contest Winners:

Finalists and Champions must comply with all terms and conditions of these official rules, and winning is contingent upon fulfilling all requirements herein. The initial finalists will be notified by email, telephone, or mail after the date of the judging.

Privacy:

Personal information provided by entrants on the nomination form through the challenge Web site will be used to contact selected finalists. Information is not collected for commercial marketing. Winners are permitted to cite that they won this challenge.

The names, cities, and states of selected Champions will be made available in promotional materials and at recognition events.

General Conditions:

The HHS/CDC reserves the right to cancel, suspend, and/or modify the challenge, or any part of it, for any reason, at HHS/CDC's sole discretion.

Award Approving Official: Thomas R. Frieden, MD, MPH, Director, Centers for Disease Control and Prevention, and Administrator, Agency for Toxic Substances and Disease Registry

Authority: 15 U.S.C. 3719.

Dated: August 15, 2014.

Ron A. Otten,

Acting Deputy Associate Director for Science, Centers for Disease Control and Prevention.

[FR Doc. 2014–19754 Filed 8–19–14; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–7033–N]

Health Insurance Marketplace, Medicare, Medicaid, and Children's Health Insurance Programs; Meeting of the Advisory Panel on Outreach and Education (APOE), September 12, 2014

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

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Advisory Panel on Outreach and Education (APOE) (the Panel) in accordance with the Federal Advisory Committee Act. The Panel advises and makes recommendations to the Secretary of the U.S. Department of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services on opportunities to enhance the effectiveness of consumer education strategies concerning the Health Insurance Marketplace, Medicare, Medicaid, and the Children's Health Insurance Program (CHIP). This meeting is open to the public.

DATES:

Meeting Date: Friday, September 12, 2014, 8:30 a.m. to 4:00 p.m. eastern daylight time (e.d.t.).

Deadline for Meeting Registration, Presentations and Comments: Friday, August 29, 2014, 5:00 p.m., e.d.t.

Deadline for Requesting Special Accommodations: Friday, August 29, 2014, 5:00 p.m., e.d.t.

ADDRESSES:

Meeting Location: U.S. Department of Health & Human Services, Hubert H. Humphrey Building, 200 Independence Avenue SW., Room 738 G, Conference Room, Washington, DC 20201.

Presentations and Written Comments: Kirsten Knutson, Acting Designated Federal Official (DFO), Division of Forum and Conference Development, Office of Communications, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mailstop S1–13–05, Baltimore, MD 21244–1850 or contact Ms. Knutson via email at *Kirsten.Knutson@cms.hhs.gov.*

Registration: The meeting is open to the public, but attendance is limited to the space available. Persons wishing to attend this meeting must register at the Web site *http://events.SignUp4.com/SEP2014APOEMTG* or by contacting the DFO at the address listed in the **ADDRESSES** section of this notice or by telephone at number listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, by the date listed in the **DATES** section of this notice. Individuals requiring sign language interpretation or other special accommodations should contact the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice. In accordance with the U.S. Department of Health & Human Services standards, and an effort for the public to engage virtually in the open meetings, this APOE meeting will be available to view via live web streaming by visiting the link *www.cms.gov/live* during the designated time of the meeting.

FOR FURTHER INFORMATION CONTACT: Kirsten Knutson, (410) 786–5886. Additional information about the APOE is available on the Internet at: *http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/APOE.html.*

Press inquiries are handled through the CMS Press Office at (202) 690–6145.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a) of the Federal Advisory Committee Act (FACA), this notice announces a meeting of the Advisory Panel on Outreach and Education (APOE) (the Panel). Section 9(a)(2) of the Federal Advisory Committee Act authorizes the Secretary of the U.S. Department of Health and Human Services (the Secretary) to establish an advisory panel if the Secretary determines that the panel is ''in the public interest in connection with the performance of duties imposed . . . by law.'' Such duties are imposed by section 1804 of the Social Security Act (the Act), requiring the Secretary to provide informational materials to Medicare beneficiaries about the Medicare program, and section 1851(d) of the Act, requiring the Secretary to provide for ''activities . . . to broadly disseminate information to [M]edicare beneficiaries . . . on the coverage options provided under [Medicare Advantage] in order to promote an active, informed selection among such options.''

The Panel is also authorized by section 1114(f) of the Act (42 U.S.C. 1314(f)) and section 222 of the Public Health Service Act (42 U.S.C. 217a). The Secretary signed the charter establishing this Panel on January 21, 1999 (64 FR 7899, February 17, 1999) and approved the renewal of the charter on December 18, 2012 (78 FR 32661, May, 31, 2013).

Pursuant to the amended charter, the Panel advises and makes recommendations to the Secretary of Health and Human Services and the Administrator of the Centers for Medicare & Medicaid Services (CMS) concerning optimal strategies for the following:

- Developing and implementing education and outreach programs for individuals enrolled in, or eligible for, the Health Insurance Marketplace, Medicare, Medicaid and the Children's Health Insurance Program (CHIP).
- Enhancing the federal government's effectiveness in informing Health Insurance Marketplace, Medicare, Medicaid, and CHIP consumers, providers, and stakeholders pursuant to education and outreach programs of issues regarding these and other health coverage programs; including the appropriate use of public-private partnerships to leverage the resources of the private sector in educating beneficiaries, providers, and stakeholders.
- Expanding outreach to vulnerable and underserved communities, including racial and ethnic minorities, in the context of the Health Insurance Marketplace, Medicare, Medicaid, and CHIP education programs.
- Assembling and sharing an information base of ''best practices'' for helping consumers evaluate health plan options.
- Building and leveraging existing community infrastructures for information, counseling, and assistance.
- Drawing the program link between outreach and education, promoting consumer understanding of health care coverage choices and facilitating consumer selection/enrollment, which in turn support the overarching goal of improved access to quality care, including prevention services, envisioned under health care reform.

The current members of the Panel are: Samantha Artiga, Principal Policy Analyst, Kaiser Family Foundation; Joseph Baker, President, Medicare Rights Center; Kellan Baker, Associate Director, Center for American Progress; Philip Bergquist, Manager, Health Center Operations, CHIPRA Outreach & Enrollment Project and Director, Michigan Primary Care Association; Marjorie Cadogan, Executive Deputy Commissioner, Department of Social Services; Jonathan Dauphine, Senior Vice President, AARP; Barbara Ferrer, Executive Director, Boston Public Health Commission; Shelby Gonzales, Senior Health Outreach Associate, Center on Budget & Policy Priorities; Jan Henning, Benefits Counseling & Special Projects Coordinator, North Central Texas Council of Governments' Area Agency on Aging; Louise Knight, Director, The Sidney Kimmel Comprehensive Cancer Center at Johns Hopkins; Miriam Mobley-Smith, Dean, Chicago State University, College of Pharmacy; Ana Natale-Pereira, Associate Professor of Medicine, Rutgers-New Jersey Medical School; Roanne Osborne-Gaskin, M.D., Associate Medical Director, Neighborhood Health Plan of Rhode Island; Megan Padden, Vice President, Sentara Health Plans; Jeanne Ryer, Director, New Hampshire Citizens Health Initiative, University of New Hampshire; Carla Smith, Executive Vice President, Healthcare Information and Management Systems Society (HIMSS); Winston Wong, Medical Director, Community Benefit Director, Kaiser Permanente and Darlene Yee-Melichar, Professor & Coordinator, San Francisco State University.

The agenda for the September 12, 2014 meeting will include the following:

- Welcome and listening session with CMS leadership
- Recap of the previous (May 22, 2014) meeting
- Affordable Care Act initiatives
- An opportunity for public comment
- Meeting summary, review of recommendations, and next steps

Individuals or organizations that wish to make a 5-minute oral presentation on an agenda topic should submit a written copy of the oral presentation to the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice. The number of oral presentations may be limited by the time available. Individuals not wishing to make an oral presentation may submit written comments to the DFO at the address listed in the **ADDRESSES** section of this notice by the date listed in the **DATES** section of this notice.

Authority: Sec. 222 of the Public Health Service Act (42 U.S.C. 217a) and sec. 10(a) of Pub. L. 92–463 (5 U.S.C. App. 2, sec. 10(a) and 41 CFR 102–3).

(Catalog of Federal Domestic Assistance Program No. 93.733, Medicare—Hospital

Insurance Program; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 12, 2014.

Marilyn Tavenner,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2014–19698 Filed 8–19–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Maternal and Infant Home Visiting Program Evaluation (MIHOPE) Check-In project—Update contact information, consent forms, child and family outcomes survey.

OMB No.: 0970–0402.

Description: The Administration for Children and Families (ACF), in partnership with the Health Resources and Services Administration (HRSA), both of the U.S. Department of Health and Human Services (HHS), is proposing a data collection activity as part of the Maternal and Infant Home Visiting Program Evaluation (MIHOPE) Check-In project. The purpose of the MIHOPE Check-In project is to maintain up-to-date contact information for families that participated in MIHOPE (the national evaluation of the Maternal, Infant, and Early Childhood Home Visiting program), so it is possible to conduct future follow-up studies and assess the potential long-term impact of the program. In addition to contact information, the MIHOPE Check-In project will also maintain up-to-date consent forms for the collection of administrative data and administer a brief survey on child and family outcomes.

Respondents: Adult participants in MIHOPE and adult primary caregivers of children who participated in MIHOPE.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Annual number of respondents	Number of responses per respondent	Average burden hours per response	Total annual burden hours
Child and Family Outcome Assessment and Updating Contact Information	4,300	1,433	3	.50	2,150
Updating Administrative Data Consent Forms	4,300	1,433	3	.25	1,075

Estimated total annual burden hours: 3225.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Karl Koerper,

Reports Clearance Officer.

[FR Doc. 2014–19717 Filed 8–19–14; 8:45 am]

BILLING CODE 4184–22–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension of the Help America Vote Act (HAVA), (HAVA Narrative Annual Report)

AGENCY: Administration on Intellectual & Developmental Disabilities, Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to the Help America Vote Act (HAVA), Public Law 107–252, Title II, Subtitle D, Part 2, Sections 261 to 265 (HAVA Narrative Annual Report).

DATES: Submit written or electronic comments on the collection of information by September 19, 2014.

ADDRESSES: Submit written comments on the collection of information by fax 202.395.5806 or by email to *OIRA_submission@omb.eop.gov,* Attn: OMB Desk Officer for ACL, Office of Information and Regulatory Affairs, OMB.

FOR FURTHER INFORMATION CONTACT: Clare Barnett, Program Specialist, Administration for Community Living, Washington, DC 20201.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency request or requirements that members of the public submit reports, keep records, or

provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, ACL is publishing notice of the proposed collection of information set forth in this document. With respect to the following collection of information, ACL invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility; (2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

The Help America Vote Act (HAVA) Narrative Report from States and Units of Local Government is required by federal statute and regulation, the Help America Vote Act (HAVA), Public Law 107–252, Title II, Subtitle D, Part 2, Sections 261 to 265, Payments to States and Units of Local Government to Assure Access for Individuals with Disabilities (42 U.S.C. 15421–25). The report is provided in writing to the Administration for Community Living, Administration on Intellectual & Developmental Disabilities. Each State or Unit of Local Government must prepare and submit an annual report at the end of every fiscal year. The report addresses the activities conducted with the funds provided during the year. The information collected from the annual report will be aggregated into an annual profile of how States have utilized the funds and establish best practices for election officials. It will also provide an overview of the State election goals and accomplishments and permit the Administration on Intellectual & Developmental Disabilities to track voting progress to monitor grant activities. ACL estimates the burden of this collection of information as follows: 55 Chief Election officials respond annually which should be an average burden of 20 hours per State per year or a total of 2,750 hours for all states annually.

Dated: August 14, 2014.

Kathy Greenlee,

Administrator and Assistant Secretary for Aging.

[FR Doc. 2014–19802 Filed 8–19–14; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2011–N–0424]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Temporary Marketing Permit Applications

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 September 19, 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 0910–0133. 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.

Temporary Marketing Permit Applications—21 CFR 130.17(c) and (i) (OMB Control Number 0910–0133)—Extension

Section 401 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 341) directs FDA to issue regulations establishing definitions and standards of identity for food ''[w]henever . . . such action will promote honesty and fair dealing in the interest of consumers. . . .'' Under section 403(g) of the FD&C Act (21 U.S.C. 343(g)), a food that is subject to a definition and standard of identity prescribed by regulation is misbranded if it does not conform to such definition and standard of identity. Section 130.17 (21 CFR 130.17) provides for the issuance by FDA of temporary marketing permits that enable the food industry to test consumer acceptance and measure the technological and commercial feasibility in interstate commerce of experimental packs of food that deviate from applicable definitions and standards of identity. Section 130.17(c) enables the Agency to monitor the manufacture, labeling, and distribution of experimental packs of food that deviate from applicable definitions and standards of identity. The information so obtained can be used in support of a petition to establish or amend the applicable definition or standard of identity to provide for the variations. Section 130.17(i) specifies the information that a firm must submit to FDA to obtain an extension of a temporary marketing permit.

In the **Federal Register** of June 5, 2014 (79 FR 32556), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section/activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
130.17(c)/Request for Permit	13	2	26	25	650
130.17(i)/Request for Extension	1	2	2	2	4

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

21 CFR Section/activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Total					654

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimated number of temporary marketing permit applications and hours per response is an average based on our experience with applications received for the past 3 years and information from firms that have submitted recent requests for temporary marketing permits. Based on this information, we estimate that there will be, on average, approximately 13 firms submitting requests for 2 temporary marketing permits per year over the next 3 years.

Thus, we estimate that 13 respondents will submit 2 requests for temporary marketing permits annually under § 130.17(c). The estimated number of respondents for § 130.17(i) is minimal because this section is seldom used by the respondents; therefore, the Agency estimates that there will be one or fewer respondents annually with two or fewer requests for extension of the marketing permit under § 130.17(i). The estimated number of hours per response is an average based on the Agency's experience and information from firms that have submitted recent requests for temporary marketing permits. We estimate that 13 respondents each will submit 2 requests for temporary marketing permits under § 130.17(c) and that it will take a respondent 25 hours per request to comply with the requirements of that section, for a total of 650 hours. We estimate that one respondent will submit two requests for extension of its temporary marketing permits under § 130.17(i) and that it will take a respondent 2 hours per request to comply with the requirements of that section, for a total of 4 hours.

Dated: August 14, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–19695 Filed 8–19–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–P–1510]

Determination That LUPRON DEPOT–PED (Leuprolide Acetate for Depot Suspension), Injectable 3.75 Milligrams/Vial and 7.5 Milligrams/Vial; and LUPRON DEPOT–PED (Leuprolide Acetate for Depot Suspension), Injectable 7.5 Milligrams/Vial and 7.5 Milligrams/Vial, Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that LUPRON DEPOT–PED (leuprolide acetate for depot suspension), Injectable 3.75 milligrams (mg)/vial and 7.5 mg/vial; and LUPRON DEPOT–PED (leuprolide acetate for depot suspension), Injectable 7.5 mg/vial and 7.5 mg/vial, were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for leuprolide acetate for depot suspension, injectable 3.75 mg/vial and 7.5 mg/vial; and injectable 7.5 mg/vial and 7.5 mg/vial, if all other legal and regulatory requirements are met. However, in considering whether to file an ANDA for leuprolide acetate for depot suspension, future applicants are advised that they may not be able to obtain LUPRON DEPOT–PED (leuprolide acetate for depot suspension), Injectable 3.75 mg/vial and 7.5 mg/vial; or LUPRON DEPOT–PED (leuprolide acetate for depot suspension), Injectable 7.5 mg/vial and 7.5 mg/vial, for bioequivalence testing because the product has not been commercially available for a number of years. An ANDA applicant who is unable to obtain LUPRON DEPOT–PED (leuprolide acetate for depot suspension), Injectable 3.75 mg/vial and 7.5 mg/vial; or LUPRON DEPOT–PED (leuprolide acetate for depot suspension), Injectable 7.5 mg/vial and 7.5 mg/vial, for bioequivalence testing should contact the Office of Generic Drugs for a determination of what is necessary to show bioavailability and the same therapeutic effect.

FOR FURTHER INFORMATION CONTACT: Daniel Orr, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6208, Silver Spring, MD 20993–0002, 240–402–0979.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

LUPRON DEPOT–PED (leuprolide acetate for depot suspension), Injectable 3.75 mg/vial and 7.5 mg/vial; and LUPRON DEPOT–PED (leuprolide acetate for depot suspension), Injectable 7.5 mg/vial and 7.5 mg/vial, are the subject of NDA 020263, held by Abbvie Endocrine, Inc., and initially approved on April 16, 1993. LUPRON DEPOT–PED is indicated for treatment of children with central precocious puberty.

In a report dated January 30, 1999, Abbvie notified FDA that LUPRON DEPOT–PED (leuprolide acetate for depot suspension), Injectable 3.75 mg/vial and 7.5 mg/vial; and LUPRON DEPOT–PED (leuprolide acetate for depot suspension), Injectable 7.5 mg/vial and 7.5 mg/vial, were being discontinued, and FDA moved the drug products to the ''Discontinued Drug Product List'' section of the Orange Book.

Joan Janulis, on behalf of Lachmann Consultant Services, Inc., submitted a citizen petition dated November 4, 2013 (Docket No. FDA–2013–P–1510), under 21 CFR 10.30, requesting that the Agency determine whether LUPRON DEPOT–PED, Injectable 3.75 mg/vial and 7.5 mg/vial; and LUPRON DEPOT–PED, Injectable 7.5 mg/vial and 7.5 mg/vial, were withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that LUPRON DEPOT–PED, Injectable 3.75 mg/vial and 7.5 mg/vial; and LUPRON DEPOT–PED, Injectable 7.5 mg/vial and 7.5 mg/vial, were not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that LUPRON DEPOT–PED, Injectable 3.75 mg/vial and 7.5 mg/vial; or LUPRON DEPOT–PED, Injectable 7.5 mg/vial and 7.5 mg/vial, were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of LUPRON DEPOT–PED, Injectable 3.75 mg/vial and 7.5 mg/vial; and LUPRON DEPOT–PED, Injectable 7.5 mg/vial and 7.5 mg/vial, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have reviewed the available evidence and determined that the products were not withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list LUPRON DEPOT–PED, Injectable 3.75 mg/vial and 7.5 mg/vial; and LUPRON DEPOT–PED, Injectable 7.5 mg/vial and 7.5 mg/vial, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to LUPRON DEPOT–PED, Injectable 3.75 mg/vial and 7.5 mg/vial; or LUPRON DEPOT–PED, Injectable 7.5 mg/vial and 7.5 mg/vial, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for these drug products should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: August 14, 2014.

Peter Lurie,

Associate Commissioner for Policy and Planning.

[FR Doc. 2014–19713 Filed 8–19–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1179]

Request for Nominations for Voting and/or Nonvoting Consumer Representatives on Public Advisory Committees or Panels and Request for Notification From Consumer Organizations Interested in Participating in the Selection Process for Nominations for Voting and/or Nonvoting Consumer Representatives on Public Advisory Committees or Panels

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting that any consumer organizations interested in participating in the selection of voting and/or nonvoting consumer representatives to serve on its advisory committees or panels notify FDA in writing. FDA is also requesting nominations for voting and/or nonvoting consumer representatives to serve on advisory committees and/or panels for which vacancies currently exist or are expected to occur in the near future. Nominees recommended to serve as a voting or nonvoting consumer representative may be self-nominated or may be nominated by a consumer organization. Nominations will be accepted for current vacancies and for those that will or may occur through December 2014.

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees and therefore, encourages nominations of appropriately qualified candidates from these groups.

DATES: Any consumer organization interested in participating in the selection of an appropriate voting or nonvoting member to represent consumer interests on an FDA advisory committee or panel may send a letter or email stating that interest to the FDA (see **ADDRESSES**) by September 19, 2014, for vacancies listed in this notice. Concurrently, nomination materials for prospective candidates should be sent to FDA (see **ADDRESSES**) by September 19, 2014.

ADDRESSES: All statements of interest from consumer organizations interested in participating in the selection process and consumer representative nominations should submit their information electronically to *kimberly.hamilton@fda.hhs.gov* or by mail to Advisory Committee Oversight and Management Staff, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002, FAX 301–847–8640.

Consumer representative nominations should be submitted electronically by logging into the FDA advisory Committee Membership Nomination Portal at *https://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm* or by mail to Advisory Committee Oversight and Management Staff, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002, or by fax to 301–847–8640. Additional information about becoming a member on an FDA advisory committee can also be obtained by visiting FDA's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm.*

FOR FURTHER GENERAL INFORMATION CONTACT: Kimberly Hamilton, Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5117, Silver Spring, MD 20993–0002, 301–796–6319, email: *kimberly.hamilton@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: For questions relating to specific advisory committees or panels, contact the following persons listed in table 1:

TABLE 1—ADVISORY COMMITTEE CONTACTS

Contact person	Committee/panel
Jamie Waterhouse, Center for Devices and Radiological Health, Office of Device Evaluation, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1611, Silver Spring, MD 20993, 301–796–3063, FAX: 301–796–3063, email: *Jamie.Waterhouse@fda.hhs.gov.*	Circulatory System Devices Panel.
Karen Strambler, Center for Food Safety and Applied Nutrition, FDA College Park, CPK1, Rm. 1C016, College Park, MD 20740, 240–402–2589, FAX: 301–436–2637, email: *Karen.Strambler@fda.hhs.gov.*	Food Advisory Committee.
Patricio Garcia, Center for Devices and Radiological Health, Office of Device Evaluation, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3631, Silver Spring, MD 20903, 301–796–6875, FAX: 301–847–8120, email: *Patricio.Garcia@fda.hhs.gov.*	General and Plastic Surgery Devices Panel.
Sara J. Anderson, LCDR, U.S. Public Health Service, Center for Devices and Radiological Health, Office of Device Evaluation, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1643, Silver Spring, MD 20903, 301–796–7047, FAX: 301–847–8122, email: *Sara.Anderson@fda.hhs.gov.*	Hematology and Pathology Devices Panel, Orthopaedic and Rehabilitation Devices Panel, National Mammography and Quality Assurance Advisory Committee.
Pamela Scott, Center for Devices and Radiological Health, Office of the Center Director, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3611, Silver Spring, MD 20993, 301–796–5433, FAX: 301–847–8510, email: *Pamela.Scott@fda.hhs.gov.*	Medical Devices Dispute Resolution Panel.
Shanika Craig, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1613, Silver Spring, MD 20993–0002, 301–796–6639, FAX: 301–847–8122, email: *Shanika.Craig@fda.hhs.gov.*	Obstetrics and Gynecology Devices Panel.
Walter Ellenberg, Office of the Commissioner, Office of Pediatric Therapeutics, Food and Drug Administration, Bldg. 32, Rm. 5154, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–0885, FAX: 301–847–8640, email: *Walter.Ellenberg@fda.hhs.gov.*	Pediatrics Advisory Committee.
Kalyani Bhatt, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2438, Silver Spring, MD 20993–0002, 301–796–9005, FAX: 301–847–8533, email: *Kalyani.Bhatt@fda.hhs.gov.*	Psychopharmacologic Drugs Advisory Committee, Reproductive Health Drugs Advisory Committee.

FDA is requesting nominations for voting and/or nonvoting consumer representatives for the vacancies listed in table 2:

TABLE 2—COMMITTEE DESCRIPTIONS, TYPE OF CONSUMER REPRESENTATIVE VACANCY AND APPROXIMATE DATE NEEDED

Committee/panel/areas of expertise needed	Current & upcoming vacancies	Approximate date needed
Circulatory System Devices—Knowledgeable in the safety and effectiveness of marked and investigational devices for use in the circulatory and vascular systems.	Nonvoting	Immediately.
Food Advisory Committee—Knowledgeable in the fields of physical sciences, biological and life sciences, food science, risk assessment, nutrition, food technology, molecular biology, and other relevant scientific and technical disciplines.	Voting	Immediately.
General and Plastic Surgery Devices Panel of the Medical Devices Advisory Committee—Knowledgeable in the fields of general, plastic, reconstructive, pediatric, thoracic, abdominal, pelvic and endoscopic surgery; biomaterials, lasers, wound healing, and quality of life issues.	1-Nonvoting	9/1/2014.
Hematology and Pathology Devices Panel of the Medical Devices Advisory Committee—Knowledgeable in the fields of hematology, hematopathology, coagulation and homeostasis, hematological oncology, and gynecological oncology.	1-Nonvoting	Immediately.
Medical Devices Dispute Resolution Panel of the Medical Devices Advisory Committee—Knowledgeable experts with broad, cross-cutting scientific, clinical, analytical, or mediation skills.	1-Nonvoting	10/1/2014.
National Mammography Quality Assurance Advisory Committee—Knowledgeable in clinical practice, research specialization, or professional work that has a significant focus on mammography.	1-Nonvoting.	
Obstetrics and Gynecology Devices Panel of the Medical Devices Advisory Committee—Knowledgeable in the fields of perinatology, embryology, reproductive endocrinology, pediatric gynecology, gynecological oncology, operative hysteroscopy, pelviscopy, electrosurgery, laser surgery, assisted reproductive technologies, contraception, postoperative adhesions, and cervical cancer and colposcopy; obstetrics/gynecology devices; gynecology in the older patient; midwifery; labor and delivery nursing.	1-Nonvoting	Immediately.
Orthopaedic and Rehabilitation Devices Panel—Knowledgeable in data concerning the safety and effectiveness of marketed and investigational orthopaedic and rehabilitation devices.	1-Nonvoting	Immediately.
Pediatrics Advisory Committee—Knowledgeable in pediatric research, pediatric subspecialties, statistics, and/or biomedical ethics.	1-Voting	Immediately.
Psychopharmacologic Drugs Advisory Committee—Knowledgeable in the fields of psychopharmacology, psychiatry, epidemiology or statistics, and related specialties.	1-Voting	Immediately.
Bone, Reproductive, and Urologic Drugs Advisory Committee—Knowledgeable in the fields of obstetrics, gynecology, endocrinology, pediatrics, epidemiology, or statistics and related specialties.	1-Voting	Immediately.

I. Functions

A. Certain Panels of the Medical Devices Advisory Committee

The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation. The panels engage in a number of activities to fulfill the functions the Federal Food, Drug, and Cosmetic Act (the FD&C Act) envisions for device advisory panels. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area, advises the Commissioner of Food and Drugs (the Commissioner) regarding recommended classification or reclassification of devices into one of three regulatory categories, advises on any possible risks to health associated with the use of devices, advises on formulation of product development protocols, reviews premarket approval applications for medical devices, reviews guidelines and guidance documents, recommends exemption of certain devices from the application of portions of the FD&C Act, advises on the necessity to ban a device, and responds to requests from the Agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area, may also make appropriate recommendations to the Commissioner on issues relating to the design of clinical studies regarding the safety and effectiveness of marketed and investigational devices.

B. Food Advisory Committee

The Committee provides advice to the Commissioner of Food and Drugs and other appropriate officials, on emerging food safety, food science, nutrition, and other food-related health issues that the FDA considers of primary importance for its food and cosmetics programs. The Committee may be charged with reviewing and evaluating available data and making recommendations on matters such as those relating to: (1) Broad scientific and technical food or cosmetic related issues; (2) the safety of new foods and food ingredients; (3) labeling of foods and cosmetics; (4) nutrient needs and nutritional adequacy; and (5) safe exposure limits for food contaminants. The Committee may also be asked to provide advice and make recommendations on ways of communicating to the public the potential risks associated with these issues and on approaches that might be considered for addressing the issues.

C. National Mammography and Quality Assurance Advisory Committee

The Committee reviews and evaluates: (1) Developing appropriate quality standards and regulations for mammography facilities; (2) developing appropriate standards and regulations for bodies accrediting mammography facilities under this program; (3) developing regulations with respect to sanctions; (4) developing procedures for monitoring compliance with standards; (5) establishing a mechanism to investigate consumer complaints; (6) reporting new developments concerning breast imaging which should be considered in the oversight of mammography facilities; (7) determining whether there exists a shortage of mammography facilities in rural and health professional shortage areas and determining the effects of personnel on access to the services of such facilities in such areas; (8) determining whether there will exist a sufficient number of medical physicists after October 1, 1999; and (9) determining the costs and benefits of compliance with these requirements.

D. Pediatric Advisory Committee

The Committee advises and makes recommendations to the Commissioner of Food and Drugs regarding: (1) Pediatric research; (2) identification of research priorities related to pediatric therapeutics and the need for additional treatments of specific pediatric diseases or conditions; (3) the ethics, design, and analysis of clinical trials related to pediatric therapeutics; (4) pediatric labeling disputes; (5) pediatric labeling changes; (6) adverse event reports for drugs granted pediatric exclusivity and any safety issues that may occur; (7) any other pediatric issue or pediatric labeling dispute involving FDA regulated products; (8) research involving children as subjects; and (9) any other matter involving pediatrics for which FDA has regulatory responsibility. The Committee also advises and makes recommendations to the Secretary directly or to the Secretary through the Commissioner on research involving children as subjects that is conducted or supported by the Department of Health and Human Services.

E. Psychopharmacologic Drugs Advisory Committee

Reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in the practice of psychiatry and related fields.

F. Bone, Reproductive, and Urologic Drugs Advisory Committee

Reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the practice of obstetrics, gynecology, and related specialties.

G. The Medical Devices Dispute Resolution Panel

The Panel provides advice to the Commissioner on complex or contested scientific issues between the FDA and medical device sponsors, applicants, or manufacturers relating to specific products, marketing applications, regulatory decisions and actions by FDA, and Agency guidance and policies. The Panel makes recommendations on issues that are lacking resolution, are highly complex in nature, or result from challenges to regular advisory panel proceedings or Agency decisions or actions.

II. Criteria for Members

Persons nominated for membership as consumer representatives on committees or panels should meet the following criteria: (1) Demonstrate ties to consumer and community-based organizations; (2) be able to analyze technical data; (3) understand research design; (4) discuss benefits and risks; and (5) evaluate the safety and efficacy of products under review. The consumer representative should be able to represent the consumer perspective on issues and actions before the advisory committee, serve as a liaison between the committee and interested consumers, associations, coalitions, and consumer organizations, and facilitate dialogue with the advisory committees on scientific issues that affect consumers.

III. Selection Procedures

Selection of members representing consumer interests is conducted through procedures that include the use of organizations representing the public interest and public advocacy groups. These organizations recommend nominees for the Agency's selection. Representatives from the consumer health branches of Federal, State, and local governments also may participate in the selection process. Any consumer organization interested in participating in the selection of an appropriate voting or nonvoting member to represent consumer interests should send a letter stating that interest to FDA (see **ADDRESSES**) within 30 days of publication of this document.

Within the subsequent 30 days, FDA will compile a list of consumer organizations that will participate in the

selection process and will forward to each such organization a ballot listing at least two qualified nominees selected by the Agency based on the nominations received, together with each nominee's current curriculum vitae or résumé. Ballots are to be filled out and returned to FDA within 30 days. The nominee receiving the highest number of votes ordinarily will be selected to serve as the member representing consumer interests for that particular advisory committee or panel.

IV. Nomination Procedures

Any interested person or organization may nominate one or more qualified persons to represent consumer interests on the Agency's advisory committees or panels. Self-nominations are also accepted. Nominations should include a cover letter and a current curriculum vitae or résumé for each nominee, including a current business and/or home address, telephone number, email address if available, and a list of consumer or community-based organizations for which the candidate can demonstrate active participation.

Nominations should also specify the advisory committee(s) or panel(s) for which the nominee is recommended. In addition, nominations should include confirmation that the nominee is aware of the nomination, unless self-nominated. FDA will ask potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflicts of interest. Members will be invited to serve for terms up to 4 years.

FDA will review all nominations received within the specified timeframes and prepare a ballot containing the names of qualified nominees. Names not selected will remain on a list of eligible nominees and be reviewed periodically by FDA to determine continued interest. Upon selecting qualified nominees for the ballot, FDA will provide those consumer organizations that are participating in the selection process with the opportunity to vote on the listed nominees. Only organizations vote in the selection process. Persons who nominate themselves to serve as voting or nonvoting consumer representatives will not participate in the selection process.

Dated: August 14, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–19696 Filed 8–19–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Office of Tribal Self-Governance Program; Negotiation Cooperative Agreement; Correction

AGENCY: Indian Health Service, HHS.

ACTION: Notice; correction.

SUMMARY: The Indian Health Service published a document in the **Federal Register** on July 29, 2014, for the FY 2014 Office of Tribal Self-Governance Program, Negotiation Cooperative Agreement Announcement. The notice contained an incorrect date.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Marshall, Policy Analyst, Office of Tribal Self-Governance, Indian Health Service, 801 Thompson Avenue, Suite 240, Rockville, MD 20852, Telephone (301) 443–7821. (This is not a toll-free number.)

Correction

In the **Federal Register** of July 29, 2014, in FR Doc. 2014–17800, on page 44049, in the second column, under the heading Key Dates, the correct date should read as follows:

Signed Tribal Resolutions Due Date: September 8, 2014.

Dated: August 13, 2014.

Yvette Roubideaux,

Acting Director, Indian Health Service.

[FR Doc. 2014–19700 Filed 8–19–14; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Office of Tribal Self-Governance Program; Planning Cooperative Agreement; Correction

AGENCY: Indian Health Service, HHS.

ACTION: Notice; correction.

SUMMARY: The Indian Health Service published a document in the **Federal Register** on July 29, 2014, for the FY 2014 Office of Tribal Self-Governance Program, Planning Cooperative Agreement Announcement. The notice contained an incorrect date.

FOR FURTHER INFORMATION CONTACT: Mr. Jeremy Marshall, Policy Analyst, Office of Tribal Self-Governance, Indian Health Service, 801 Thompson Avenue, Suite 240, Rockville, MD 20852, Telephone (301) 443–7821. (This is not a toll-free number.)

Correction

In the **Federal Register** of July 29, 2014, in FR Doc. 2014–17801, on page 44043, in the first column, under the heading Key Dates, the correct date should read as follows:

Signed Tribal Resolutions Due Date: September 8, 2014.

Dated: August 13, 2014.

Yvette Roubideaux,

Acting Director, Indian Health Service.

[FR Doc. 2014–19699 Filed 8–19–14; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request Chimpanzee Research Use Form (OD)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on May 13, 2014, page 27318, and allowed 60 days for public comment. The NIH received two requests to view the form and one comment expressing the opinion that chimpanzee research should be discontinued but did not receive any public comments on the form itself. The purpose of this notice is to allow an additional 30 days for public comment. The NIH Office of the Director (OD), Division of Program Coordination, Planning, and Strategic Initiatives (DPCPSI), may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments To OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB Office of Regulatory Affairs at *OIRA_submission@omb.eop.gov;* or by fax to 202–395–6974, Attention: NIH Desk Officer.

DATES: *Comment Due Date:* Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments or to request more information on the proposed project contact: DPCPSI, OD, NIH, Building 1, Room 260, 1 Center Drive, Bethesda, MD 20892; or call non-toll-free number 301–402–9852; or email the request, including address, to *dpcpsi@od.nih.gov.* Requests for plans and instruments must be made in writing.

Proposed Collection: Chimpanzee Research Use Form, 0925–NEW, Division of Program Coordination, Planning, and Strategic Initiatives (DPCPSI), Office of the Director (OD), National Institutes of Health (NIH).

Need and Use of Information Collection: The purpose of this form is to obtain information needed by the NIH to assess whether proposed research triggers consideration by the Chimpanzee Research Use Panel (CRUP) and the NIH Council of Councils (Council), and if so, whether the research satisfies the agency's policy for research involving chimpanzees. The CRUP is a working group of the Council that has been charged with considering whether research proposing to use chimpanzees is consistent with principles and criteria for research involving chimpanzees, as discussed in the 2011 Institute of Medicine report, *Chimpanzees in Biomedical and Behavioral Research: Assessing the Necessity,* and as implemented through agency policy. The NIH, the CRUP, and/or the Council will consider the information submitted through this form prior to the agency making funding decisions or otherwise allowing the research to begin. Completion of this form is a mandatory step toward receiving NIH support or approval for research involving chimpanzees.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 40.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
Chimpanzee Research Use Form	Research Community	20	1	2	40

Dated: August 14, 2014.

Lawrence A. Tabak,

Principal Deputy Director, NIH.

[FR Doc. 2014–19820 Filed 8–19–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of NIH Pathways to Prevention Workshop: The Role of Opioids in the Treatment of Chronic Pain

SUMMARY: Notice is hereby given of the National Institutes of Health (NIH) ''Pathways to Prevention Workshop: The Role of Opioids in the Treatment of Chronic Pain,'' which is open to the public.

DATES: The workshop will be held September 29–30, 2014. Sessions will begin at 8:30 a.m. on both days of the workshop.

ADDRESSES: The workshop will be at the NIH Natcher Conference Center, 45 Center Drive, Bethesda, Maryland 20892.

FOR FURTHER INFORMATION CONTACT: Registration and workshop information is available at the NIH Office of Disease Prevention Web site: *https://prevention.nih.gov/programs-events/pathways-to-prevention/upcoming-workshops/opioids-chronic-pain;* or by sending email to *prevention@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: Chronic pain is a major public health problem that is estimated to affect more than 100 million people in the United States and about 20 to 30 percent of the population worldwide. The prevalence of persistent pain is expected to rise in the near future as the incidence of associated diseases (including diabetes, obesity, cardiovascular disorders, arthritis, and cancer) increases in the aging U.S. population.

Opioids are powerful analgesics that are commonly used and found to be effective for many types of pain. However, opioids can produce significant side effects, including constipation, nausea, mental clouding, and respiratory depression, which can sometimes lead to death.

In addition, long-term opioid use can also result in physical dependence, making it difficult to discontinue use even when the original cause of pain is no longer present. Furthermore, there is mounting evidence that long-term opioid use for pain can actually produce a chronic pain state, whereby patients find themselves in a vicious cycle in which opioids are used to treat pain caused by previous opioid use.

Data from the Centers for Disease Control and Prevention indicate that the prescribing of opioids by clinicians has increased threefold in the last 20 years, contributing to the problem of prescription opioid abuse. Today, the number of people who die from prescription opioids exceeds the number of those who die from heroin and cocaine, combined.

Health care providers are in a difficult position when treating moderate to severe chronic pain; opioid treatments may lessen the pain, but may also cause harm to patients. Additionally, there has not been adequate testing of opioids in terms of what types of pain they best treat, in what populations of people, and in what manner of administration. With insufficient data, and often inadequate training, many clinicians prescribe too much opioid treatment when lesser amounts of opioids or non-opioids would be effective. Alternatively, some health care providers avoid prescribing opioids altogether for fear of side effects and potential addiction, causing some patients to suffer needlessly.

The 2014 ''NIH Pathways to Prevention Workshop: The Role of Opioids in the Treatment of Chronic Pain'' will seek to clarify:

- Long-term effectiveness of opioids for treating chronic pain;
- Potential risks of opioid treatment in various patient populations;
- Effects of different opioid management strategies on outcomes related to addiction, abuse, misuse, pain, and quality of life;
- Effectiveness of risk mitigation strategies for opioid treatment; and
- Future research needs and priorities to improve the treatment of pain with opioids.

The workshop is sponsored by the NIH Office of Disease Prevention and the NIH Pain Consortium.

Initial planning for each Pathways to Prevention workshop is coordinated by a Working Group that nominates panelists and speakers and develops and finalizes questions that frame the workshop. After finalizing the

questions, an evidence report is prepared by an Evidence-based Practice Center through a contract with the Agency for Healthcare Research and Quality (AHRQ). During the one-and-one-half-day workshop, invited experts discuss the body of evidence, and attendees have opportunities to provide comments during open discussion periods. After weighing evidence from the evidence report, expert presentations, and public comments, an unbiased, independent panel will prepare a draft report that identifies research gaps and future research priorities. The draft report is posted on the ODP Web site, and public comments are accepted for two weeks. The final report is then released approximately two weeks later.

Please Note: As part of the measures to ensure the safety of NIH employees, patients, visitors, and property, all visitors to the NIH Bethesda campus must be prepared to show a photo ID upon request. Visitors may be required to pass through a metal detector and have bags, backpacks, or purses inspected or x-rayed as they enter the campus. For more information about the security measures at the NIH, please visit the Web site at *http://www.nih.gov/about/visitorsecurity.htm.*

Dated: August 14, 2014.

Lawrence A. Tabak,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2014–19804 Filed 8–19–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Advisory Committee on Research on Women's Health.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee on Research on Women's Health.

Date: September 24, 2014.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: The Committee serves to advise and make recommendations to the Director, Office of Research on Women's Health (ORWH) on a broad range of topics including, the current scope of research on women's health and the influence of sex and gender on human health, efforts to understand the issues related to women in biomedical careers and their needs, and the current status of inclusion of women in clinical trials research.

Place: National Institutes of Health, Building 31, Room 6C, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Susan E. Maier, Ph.D., Executive Secretary, NIH/OD/ORWH, 6707 Democracy Blvd., Room 400, Bethesda, MD 20852, 301–435–1573, *maiers@mail.nih.gov.*

Any interested person may file written comments for the public record by submitting their comments at the following address: *ACRWHComments@sp10mail.nih.gov.* Written comments only for the public record must not exceed two single-spaced, typed pages, using a 12-point typeface and 1 inch margins; it is preferred that the document be prepared in the MS Word® format. There will be an opportunity for public comments at the meeting. Written comments for those that would like to speak must still be presented prior to the meeting date. Each presenter will have a maximum of 5 minutes to present orally. The length of the comment period is restricted to 30 minutes which will allow for no more than 6 speakers. Speaker openings will be granted on a first come, first serve basis. Upon arrival at the meeting those that wish to speak and have previously submitted written comment may sign the special roster for speakers. Speakers on the special roster will speak in the order in which they sign in. There may not be time for all to speak. Public comments will be heard at the end of the meeting. Only testimony submitted to this email address and received in advance of the meeting are part of the official meeting record.

Supplementary Information: A draft agenda for this meeting is posted at *http://orwh.od.nih.gov/about/acrwh/index.asp.* The meeting will be live-video streamed at *http://videocast.nih.gov/.*

Individuals who plan to attend the meeting in person are reminded that NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: August 14, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–19682 Filed 8–19–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–R–2014–N169; FXRS12650400000S3–123–FF04R02000]

Sam D. Hamilton Noxubee National Wildlife Refuge, Mississippi; Draft Comprehensive Conservation Plan and Environmental Assessment; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Withdrawal of notice.

SUMMARY: On July 30, 2014, we, the U.S. Fish and Wildlife Service, announced the availability for public review and comment of a draft comprehensive conservation plan and environmental assessment (draft CCP/EA) for Sam D. Hamilton Noxubee National Wildlife Refuge in Mississippi. However, edits had not yet been completed on the draft CCP/EA, and the document is not yet ready for public review. We will publish a second **Federal Register** notice when the draft CCP/EA is ready for review.

FOR FURTHER INFORMATION CONTACT: Steve Reagan, (662) 323–5548 x225, or *Steve_Reagan@fws.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd *et seq.*), U.S. Fish and Wildlife Service (Service) comprehensive conservation plan policy, and NEPA regulations (40 CFR 1506.6), we, the Service, announced the availability of a draft comprehensive conservation plan and environmental assessment (draft CCP/EA) for Sam D. Hamilton Noxubee National Wildlife Refuge in Oktibbeha, Winston, and Noxubee Counties, Mississippi, for public review and comment. This announcement published in the **Federal Register** on July 30, 2014 (79 FR 44188). However, edits had not yet been completed on the draft CCP/EA; therefore, the draft CCP/EA is not yet ready for public review. We will publish a second **Federal Register** notice when the draft CCP/EA is ready for review, and open a comment period.

Authority

This notice is published under the authority of the National Wildlife

Refuge System Improvement Act of 1997 (16 U.S.C. 668dd *et seq.*).

Dated: August 8, 2014.

Emily Jo Williams,

Acting Regional Director.

[FR Doc. 2014–19377 Filed 8–19–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–SATD–2014–N174; FXSC14300900000–134–FF09S00000]

National Fish, Wildlife, and Plants Climate Adaptation Strategy; Teleconference of the Joint Implementation Working Group

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of teleconference.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a public teleconference of the Joint Implementation Working Group (Working Group) for the National Fish, Wildlife, and Plants Climate Adaptation Strategy (Strategy). The purpose of the Strategy is to inspire and enable natural resource professionals and other decision makers to take action to conserve the nation's fish, wildlife, plants, and ecosystem functions, as well as the human uses and values these natural systems provide, in a changing climate. At this meeting, the Working Group will review the first Strategy Implementation Progress Report, discuss future approaches to implementation, hear comments from stakeholders, and make plans for the Fall-2014 in-person meeting.

With this notice, we also initiate the Working Group's recently approved Stakeholder Engagement Plan, which commits the Working Group to open meetings going forward. This will be the only announcement of meetings made in the **Federal Register**. All future meetings (including logistical information) will be made only via the Strategy Web site (*www.wildlifeadaptationstrategy.gov*).

DATES: The Working Group will meet via teleconference on September 15, 2014, from 1 p.m. to 3 p.m. If you wish to submit written information questions for the Working Group to consider during the teleconference, please submit them to Mark Shaffer (see **FOR FURTHER INFORMATION CONTACT**) by one of the methods under ''Submitting Written Information or Questions,'' no later than September 11, 2014.

ADDRESSES: Because this is a teleconference, there is no meeting venue. Participants should call the toll-free number 877–913–8254; when prompted, enter participant passcode 5547760. Participants may also view materials presented by or to the Working Group by joining the meetings via Instant Net Conference. Participants interested in this feature should go to *http://www.mymeetings.com/nc/join.php?sigKey=mymeetings&i=747841297&p=5547760&t=c.* If requested, enter the participant passcode (5547760)

FOR FURTHER INFORMATION CONTACT: Mark Shaffer, Office of the Science Advisor, at 703–358–2603 (telephone), or *wildlifeadaptationstrategy@fws.gov* (email), or via the Strategy Web site at *http://www.wildlifeadaptationstrategy.gov/contact-us.php.* If you use a telecommunications device for the deaf, please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce a public teleconference of the Joint Implementation Working Group (Working Group) for the National Fish, Wildlife, and Plants Climate Adaptation Strategy (Strategy). The Working Group is made up of the Service, the National Oceanic and Atmospheric Administration (NOAA, Department of Commerce), other Federal natural resource agencies, and State and tribal wildlife partners. The purpose of the Strategy is to inspire and enable natural resource professionals and other decision makers to take action to conserve the nation's fish, wildlife, plants, and ecosystem functions, as well as the human uses and values these natural systems provide, in a changing climate. At this meeting, the working Group will review the first Strategy Implementation Progress Report, discuss future approaches to implementation, hear comments from stakeholders, and make plans for the Fall-2014 in-person meeting.

Background

The adverse impacts of climate change transcend political and administrative boundaries. No single entity or level of government can safeguard wildlife and society against the effects of climate change. In cooperation with our co-leaders—NOAA, other Federal natural resource agencies, State wildlife agencies, and tribal partners—we announced publication of the strategy on April 1, 2013 (78 FR 19514). The Strategy presents a unified approach—reflecting shared principles and science-based practices—for reducing the negative impacts of climate change on fish, wildlife, plants, our natural resource heritage, and the communities and economies that depend on them. The Strategy provides a basis for sensible actions that can be taken now, in spite of the uncertainties that exist about the precise impacts of climate change. It also provides guidance about what further actions are most likely to promote natural resource adaptation to climate change, and describes mechanisms that will foster collaboration for effective action among all levels of government, conservation organizations, and private landowners.

Please visit the Strategy Web site at *http://www.wildlifeadaptationstrategy.gov* to download a copy of the Strategy or Strategy Highlights brochure, or to obtain additional background on the development of the Strategy.

Please note that future meetings of the Working Group will be announced only on the Web site.

Teleconference Agenda

- Co-chair remarks and updates.
- Review of Agenda.
- Preview of NFWPCAS Implementation Progress Report and plans for release.
- Discussion of future approach to implementation.
- Report from Stakeholders' Subgroup.
- Stakeholder comments.
- Plans for the Fall In-person meeting.
- Co-chairs' closing comments.

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions for the Working Group to consider during the meeting. Written statements must be supplied to Mark Shaffer in one of the following formats: One hard copy with original signature or one electronic copy with digital signature copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, PowerPoint, or rich text file).

Minutes

Summary minutes of the teleconference will be available for public inspection within 90 days after the meeting, and will be posted on the Working Group Web site at *www.wildlifeadaptationstrategy.gov.*

Authority

Conference Report for the Interior, Environment and Related Agencies Appropriations Act, 2010.

Dated: August 12, 2014.

Seth Mott,

Acting Science Advisor to the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2014–19761 Filed 8–19–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX14BA030AD0100]

Agency Information Collection Activities: Request for Comments

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of a revision of a currently approved information collection (1028–0078).

SUMMARY: We (the U.S. Geological Survey) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This collection is scheduled to expire on October 31, 2014.

DATES: To ensure that your comments are considered, we must receive them on or before October 20, 2014.

ADDRESSES: You may submit comments on this information collection to the Information Collection Clearance Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive MS 807, Reston, VA 20192 (mail); (703) 648–7197 (fax); or *gs-info_collections@usgs.gov* (email). Please reference Information Collection 1028–0078, North American Amphibian Monitoring Program (NAAMP) in all correspondence.

FOR FURTHER INFORMATION CONTACT: Michael J. Adams at U.S. Geological Survey, Forest and Rangeland Ecosystem Science Center, 3200 SW Jefferson Way, Corvallis, OR 97330 (mail); (541) 750–1069 (fax); or *mjadams@usgs.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Abstract

This information collection pertains to volunteers who contribute their time to conduct frog call surveys at assigned survey routes for the North American Amphibian Monitoring Program. Volunteers use an on-line data entry system to submit data. This information is used by Agencies and organizations at the state, federal and local levels. The information constitutes monitoring of amphibian populations, providing systematically collected information to enable managers in natural resource decision making. Responses are voluntary.

II. Data

OMB Control Number: 1028–0078.

Form Number: Various if many different forms or screen shots, otherwise provide the form number.

Title: North American Amphibian Monitoring Program (NAAMP)

Type of Request: Extension of a currently approved collection.

Affected Public: General Public; individual households.

Respondent's Obligation: None. Participation is voluntary.

Frequency of Collection: 3 times per year.

Estimated Total Number of Annual Responses: 1600.

Estimated Time per Response: 3 hours per response.

Estimated Annual Burden Hours: 4800.

Estimated Reporting and Recordkeeping ''Non-Hour Cost'' Burden: The ''non-hour cost'' burden associated with this IC is primarily vehicle mileage; calculated at the federal standard rate of 0.56 cents per mile times the approximate distance of a survey route (15 miles). The total estimate is $8.40 per survey. Any new participants will also need to purchase a thermometer to record air temperature at $15 each.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, et seq.) provides that an agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number and current expiration date.

III. Request for Comments

We are soliciting comments as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your personal mailing address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment, including your personally identifiable information, may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public view, we cannot guarantee that we will be able to do so.

Dated: August 13, 2014.

William Lellis,

Deputy Associate Director for Ecosystems.

[FR Doc. 2014–19727 Filed 8–19–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMT922200–14–L13100000–FI0000–P; NDM 94466]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease: North Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Per the Mineral Leasing Act of 1920, Bakken Hunter LLC, Baytex Energy USA Ltd. and Williston Hunter Inc. timely filed a petition for reinstatement of competitive oil and gas lease NDM 94466, Divide County, North Dakota. The lessees paid the required rentals accruing from the date of termination.

No leases were issued that affect these lands.

FOR FURTHER INFORMATION CONTACT: Mary A. Mack, Acting Chief, Fluids Adjudication Section, Bureau of Land Management Montana State Office, 5001 Southgate Drive, Billings, Montana 59101–4669, 406–896–5090, *mmack@blm.gov*.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessees agree to new lease terms for rentals and royalties of $10 per acre, or fraction thereof, per year, and 16⅔ percent, respectively. The lessees agree to additional or amended stipulations. The lessees paid the $500 administration fee for the reinstatement

of the lease and $159 cost for publishing this Notice.

The lessee met the requirements for reinstatement of the lease per Section 31 (d) and (e) of the Mineral Leasing Act of 1920. We are proposing to reinstate the lease, effective the date of termination subject to the:

- Original terms and conditions of the lease;
- Additional and amended stipulations;
- Increased rental of $10 per acre;
- Increased royalty of 16⅔ percent; and
- $159 cost of publishing this Notice.

Mary A. Mack,

Acting Chief, Fluids Adjudication Section.

[FR Doc. 2014–19733 Filed 8–19–14; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[12X L5017AR LLUTC010000–L54400000–EQ0000–LVCLJ12J460; UTU–089300]

Notice of Intent To Amend the Cedar Beaver Garfield Antimony Resource Management Plan for the Cedar City Field Office, Cedar City, UT and Prepare an Associated Environmental Assessment; and Notice of Realty Action for the Proposed Sale of Public Land in Beaver County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent and Notice of Realty Action.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, the Bureau of Land Management (BLM) Cedar City Field Office, Cedar City, Utah, intends to prepare a Resource Management Plan (RMP) amendment with an associated Environmental Assessment (EA) and by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues. One parcel of public land in Beaver County, Utah, and the associated mineral estate of no known value, is being considered for disposal by direct sale under the provisions of FLPMA Sections 203 and 209.

DATES: This notice initiates the public scoping process for the RMP amendment and associated EA and segregates the parcel from operation of the public land laws as described below. Comments on issues may be submitted in writing until October 6, 2014. The date(s) and location(s) of any scoping meetings will be announced at least 30 days in advance through local media, newspapers and the BLM Web site at: *https://www.ut.blm.gov/enbb/index.php.* In order to be considered in the EA, all comments must be received prior to the close of the scoping period. Additional opportunities for public participation will be provided upon publication of the EA, and publication of a subsequent Notice of Realty Action for the direct sale if a decision is made to complete the sale.

ADDRESSES: You may submit comments related to the RMP amendment and proposed sale by any of the following methods:

- *Web site: https://www.ut.blm.gov/enbb/index.php*
- *Email: blm_ut_cc_comments@blm.gov*
- *Fax:* 435–865–3058
- *Mail:* Bureau of Land Management, Cedar City Field Office, 176 East DL Sargent Drive, Cedar City, Utah 84721, *ATTN:* Karen McAdams-Kunze

Documents pertinent to this proposal may be examined at the Cedar City Field Office.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact Karen McAdams-Kunze, telephone 435–865–3073; address Bureau of Land Management, Cedar City Field Office, 176 East DL Sargent Drive, Cedar City, Utah 84721; email *kkunze@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 leave a message or question for the above individual. The FIRS is available 24 hours a day, 7 days a week. Replies are provided during normal business hours.

SUPPLEMENTARY INFORMATION: The RMP amendment and associated EA will determine whether a parcel of surveyed public land located north of Milford, in Beaver County, Utah, is suitable for disposal by sale. The parcel comprises the subject of the RMP amendment and is described as:

Salt Lake Meridian, Utah

T. 27 S., R. 10 W.,
Sec. 7, SE1/4SW1/4SE1/4SE1/4SW1/4 and S1/2SE1/4SE1/4SE1/4SW1/4;
Sec. 18, N1/2NE1/4NE1/4NW1/4, NE1/4SE1/4NE1/4NE1/4NW1/4, and SE1/4NE1/4NW1/4NE1/4NW1/4.

Areas described aggregate 8.125 acres.

Under Section 203 of the FLPMA, as amended (43 U.S.C 1713), if a parcel of public land is found suitable for disposal, then it may be offered for sale at the appraised fair market value. Under Section 209 of the FLPMA, as amended (43 U.S.C. 1719), and regulations implementing this section at 43 CFR Part 2720, the BLM may dispose of the associated mineral estate of no known value to the proposed owner or owner of record of the surface estate for the parcel of public land.

The parcel is proposed for direct sale to the adjacent landowners, Kent and Alice Smith, to resolve unauthorized uses, including a portion of their primary residence and other structures. The parcel represents the smallest legal subdivision that would wholly encompass all improvements and the debris remaining from the Smith's former hauling and salvage operation.

In accordance with 43 CFR 2710.0–6(c)(3)(iii) and 43 CFR 2711.3–3(a), direct sale procedures are appropriate to resolve inadvertent, unauthorized occupancy of the land or to protect existing equities in the land. The sale, if completed, would protect the improvements involved and resolve the inadvertent encroachment.

Conveyance of the identified public land would be subject to valid existing rights and encumbrances of record. The lands identified for sale are considered to have no known mineral value based on a mineral potential report conducted by the BLM. The proposed sale would include both the surface interests and the mineral interest of the United States. The patent would include an appropriate indemnification clause protecting the United States from claims arising out of the patentee's use occupancy or occupations on the patented lands.

On August 20, 2014, the above-described land will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of the FLPMA. Until completion of the sale, the BLM is no longer accepting land use applications affecting the identified public land, except applications for the amendment of previously-filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregative effect will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or August 19, 2016, unless extended by the BLM Utah State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date.

The proposed sale action would require amendment of the Cedar Beaver Garfield Antimony RMP, approved in 1986. By this notice, the BLM is complying with requirements in 43 CFR

1610.2(c) to notify the public of potential amendments to land use plans, predicated on the finding of the EA. The RMP amendment process will focus on the following preliminary planning criteria:

- The RMP amendment will focus only on determination that the specific 8.125 acre parcel meets FLPMA criteria for disposal;
- The RMP amendment will comply with NEPA, FLPMA, and other applicable laws, executive orders, regulations and policy;
- The RMP amendment will recognize valid existing rights; and
- The BLM will use a collaborative and multi-jurisdictional approach, where possible, to determine the desired future condition of the public lands.

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 process for developing the EA. At present, the BLM has identified the following preliminary issue: lands and realty management.

The BLM will utilize and coordinate the NEPA commenting process to help fulfill the public involvement process under Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) as provided for in 36 CFR 800.2(d)(3). Native American Tribal consultations will be conducted in accordance with policy, and Tribal concerns will be given due consideration, including impacts on Indian trust assets. Federal, State, and local agencies, along with other stakeholders that may be interested or affected by the BLM's decision on this project are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate 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 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 and 43 CFR 1610.2.

Jenna Whitlock,

Associate State Director.

[FR Doc. 2014–19730 Filed 8–19–14; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWYD010000.L14300000.EU0000, WYW179544]

Notice of Realty Action: Non-Competitive (Direct) Sale of Public Land in Teton County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) is proposing to sell a 1.06-acre parcel of public land in Teton County, Wyoming, to TSR Limited under the provisions of Section 203 of the Federal Land Policy and Management Act of October 21, 1976 (FLPMA), as amended, for not less than the appraised fair market value of $75,000. This parcel is in an inaccessible location that is difficult and uneconomical for the BLM to manage as it is surrounded by private lands, most of which belongs to TSR Limited, and is not suitable for management by another Federal agency.

DATES: Comments regarding the proposed sale of the land is accepted until October 6, 2014.

ADDRESSES: Comments concerning this realty action may be submitted by any of the following methods:

- *Mail:* BLM, Field Manager, Pinedale Field Office, P.O. Box 768, 1625 West Pine Street, Pinedale, WY 82941.
- *Email: Pinedale_WYMail@blm.gov* with ''TSR Limited Sale'' in the subject line.

FOR FURTHER INFORMATION CONTACT: Tracy Hoover, Realty Specialist, at the above address or by telephone at 307–367–5342, or by email to *thoover@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: In accordance with the provisions of 43 CFR Part 2710, the proposed sale is suitable for direct sale under the authority of Section 203 of the FLPMA, as amended (43 U.S.C. 1713):

Sixth Principal Meridian, Teton County, Wyoming

T. 41 N., R. 117 W.,
Tract 46B.

The area described contains 1.06 acres.

The proposed direct sale is consistent with the objectives, goals, and decision of the 2004 Snake River Resource Management Plan (RMP). The parcel is identified for disposal in the 2013 RMP Record of Decision Amendment. Lands owned by TSR Limited surround the 30 feet wide, isolated parcel on three sides and it is otherwise in an inaccessible location. Given its location, the BLM has determined that this parcel is difficult and uneconomical to manage and is not suitable for management by another Federal agency. In accordance with 43 CFR 2710.0–6(c)(3)(iii) and 43 CFR 2711.3–3(a)(4), direct sale procedures are appropriate for this parcel given the adjoining ownership pattern. TSR Limited will be allowed 30 days from the receipt of a written offer to submit a deposit of at least 20 percent of the appraised value of the parcel, and 180 days thereafter to submit the balance.

On March 20, 2013, the BLM published a Notice of Realty Action (NORA) in the **Federal Register** (78 FR 17227) to segregate the parcel from appropriation under the public land and mining laws. The segregative effect of that notice shall terminate upon issuance of a patent, upon publication in the **Federal Register** of a termination of the segregation, or on March 20, 2014, whichever comes first. In addition to this NORA, notice of this sale will be published once a week for 3 weeks in the *Jackson Hole News and Guide.*

Conveyance of the identified public land will be subject to valid existing rights and encumbrances of record, including but not limited to, rights-of-way for roads and public utilities. All minerals will be reserved to the United States. Upon publication of this NORA and until completion of the sale, the BLM will no longer accept land use applications affecting the identified public land, except applications for the amendment of previously-filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15.

The public land will not be offered for sale prior to October 20, 2014.

The patent, if issued, will be subject to the following terms, conditions, and reservations:

1. A reservation of all minerals to the United States;
2. A right-of-way thereon for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945); and
3. All valid existing rights of record, including those documented on the official public land records at the time of patent issuance.

Detailed information concerning the proposed land sale, including sale procedures, appraisal, planning and environmental documents, and a mineral report is available for review at the location identified in **ADDRESSES** above. Comments regarding the proposed sale will be accepted until October 6, 2014.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may 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.

Any comments regarding the proposed sale will be reviewed by the BLM Wyoming State Director or authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action in response to such comments. In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior.

Authority: 43 CFR 2711.1–2.

Donald A. Simpson,

State Director, Wyoming.

[FR Doc. 2014–19731 Filed 8–19–14; 8:45 am]

BILLING CODE 4310–22–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–868]

Certain Wireless Devices With 3G and/or 4G Capabilities and Components Thereof; Commission Determination Terminating the Investigation With a Finding of No Violation

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 the final initial determination (''final ID'') issued by the presiding administrative law judge (''ALJ'') on June 13, 2014, finding no violation of section 337 of the Tariff Act of 1930 as amended, 19 U.S.C. 1337 (''section 337''), in this investigation. On review, the Commission has determined to reverse certain findings, to take no position on others, and to terminate the investigation with a finding of no violation.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2532. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on February 5, 2013, based on a complaint filed by InterDigital Communications, Inc. of King of Prussia, Pennsylvania, as well as InterDigital Technology Corporation, IPR Licensing, Inc., and InterDigital Holdings, Inc., each of Wilmington, Delaware (collectively, ''InterDigital''). 78 FR. 8191 (February 5, 2013). The complaint alleged violations of section 337 by reason of the infringement of certain claims from seven United States Patents. The notice of investigation named ten respondents including Nokia, Inc. of White Plains, New York; and Nokia Corp. of Espoo, Finland; as well as ZTE Corporation of Shenzhen, China; and ZTE (USA) Inc. of Richardson, Texas (collectively, ''ZTE''). On July 14, 2014, the Commission determined not to review an initial determination (Order No. 116) that added as a respondent Microsoft Mobility OY (collectively with the two Nokia respondents, ''Nokia''). The accused ZTE products are certain ZTE wireless devices with WCDMA or LTE functionality. The accused Nokia products are certain Nokia wireless devices with 4G functionality.

Three asserted patents remain in the investigation: U.S. Patent Nos. 7,190,966 (''the '966 patent'') and 7,286,847 (''the '847 patent'') (collectively, the ''Power Ramp-Up Patents''), and U.S. Patent No. 7,941,151 (''the '151 patent''). InterDigital asserted claims 1, 3, 6, 8, and 9 of the '966 patent and claims 3 and 5 of the '847 patent against ZTE. Independent claims 1 and 16 and dependent claims 2–6, 8–9, 17–21 and 23–24 of the '151 patent are asserted against Nokia and ZTE.

On June 13, 2014, the ALJ issued the final ID, which finds no violation of section 337 as to the remaining asserted patent claims. On June 30, 2014, the parties filed petitions for review. In particular, InterDigital and the Commission investigative attorney (''IA'') each filed a petition for review of certain issues. The respondents filed two contingent petitions for review. One contingent petition was based upon alternative grounds for finding no violation of section 337. The second contingent petition concerned the respondents' affirmative defenses based upon InterDigital's alleged obligations regarding fair, reasonable, and non-discriminatory licensing (''FRAND''). On July 8, 2014, the parties filed responses to each other's petitions. The Commission received public interest submissions from the parties and from United States Senators Robert P. Casey, Jr., Kirsten Gillibrand, and Patrick Toomey; Microsoft Corp.; the Innovation Alliance; and Ericsson Inc.

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the final ID in part.

The Commission's review and determinations on review are as follows:

1. The Power Ramp-Up Patents

The Commission has determined not to review the final ID's construction of ''successively transmitted signals''/''successively transmits signals'' and not to review the final ID's findings that, based upon that construction, the accused products do not infringe, and the domestic industry products do not practice, the asserted patent claims of the Power Ramp-Up Patents. Final ID at 37–48, 62–65, 134–35; *see* InterDigital Pet. 9–22. Accordingly, the Commission finds no violation of section 337 as to the asserted claims of the Power Ramp-Up Patents.

The Commission has also determined not to review the final ID's finding that claim 3 of the '847 patent is not invalid for lack of adequate written description. Final ID at 101–03; *see* IA Pet. 12–15; Resp'ts' Pet. 44–45.

2. The '151 Patent

The Commission has determined not to review the final ID's findings that the accused products do not infringe, and the domestic industry products do not practice, the ''same physical downlink control channel'' limitation in independent claims 1 and 16. Final ID at 54–58, 134; *see* InterDigital Pet. 33–

38. Accordingly, the Commission finds no violation of section 337 as to the asserted claims of the '151 patent, namely independent claims 1 and 16, and asserted claims dependent upon them.

The Commission has determined not to review the final ID's determination that claim 16 of the '151 patent is invalid for indefiniteness. Final ID at 29–31; *see* IA Pet. 6–12; InterDigital Pet. 24–29; *see also Rembrandt Data Techs., LP* v. *AOL, LLC,* 641 F.3d 1331, 1339–40 (Fed. Cir. 2011). Accordingly, there can be no violation of section 337 as to claim 16 and its asserted dependent claims.

The Commission has determined to review the final ID's construction of ''and to'' in claim 16 of the '151 patent, Final ID at 31–34; *see* InterDigital Pet. at 29–33, and on review finds that the term is to be afforded its plain and ordinary meaning. In view of the Commission's claim construction, the final ID's finding of noninfringement of asserted claims 16–21 and 23–24 based upon the final ID's construction, Final ID at 58–60, is reversed. The Commission has also determined to review the final ID's infringement analysis of ''and if so'' for claim 1, Final ID at 58–60; *see* InterDigital Pet. at 38–43, and on review takes no position whether the accused products practice the determining steps in sequence as required for asserted claims 1–6 and 8–9.

3. Domestic Industry, FRAND, and Other Issues

Except as recited above concerning the Commission's finding that the domestic industry products do not practice the asserted patent claims, the Commission reviews and takes no position on the remaining domestic industry issues raised in the parties' petitions. Similarly, the Commission reviews and takes no position on the FRAND issues raised by the respondents concerning their affirmative defenses. The Commission finds that it is in the interest of the efficient use of administrative, judicial, and private resources for the domestic industry and FRAND issues to be decided, if at all, subsequent to final disposition of the pending appeal in *InterDigital Communications LLC* v. *ITC,* No. 2014–1176 (Fed. Cir.), which involves many of the same parties and issues with regard to related patents.

The Commission does not review any other issues raised in the parties' petitions except as otherwise recited above. The reasoning in support of the Commission's decision will be set forth in fuller detail in a forthcoming opinion.

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: August 14, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–19715 Filed 8–19–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–505 and 731–TA–1231, 1232, 1235, and 1237 (Final)]

Grain-Oriented Electrical Steel (''GOES'') From China, Czech Republic, Korea, and Russia

Supplemental schedule for the subject investigations.

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: *Effective Date:* August 13, 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 these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: Effective May 9, 2013, the Commission established a schedule for the conduct of the final phase of the subject investigations (79 FR 32310, June 4, 2014). The Department of Commerce extended the date for its final determinations in the investigations concerning China, Czech Republic, Korea, and Russia to no later than 135 days after the publication of the preliminary determinations (79 FR 26936, May 12, 2014 (China); 79 FR 26717, May 9, 2014 (Czech Republic); 79 FR 26939, May 12, 2014 (Korea); and 79 FR 26941, May 12, 2014 (Russia)). The Commission, therefore, is supplementing its schedule to conform with Commerce's postponed schedule.

The Commission's supplemental schedule for the investigations is as follows: the deadline for filing party comments on Commerce's final determinations is October 2, 2014; the staff report in the final phase of these investigations will be placed in the nonpublic record on October 14, 2014, and a public version will be issued thereafter.

Supplemental party comments may address only Commerce's final determinations regarding imports from China, Czech Republic, Korea, and Russia. These supplemental final comments may not contain new factual information and may not exceed five (5) pages in length.

For further information concerning these investigations see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: August 14, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–19716 Filed 8–19–14; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Glenn R. Unger, D.D.S.; Declaratory Order

On March 7, 2014, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Glenn R. Unger, D.D.S., of Clifton Park, New York. The Show Cause Order proposed the revocation of the Certificate of Registration issued to Dr. Unger on three separate grounds.

First, the Show Cause Order alleged that Dr. Unger's New York State dental license expired on June 30, 2010, and that he is ''currently without authority to practice dentistry or handle controlled substances in the State of New York, the State in which [he is] registered with the DEA.'' GX 1, at 1–2. The Order thus alleged that Dr. Unger's registration is subject to revocation under 21 U.S.C. 824(a)(3). *Id.* at 2.

Second, the Show Cause Order alleged that on June 25, 2012, Dr. Unger submitted an application to renew his DEA registration. *Id.* The Order alleged that notwithstanding that his New York State dental license had expired on June 30, 2010, Dr. Unger falsely stated that his license did not expire until June 30, 2013. *Id.* The Order thus alleged that this constituted a material falsification of the application and was ground to revoke the registration under 21 U.S.C. 824(a)(1).

Third, the Show Cause Order alleged that notwithstanding his lack of state authority to dispense controlled substances, ''between December 2010 and November 2012,'' Dr. Unger ''issued at least seven controlled substance prescriptions'' to L.B. and M.N., for drugs which included hydrocodone 10/325mg, Ambien 10mg, and Percocet 5/325mg. *Id.* The Order further alleged that Dr. Unger violated federal law by authorizing six refills for two of the hydrocodone prescriptions and twelve refills for an Ambien prescription. *Id.* (citing 21 U.S.C. 829(b) and 21 CFR 1306.22(a)). Finally, the Order alleged that Dr. Unger violated federal law which prohibits the refilling of a schedule II prescription when he authorized two refills of a Percocet prescription. *Id.* at 3 (citing 21 U.S.C. 829(a) and 21 CFR 1306.12(a)). The Order thus alleged that Dr. Unger had committed acts rendering his registration ''inconsistent with the public interest.'' 21 U.S.C. 824(a)(4).

The Show Cause Order also notified Dr. Unger of his right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedure for electing either option, and the consequence of failing to elect either option. GX 1, at 3 (citing 21 CFR 1301.43). On March 11, 2014, a DEA Diversion Investigator (DI) personally served the Show Cause Order on Dr. Unger who was then incarcerated at the Rennselaer County Jail. GX 3.

Since the date of service, thirty (30) days have now passed and neither Dr. Unger, nor anyone purporting to represent him, has requested a hearing on the allegations or submitted a written statement in lieu of a hearing. I therefore find that Dr. Unger has waived his right to a hearing or to submit a written statement and issue this Decision and Order based on evidence contained in the Investigative Record submitted by the Government. 21 CFR 1301.43(d) & (e). I make the following findings of fact.

Findings

Dr. Unger was licensed as a dentist by the State of New York between July 16, 1976 and June 30, 2010, at which point he became unregistered to practice dentistry. GX 4. Dr. Unger remains unregistered by the State as of the date of this order.

Dr. Unger also previously held DEA Certificate of Registration FU1504477, pursuant to which he was authorized to dispense controlled substances as a practitioner in schedules II through V. GX 6. While this registration apparently expired in May 2012, on June 22, 2012, a renewal application was submitted for this registration. *Id.* The application listed Dr. Unger's former New York State license number and provided an expiration date of June 30, 2013. *Id.* at 2; GX 5, at 1. The application was not, however, signed by Dr. Unger but by a person named ''Nathan Green.'' GX 5, at 2.

Notably, the Application contains the following statement immediately above the signature line: ''Name of Applicant (For Individual registrants, the registrant themselves MUST complete this E-Signature).'' *Id.* Moreover, immediately below the E-Signature line, the Application contains the following statement: ''This electronic application/DEA form must be certified by the applicant/registrant, if an individual . . . .'' *Id.*

Discussion

Under DEA regulations:

> [e]ach application, attachment, or other document filed as part of an application, shall be signed by the applicant, if an individual. . . . An applicant may authorize one or more individuals, who would not otherwise be authorized to do so, to sign applications for the applicant by filing with the Registration Unit of the Administration a power of attorney for each such individual. The power of attorney shall be signed by a person who is authorized to sign applications under this paragraph and shall contain the signature of the individual being authorized to sign applications.

21 CFR 1301.13(j).

As found above, Dr. Unger did not sign the application. Moreover, according to the registration records of the Agency (of which I take official notice, *see* 5 U.S.C. 556(e)), Dr. Unger has not submitted a power of attorney designating any person as authorized to sign his application. Accordingly, I find that the June 22, 2012 application was defective and should not have been accepted for filing. I further declare that DEA Certificate of Registration FU1504477 issued to Dr. Glenn R. Unger on June 25, 2012, was void *ab initio* and order that the registration be terminated. *See id.* § 554(e). There being no application to act upon or registration to revoke, I further order that the Order to Show Cause be dismissed.

It is so ordered.

Dated: August 7, 2014.

Thomas M. Harrigan,

Deputy Administrator.

[FR Doc. 2014–19785 Filed 8–19–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–396]

Electronic Prescriptions for Controlled Substances Notice of Approved Certification Process

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Notice.

SUMMARY: The Drug Enforcement Administration (DEA) is announcing one new DEA-approved certification process for providers of Electronic Prescriptions for Controlled Substances (EPCS) applications. Certifying organizations with a certification process approved pursuant to 21 CFR 1311.300(e) are posted on DEA's Web site upon approval.

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

SUPPLEMENTARY INFORMATION:

Legal Authority

The DEA implements and enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended. Titles II and III are referred to as the ''Controlled Substances Act'' and the ''Controlled Substances Import and Export Act,'' respectively, and are collectively referred to as the ''Controlled Substances Act'' or the ''CSA'' for the purpose of this notice. 21 U.S.C. 801–971. The DEA publishes the implementing regulations for these statutes in title 21 of the Code of Federal Regulations (CFR), parts 1300 to 1321. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while providing for the legitimate medical, scientific, research, and industrial needs of the United States. Controlled substances have the potential for abuse and dependence and are controlled to protect the public health and safety.

The CSA and DEA's implementing regulations establish the legal

requirements for possessing and dispensing controlled substances, including the issuance of a prescription for a legitimate medical purpose by a practitioner acting in the usual course of professional practice. ''The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription.'' 21 CFR 1306.04(a). A prescription serves as a record of the practitioner's determination of the legitimate medical need for the drug to be dispensed. The prescription also provides a record of the actual dispensing of the controlled substance to the ultimate user (the patient) and, therefore, is critical to documenting that controlled substances held by a pharmacy have been dispensed. The maintenance of complete and accurate records is an essential part of the closed system of distribution established by Congress.

Electronic Prescriptions for Controlled Substances

Historically, where federal law required that a prescription for a controlled substance be issued in writing, that requirement could only be satisfied through the issuance of a paper prescription. Given advancements in technology and security capabilities for electronic applications, DEA amended its regulations to provide practitioners with the option of issuing electronic prescriptions for controlled substances in lieu of paper prescriptions. DEA's Interim Final Rule for Electronic Prescriptions for Controlled Substances was published on March 31, 2010, at 75 FR 16236–16319, and became effective on June 1, 2010.

Update

Certifying Organization With a Certification Process Approved by DEA Pursuant to 21 CFR 1311.300(e)

The Interim Final Rule and the DEA's Electronic Prescriptions for Controlled Substances Clarification (76 FR 64813) provides that, as an alternative to the third-party audit requirements of 21 CFR 1311.300(a) through (d), an electronic prescription or pharmacy application may be verified and certified as meeting the requirements of 21 CFR part 1311 by a certifying organization whose certification process has been approved by DEA. The preamble to the Interim Final Rule further indicated that, once a certifying organization's certification process has been approved by DEA in accordance with 21 CFR 1311.300(e), such information will be posted on DEA's Web site. 75 FR 16243 (March 31, 2010). On July 25, 2014, DEA approved the certification process developed by ComplySmart, LLC. Relevant information has been posted on DEA's Web site at *http://www.DEAdiversion.usdoj.gov.*

Dated: August 11, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–19783 Filed 8–19–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: United States Pharmacopeial Convention

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before September 19, 2014. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before September 19, 2014.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/ODW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of importers, of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Deputy Assistant Administrator of the DEA Office of Diversion Control (''Deputy Assistant Administrator'') pursuant to section 7 of 28 CFR pt. 0, subpt. R, App.

In accordance with 21 CFR 1301.34(a), this is notice that on February 10, 2014, United States Pharmacopeial Convention, 12601 Twinbrook Parkway, Rockville, Maryland 20852, applied to be registered as an importer of the following basic classes of controlled substances:

Controlled substance	Schedule
Cathinone (1235)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Tetrahydrocannabinols (7370)	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
3,4-Methylenedioxyamphetamine (7400).	I
Codeine-N-oxide (9053)	I
Difenoxin (9168)	I
Heroin (9200)	I
Morphine-N-oxide (9307)	I
Norlevorphanol (9634)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phenmetrazine (1631)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Phencyclidine (7471)	II
4-Anilino-N-phenethyl-4-piperidine (8333).	II
Phenylacetone (8501)	II
Alphaprodine (9010)	II
Anileridine (9020)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Hydrocodone (9193)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Oxymorphone (9652)	II
Noroxymorphone (9668)	II
Alfentanil (9737)	II
Sufentanil (9740)	II

The company plans to import reference standards for sale to researchers and analytical labs.

The company plans to import the listed controlled substances in bulk powder form from foreign sources for the manufacture of analytical reference standards for sale to their customers.

Dated: August 11, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–19775 Filed 8–19–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Registration: Penick Corporation

ACTION: Notice of registration.

SUMMARY: Penick Corporation applied to be registered as an importer of certain basic classes of narcotic controlled substances. The DEA grants Penick Corporation registration as an importer of those controlled substances.

SUPPLEMENTARY INFORMATION: By notice dated May 28, 2014, and published in the **Federal Register** on June 4, 2014, 79 FR 32316, Penick Corporation, 33 Industrial Park Road, Pennsville, New Jersey 08070, applied to be registered as an importer of certain basic classes of controlled substances. Comments and requests for hearings on applications to import narcotic raw material are not appropriate. 72 FR 3417 (January 25, 2007).

The Drug Enforcement Administration (DEA) has considered the factors in 21 U.S.C. 823, 952(a) and 958(a) and determined that the registration of Penick Corporation to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971. The DEA investigated the company's maintenance of effective controls against diversion by inspecting and testing the company's physical security systems, verifying the company's compliance with state and local laws, and reviewing the company's background and history.

Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above-named company is granted registration as an importer of the basic classes of narcotic controlled substances listed:

Controlled substance	Schedule
Opium, raw (9600)	II
Poppy Straw Concentrate (9670)	II

The company plans to import the listed controlled substances to manufacture bulk controlled substance intermediates for sale to its customers.

Dated: August 11, 2014.

Joseph T. Rannazzisi,

Deputy Assistant Administrator.

[FR Doc. 2014–19762 Filed 8–19–14; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0024]

Variance Regulations; Extension of the Office of Management and Budget Approval of Information Collection (Paperwork) Requirements

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

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to obtain Office of Management and Budget (OMB) approval for the information collection requirements contained in Sections 6(b)6(A), 6(b)6(B), 6(b)6(C), 6(d), and 16 of the Occupational Safety and Health Act of 1970 (the OSH Act), and 29 CFR 1905.10, 1905.11, and 1905.12. These statutory and regulatory provisions specify the requirements for submitting applications to OSHA for temporary, experimental, permanent, and national defense variances.

DATES: Comments must be submitted (postmarked, sent or received) by October 20, 2014.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2009–0024, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2009–0024) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other materials in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publically available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Todd Owen or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the correct format, reporting burden (time and costs) is minimal, collection instruments are clearly understandable, and OSHA's estimate of the information collection burden is correct. The OSH Act (29 U.S.C. 651 et seq.) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Sections 6(b)6(A), 6(b)6(B), 6(b)6(C), 6(d), and 16 of the OSH Act, and 29 CFR 1905.10, 1905.11, and 1905.12, specify the procedures that employers must follow to apply for a variance from the

requirements of an OSHA standard. OSHA uses the information collected under these procedures to: (1) Evaluate the employer's claim that the alternative means of compliance would provide affected employees with the requisite level of health and safety protection; (2) assess the technical feasibility of the alternative means of compliance; (3) determine that the employer properly notified affected employees of the variance application and their right to a hearing; and (4) verify that the application contains the administrative information required by the applicable variance regulation.

Currently, no specific forms are available for preparing variance applications and other documents that may accompany variance applications. OSHA is developing new forms to assist employers in preparing variance applications that comply with the information collection requirements contained in the OSH Act and variance regulations.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting OMB approval of the information collection (paperwork) requirements contained in Sections 6(b)6(A), 6(b)6(B), 6(b)6(C), 6(d), and 16 of the Occupational Safety and Health Act of 1970, and 29 CFR 1905.10, 1905.11, and 1905.12. These statutory and regulatory provisions specify the requirements for submitting applications to OSHA for temporary, experimental, permanent, and national defense variances.

OSHA is also requesting OMB approval to develop and use variance application forms for the four types of variances specified by the OSH Act and variance regulations. The four types of variances are: temporary variances (Section 6(b)(6)(A) of the Act; 29 U.S.C. 655; 29 CFR 1905.10); experimental variances (Section 6(b)(6)(C) of the Act; 29 U.S.C. 655); permanent variances (Section 6(d) of the Act; 29 U.S.C. 655; 29 CFR 1905.11); and national defense variances (Section 16 of the Act; 29 U.S.C. 665; 29 CFR 1905.12). The variance regulations specify the information that employers must provide when requesting one of these variances. The variance application forms would organize and clarify the information collection requirements for each type of variance by specifying the requirements in comprehensible language, and providing explanatory material. Employers applying for a variance could download and complete the applicable form from OSHA's Web site. The forms would expedite the application process for employers, and ensure that the information on the application is complete and accurate.

The Agency is proposing to retain its previous burden hour estimate of 366 hours. The Agency will summarize the comments submitted in response to this notice, and will include this summary in its request to OMB to approve these information collection requirements and variance application forms.

Type of Review: Extension of a currently approved collection.

Title: Variance Regulations.

OMB Control Number: 1218–0265.

Affected Public: Businesses or other for-profits and not-for-profit institutions.

Frequency of Responses: On occasion.

Number of Respondents: 12.

Total Responses: 12.

Average Time per Response: Ranges from 2 hours for an employer to assemble the application documents to 16 hours to locate and assemble information required to complete an application.

Estimated Total Burden Hours: 366.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other materials must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2009–0024). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publically available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on August 14, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–19718 Filed 8–19–14; 8:45 am]

BILLING CODE 4510–26–P

LIBRARY OF CONGRESS

U.S. Copyright Office

[Docket No. 2014–05]

Public Draft of the Compendium of U.S. Copyright Office Practices

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Register of Copyrights releases public draft of the Compendium of U.S. Copyright Office Practices, Third Edition.

SUMMARY: The U.S. Copyright Office (the ''Office'') is announcing the release of a public draft of its administrative manual, the *Compendium of U.S. Copyright Office Practices, Third Edition* (the ''*Third Edition*''). It is available on the Office's Web site at *http://copyright.gov/comp3/*. The *Third Edition* will remain in draft form for 120 days pending final review and implementation. It is expected to take effect on or around December 15, 2014.

DATES: The public draft of the *Compendium of U.S. Copyright Office Practices, Third Edition* is available on the Office's Web site as of August 19, 2014..

FOR FURTHER INFORMATION CONTACT: Robert Kasunic, Associate Register and Director of Registration Policy and Practice, U.S. Copyright Office, P.O. Box 70400, Washington, DC 20024–0400. Telephone (202) 707–8040.

SUPPLEMENTARY INFORMATION:

The *Compendium of U.S. Copyright Office Practices* is the administrative manual of the Register of Copyrights concerning the mandate and statutory duties of the Copyright Office under title 17 of the United States Code. For the first time in more than two decades, the Office is releasing a major revision of this manual titled, *Compendium of U.S. Copyright Office Practices, Third Edition.*

The *Third Edition* presents more than 1200 pages of administrative practices and sets the stage for a number of long-term improvements in the area of registration and recordation policy. While prior publications were largely internal,[1] the *Third Edition* is a comprehensive overhaul that makes the practices and standards of the Office more timely and transparent. It will serve as a technical manual for staff, as well as a guidebook for authors, copyright licensees, practitioners, scholars, the courts, and members of the general public. As in the past, it will address fundamental principles of copyright law—for example, standards of copyrightability, joint authorship, work for hire, and termination of transfers—as well as routine questions involving fees, records retrieval, litigation documents, and other procedural matters. Among other improvements, the *Third Edition* will offer the significant benefits of electronic publication. Its final format will allow for regular updates and will have a multitude of hypertext links to statutory and regulatory provisions, glossary terms, and cross-references.

The public draft of the *Third Edition* may be viewed on the Office's Web site at *http://copyright.gov/comp3/*. It will remain in draft form for 120 days pending final review and implementation, taking effect on or around December 15, 2014.

Dated: August 12, 2014.

Jacqueline C. Charlesworth,

General Counsel and Associate Register of Copyrights.

[FR Doc. 2014–19434 Filed 8–19–14; 8:45 am]

BILLING CODE 1410–30–P

[1] The first edition of the *Compendium* (commonly referred to as ''*Compendium I*'') reflected the Office's general practices for registration, recordation, and other matters arising under the Copyright Act of 1909. The second edition of the *Compendium* (commonly referred to as ''*Compendium II*'') reflects the Office's general practices for registration, recordation, and other matters arising under the Copyright Act of 1976, prior to the adoption of the *Third Edition.*

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Computing and Communication Foundations; Notice of Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub., L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Proposal Review Panel for Expeditions in Computing (EIC) Program (#1192) Site Visit.

DATES:

September 23, 2014, 6 p.m.–9 p.m.
September 24, 2014, 8 a.m.–8 p.m.
September 25, 2014, 8:30 a.m.–3 p.m.

ADDRESSES: Massachusetts Institute of Technology, Cambridge, MA 02139.

FOR FURTHER INFORMATION CONTACT: Ralph Wachter, National Science Foundation, 4201 Wilson Boulevard, Room 1175, Arlington, VA 22230. Telephone: (703) 292–8950.

SUPPLEMENTARY INFORMATION:

Type of Meeting: Part Open.

Purpose of Meeting: NSF site visit to assess the progress of the EIC Award: CCF1138967, ''Collaborative Research: An Expedition in Computing for Compiling Printable Programmable Machines'', and to provide advice and recommendations concerning further NSF support for the Center.

EIC Site Visit Agenda

Tuesday, September 23, 2014

6 p.m. to 9 p.m.: Closed

Site Team and NSF Staff meets to discuss Site Visit materials, review process and charge.

Wednesday, September 24, 2014

8 a.m. to 1 p.m.: Open

Presentations by Awardee Institution, faculty staff, and students to the Site Team and NSF Staff Discussions, question and answer sessions.

1 p.m.–8 p.m.: Closed

Draft report on education and research activities.

Thursday, September 25, 2014

8:30 a.m.–noon: Open

Response presentations by Site Team and NSF Staff Awardee Institution Discussions, question and answer sessions.

Noon to 3 p.m.: Closed

Complete written site visit report with preliminary recommendations.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: August 13, 2014.

Crystal Robinson,

Acting Committee Management Officer.

[FR Doc. 2014–19544 Filed 8–19–14; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological Sciences; Notice of Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub., L., 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Biological Sciences Advisory Committee (#1110).

DATES:

September 10, 2014, 8:30 a.m.–5 p.m.
September 11, 2014, 8:30 a.m.–2 p.m.

ADDRESSES: National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA 22230.

FOR FURTHER INFORMATION CONTACT: Charles Liarakos, National Science Foundation, 4201 Wilson Boulevard, Room 605, Arlington, VA 22230; Tel No.: (703) 292–8400.

SUPPLEMENTARY INFORMATION: All visitors must contact the Directorate for Biological Sciences [call (703) 292–8400 or send an email message to *jwoodruf@nsf.gov*] at least 24 hours prior to the meeting to arrange for a visitor's badge. All visitors must report to the NSF

visitor desk located in the lobby at the N. 9th and N. Stuart Streets entrance on the day of the meeting to receive a visitor's badge.

Type of Meeting: Open.

Purpose of Meeting: The Advisory Committee for the Directorate for Biological Sciences (BIO) provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BIO.

Agenda: Agenda items will include graduate education in biology, broadening participation, the Committee of Visitors reports for the Divisions of Biological Infrastructure, Integrative Organismal Systems and Molecular and Cellular Biosciences, and other matters relevant to the Directorate for Biological Sciences.

Dated: August 13, 2014.

Crystal Robinson,

Acting Committee Management Officer.

[FR Doc. 2014–19545 Filed 8–19–14; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission [NRC–2012–0002].

DATE: Week of August 25, 2014.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

ADDITIONAL ITEMS TO BE CONSIDERED:

Week of August 25, 2014 (Tentative)

Tuesday, August 26, 2014

10:00 a.m. Affirmation Session (Public Meeting) (Tentative)

c. Continued Storage of Spent Nuclear Fuel—Memorandum and Order Addressing Suspension of Final Licensing Decisions and Pending Contentions (Tentative).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Rochelle Bavol at (301) 415–1651 or via email at *Rochelle.Bavol@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *www.nrc.gov/about-nrc/policy-making/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 *Patricia.Jimenez@nrc.gov* or *Brenda.Akstulewicz@nrc.gov.*

Dated: August 18, 2014.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2014–19889 Filed 8–18–14; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0184]

Proposed Revision to Chilled Water; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard Review Plan; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a notice that was published in the **Federal Register** (FR) on August 5, 2014, that requested public comment on NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition,'' Section 9.2.7, Chilled Water.'' This action is being taken to correct the Agencywide Documents Access and Management System (ADAMS) accession number for NUREG–0800, Section 9.2.7.

DATES: This correction is effective immediately.

ADDRESSES: Please refer to Docket ID NRC–2014–0184 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0184. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* Draft Standard Review Plan (SRP) Section 9.2.7, ''Chilled Water'' Revision 1 is available electronically in ADAMS under Accession No. ML14093A350.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jonathan DeGange, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6096; email: *Jonathan.Degange@nrc.gov.*

SUPPLEMENTARY INFORMATION: In the FR on August 5, 2014, in FR Doc. 2014–18515, on page 45498, in the second bullet under the heading ''I. Obtaining Information and Submitting Comments,'' the ADAMS accession number ''ML14091B061'' is corrected to read ''ML14093A350.'' In the same sentence ''Section 9.27'' is corrected to read ''Section 9.2.7.''

Dated at Rockville, Maryland, this 15 day of August 2014.

For the Nuclear Regulatory Commission.

Cindy Bladey,

Chief, Rules, Announcements, and Directives Branch, Office of Administration.

[FR Doc. 2014–19752 Filed 8–19–14; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2014–68; Order No. 2153]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning an addition of Global Expedited Package Services 3 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* August 21, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Commission Action
III. Ordering Paragraphs

I. Introduction

On August 13, 2014, the Postal Service filed notice that it has entered into an additional Global Expedited Package Services 3 (GEPS 3) negotiated service agreement (Agreement).[1]

To support its Notice, the Postal Service filed a copy of the Agreement, a copy of the Governors' Decision authorizing the product, a certification of compliance with 39 U.S.C. 3633(a), and an application for non-public treatment of certain materials. It also filed supporting financial workpapers.

II. Notice of Commission Action

The Commission establishes Docket No. CP2014–68 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, or 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comments are due no later than August 21, 2014. The public portions of the filing can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Curtis E. Kidd to serve as Public Representative in this docket.

[1] Notice of the United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, August 13, 2014 (Notice).

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2014–68 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Curtis E. Kidd is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than August 21, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2014–19639 Filed 8–19–14; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–31212; File No. 812–14132]

Fifth Street Finance Corp. et al.; Notice of Application

August 14, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit business development companies (''BDCs'') and certain closed-end management investment companies to co-invest in portfolio companies with each other and with affiliated investment funds.

APPLICANTS: Fifth Street Finance Corp. (''Fifth Street''); Fifth Street Senior Floating Rate Corp. (''Fifth Street Senior,'' and together with Fifth Street, the ''Existing Regulated Funds''); Fifth Street Mezzanine Partners IV, L.P. (''SBIC Subsidiary IV''); Fifth Street Mezzanine Partners V, L.P.; (''SBIC Subsidiary V'' and together with SBIC Subsidiary IV, the ''SBIC Subsidiaries''); FSMP IV GP, LLC (the ''SBIC IV General Partner''); FSMP V GP, LLC (the ''SBIC V General Partner'', and together with SBIC IV General Partner, the ''SBIC General Partners''); FSFC Holdings, Inc.; Fifth Street Fund of Funds LLC; Fifth Street Funding, LLC; Fifth Street Funding II, LLC (together with the SBIC Subsidiaries, the ''Fifth Street Subsidiaries''); FS Senior Funding LLC (the ''Fifth Street Senior Subsidiary'' and together with the Fifth Street Subsidiaries, the ''Subsidiaries''); Fifth Street Senior Loan Fund LP; Fifth Street Credit Opportunities Fund, L.P.; Fifth Street Senior Loan Fund I Operating Entity, LLC; and Fifth Street Senior Loan Fund I, LLC (together, the ''Existing Co-Investment Affiliates''); FSCO GP LLC; FSLF GP LLC; and Fifth Street Management LLC (the ''BDC Adviser'').

FILING DATES: The application was filed on March 12, 2013 and amended on July 15, 2013, November 26, 2013, April 15, 2014, and August 12, 2013.

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 September 8, 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, U.S. Securities and Exchange Commission, 100 F St. NE., Washington, DC 20549–1090. Applicants: Fifth Street Finance Corp., 10 Bank Street, 12th Floor, White Plains, NY 10606.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 551–6873 or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Chief Counsel's Office, Division of Investment Management).

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. Fifth Street and Fifth Street Senior are Delaware corporations organized as non-diversified, closed-end management companies that have elected to be regulated as BDCs under

the Act.[1] Fifth Street's investment objective is to maximize its portfolio's total return by generating current income from its debt investments and capital appreciation from its equity investments. Fifth Street Senior's investment objective is to maximize portfolio total return by generating current income from debt investments while seeking to preserve capital. A majority of the board of directors (''Board'')[2] of Fifth Street and Fifth Street Senior, respectively, are persons who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (the ''Independent Directors'') of the respective Regulated Fund.

2. The Subsidiaries are each a Wholly-Owned Investment Sub (as defined below) of either Fifth Street or Fifth Street Senior. Each SBIC Subsidiary was formed as a Delaware limited partnership and licensed by the Small Business Administration (''SBA'') to operate under the Small Business Investment Act of 1958 (''SBA Act''), as a small business investment company. The SBIC Subsidiaries will not be registered under the Act based on the exclusion from the definition of investment company contained in section 3(c)(7) of the Act. SBIC IV General Partner and SBIC V General Partner were formed as Delaware limited liability companies and are general partners of SBIC Subsidiary IV and SBIC Subsidiary V, respectively. The SBIC General Partners each own a 1% interest in their respective SBIC Subsidiary. Fifth Street, which directly owns all of the ownership interests in the SBIC General Partners, directly owns 99% of the ownership interests in each SBIC Subsidiary.

3. Fifth Street Senior Loan Fund LP, Fifth Street Credit Opportunities Fund, L.P., Fifth Street Senior Loan Fund I Operating Entity, LLC, and Fifth Street Senior Loan Fund I, LLC, the Existing Co-Investment Affiliates, are each a Delaware limited partnership or Delaware limited liability company that is excluded from the definition of investment company under section 3(c)(7) of the Act. FSCO GP LLC and FSLF GP LLC are the general partners of Fifth Street Credit Opportunities Fund, L.P. and Fifth Street Senior Loan Fund LP, respectively.

4. The BDC Adviser is a Delaware limited liable company that is registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). The BDC Adviser serves as the investment adviser to the Existing Regulated Funds and the Existing Co-Investment Affiliates.

5. Applicants seek an order (''Order'') to permit a Regulated Fund[3] (or a Wholly-Owned Investment Sub) (as defined below) and one or more other Regulated Funds (or a Wholly-Owned Investment Sub) and/or one or more Co-Investment Affiliates[4] to participate in the same investment opportunities through a proposed co-investment program (the ''Co-Investment Program'') where such participation would otherwise be prohibited under sections 17(d) and 57(a)(4) and rule 17d–1. ''Co-Investment Transaction'' means any transaction in which a Regulated Fund (or a Wholly-Owned Investment Sub) participated together with one or more other Regulated Funds (or a Wholly-Owned Investment Sub) and/or one or more Co-Investment Affiliates in reliance on the requested Order. ''Potential Co-Investment Transaction'' means any investment opportunity in which a Regulated Fund (or a Wholly-Owned Investment Sub) could not participate together with one or more other Regulated Funds (or a Wholly-Owned Investment Sub) and/or one or more Co-Investment Affiliates without obtaining and relying on the Order.[5]

6. Applicants state that a Regulated Fund may, from time to time, form one or more Wholly-Owned Investment Subs.[6] Such a subsidiary would be prohibited from investing in a Co-Investment Transaction with any Co-Investment Affiliate or another Regulated Fund because it would be a company controlled by the Regulated Fund for purposes of sections 17(d) and 57(a)(4) and rule 17d–1. Applicants request that each Wholly-Owned Investment Sub be permitted to participate in Co-Investment Transactions in lieu of the Regulated Fund that owns it and that the Wholly-Owned Investment Sub's participation in any such transaction be treated, for purposes of the requested Order, as though the Regulated Fund were participating directly. Applicants represent that this treatment is justified because a Wholly-Owned Investment Sub would have no purpose other than serving as a holding vehicle for the Regulated Fund's investments and, therefore, no conflicts of interest could arise between the Regulated Fund and the Wholly-Owned Investment Sub. The Board would make all relevant determinations under the conditions with regard to a Wholly-Owned Investment Sub's participation in a Co-Investment Transaction, and the Board would be informed of, and take into consideration, any proposed use of a Wholly-Owned Investment Sub in the Regulated Fund's place. If a Regulated Fund proposes to participate in the same Co-Investment Transaction with any of its Wholly-Owned Investment Subs, the Board will also be informed of, and take into consideration, the relative participation of the Regulated Fund and the Wholly-Owned Investment Sub.

7. In selecting investments for the Regulated Funds, an Adviser will consider only the investment objective, investment policies, investment position, capital available for investment and other factors relevant to each Regulated Fund. Each of the Co-Investment Affiliates has or will have investment objectives and strategies that are similar to or overlap with the Objectives and Strategies[7] of each Regulated Fund. To the extent there is an investment opportunity that falls within the Objectives and Strategies of one or more Regulated Funds and the

[1] Section 2(a)(48) defines a BDC to be any closed-end investment company that operates for the purpose of making investments in securities described in sections 55(a)(1) through 55(a)(3) of the Act and makes available significant managerial assistance with respect to the issuers of such securities.

[2] The term ''Board'' refers to the board of directors of any Regulated Fund (as defined below).

[3] ''Regulated Funds'' means the Existing Regulated Funds and any future closed-end investment companies (a) that are registered under the Act or have elected to be regulated as BDCs, and (b) whose investment adviser is the BDC Adviser or an investment adviser controlling, controlled by, or under common control with the BDC Adviser (each, an ''Adviser'').

[4] ''Co-Investment Affiliates'' means the Existing Co-Investment Affiliates and any future entity (a) whose investment adviser is an Adviser, (b) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act, and (c) that is not a subsidiary of a Regulated Fund.

[5] All existing entities that currently intend to rely on the Order have been named as applicants. Any other existing or future entity that relies on the Order in the future will comply with the terms and conditions of the application.

[6] The term ''Wholly-Owned Investment Sub'' means an entity (i) that is wholly-owned by a Regulated Fund (with the Regulated Fund at all times holding, beneficially and of record, 100% of the voting and economic interests); (ii) whose sole business purpose is to hold one or more investments on behalf of the Regulated Fund (and, in the case of the SBIC Subsidiaries, to maintain a license under the SBA Act and issue debentures guaranteed by the SBA); (iii) with respect to which the Board of a Regulated Fund has the sole authority to make all determinations with respect to the Wholly-Owned Investment Sub's participation under the conditions to the application; and (iv) that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act.

[7] The term ''Objectives and Strategies,'' with respect to each Regulated Fund, means the Regulated Fund's investment objectives and strategies, as described in the Regulated Fund's registration statement on Form N–2, other filings the Regulated Fund has made with the Commission under the Securities Act of 1933 (the ''1933 Act''), or under the Securities Exchange Act of 1934 and the Regulated Fund's report to stockholders.

investment objectives and strategies of one or more of the Co-Investment Affiliates, the Advisers would expect such Regulated Funds and Co-Investment Affiliates to co-invest with each other, with certain exceptions based on available capital or diversification.[8]

8. After making the determinations required in conditions 1 and 2(a), other than in the case of pro rata Dispositions (as defined below) and Follow-On Investments,[9] as provided in conditions 7 and 8, the applicable Adviser will present each Potential Co-Investment Transaction and the proposed allocation to the directors of the Board that are eligible to vote under section 57(o) of the Act (the ''Eligible Directors''). The ''required majority,'' as defined in section 57(o) of the Act (''Required Majority''),[10] of a Regulated Fund will approve each Co-Investment Transaction prior to any investment by the Regulated Fund.

9. All subsequent activity, meaning either to (a) sell, exchange, or otherwise dispose of an investment (collectively, a ''Disposition'') or (b) complete a Follow-On Investment, in respect of an investment acquired in a Co-Investment Transaction will also be made in accordance with the terms and conditions set forth in the application. With respect to the pro rata Dispositions and Follow-On Investments provided in conditions 7 and 8, a Regulated Fund may participate in a pro rata Disposition or Follow-On Investment without obtaining prior approval of the Required Majority if, among other things: (i) The proposed participation of each Co-Investment Affiliate and Regulated Fund in such Disposition or Follow-On Investment is proportionate to its outstanding investments in the issuer immediately preceding the Disposition or Follow-On Investment, as the case may be; and (ii) the Board of the Regulated Fund has approved that Regulated Fund's participation in pro rata Dispositions and Follow-On Investments as being in the best interests of the Regulated Fund. If the Board does not so approve, any such Disposition or Follow-On Investment will be submitted to the Regulated Fund's Eligible Directors. The Board of any Regulated Fund may at any time rescind, suspend or qualify its approval of pro rata Dispositions and Follow-On Investments with the result that all Dispositions and/or Follow-On Investments must be submitted to the Eligible Directors.

10. No Independent Director of a Regulated Fund will have a financial interest in any Co-Investment Transaction, other than indirectly through share ownership in one of the Regulated Funds.

Applicants' Legal Analysis

1. Section 57(a)(4) of the Act prohibits certain affiliated persons of a BDC from participating in joint transactions with the BDC or a company controlled by a BDC in contravention of rules as prescribed by the Commission. Under section 57(b)(2) of the Act, any person who is directly or indirectly controlling, controlled by, or under common control with a BDC is subject to section 57(a)(4). Applicants submit that each of the other Regulated Funds and Co-Investment Affiliates may be deemed to be a person related to a Regulated Fund in a manner described by section 57(b) by virtue of being under common control. Section 57(i) of the Act provides that, until the Commission prescribes rules under section 57(a)(4), the Commission's rules under section 17(d) of the Act applicable to registered closed-end investment companies will be deemed to apply to transactions subject to section 57(a)(4). Because the Commission has not adopted any rules under section 57(a)(4), rule 17d–1 also applies to joint transactions with Regulated Funds that are BDCs. Section 17(d) of the Act and rule 17d–1 under the Act are applicable to Regulated Funds that are registered closed-end investment companies.

2. Section 17(d) of the Act and rule 17d–1 under the Act prohibit affiliated persons of a registered investment company from participating in joint transactions with the company unless the Commission has granted an order permitting such transactions. In passing upon applications under rule 17d–1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants state that in the absence of the requested relief, the Regulated Funds would be, in some circumstances, limited in their ability to participate in attractive and appropriate investment opportunities. Applicants believe that the proposed terms and conditions will ensure that the Co-Investment Transactions are consistent with the protection of each Regulated Fund's shareholders and with the purposes intended by the policies and provisions of the Act. Applicants state that the Regulated Funds' participation in the Co-Investment Transactions will be consistent with the provisions, policies, and purposes of the Act and on a basis that is not different from or less advantageous than that of other participants.

Applicants' Conditions

Applicants agree that any Order of the Commission granting the requested relief will be subject to the following conditions:

1. Each time an Adviser considers a Potential Co-Investment Transaction for a Co-Investment Affiliate or another Regulated Fund that falls within a Regulated Fund's then-current Objectives and Strategies, the Regulated Fund's Adviser will make an independent determination of the appropriateness of the investment for the Regulated Fund in light of the Regulated Fund's then-current circumstances.

2. (a) If the applicable Adviser deems a Regulated Fund's participation in any Potential Co-Investment Transaction to be appropriate for the Regulated Fund, the Adviser will then determine an appropriate level of investment for the Regulated Fund.

(b) If the aggregate amount recommended by the applicable Adviser to be invested by the applicable Regulated Fund in the Potential Co-Investment Transaction, together with the amount proposed to be invested by the other participating Regulated Funds and Co-Investment Affiliates, collectively, in the same transaction, exceeds the amount of the investment opportunity, the amount proposed to be invested by each such party will be allocated among them pro rata based on each participating party's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each. The applicable Adviser will provide the Eligible Directors of each participating Regulated Fund with information concerning each participating party's available capital to assist the Eligible Directors with their review of the Regulated Fund's investments for compliance with these allocation procedures.

(c) After making the determinations required in conditions 1 and 2(a), the applicable Adviser will distribute

[8] The Regulated Funds, however, will not be obligated to invest, or co-invest, when investment opportunities are referred to them.

[9] ''Follow-On Investment'' means any additional investment in an existing portfolio company, the exercise of warrants, conversion privileges or other similar rights to acquire additional securities of the portfolio company.

[10] In the case of a Regulated Fund that is a registered closed-end fund, the Board members that make up the Required Majority will be determined as if the Regulated Fund were a BDC subject to section 57(o).

written information concerning the Potential Co-Investment Transaction, including the amount proposed to be invested by each Regulated Fund and each Co-Investment Affiliate to the Eligible Directors of each participating Regulated Fund for their consideration. A Regulated Fund will co-invest with one or more other Regulated Funds and/or one or more Co-Investment Affiliates only if, prior to the Regulated Fund's participation in the Potential Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the Potential Co-Investment Transaction, including the consideration to be paid, are reasonable and fair to the Regulated Fund and its stockholders and do not involve overreaching in respect of the Regulated Fund or its stockholders on the part of any person concerned;

(ii) the Potential Co-Investment Transaction is consistent with:

(A) The interests of the Regulated Fund's stockholders; and

(B) the Regulated Fund's then-current Objectives and Strategies;

(iii) the investment by the other Regulated Funds or any Co-Investment Affiliates would not disadvantage the Regulated Fund, and participation by the Regulated Fund would not be on a basis different from or less advantageous than that of any other Regulated Fund or Co-Investment Affiliate; provided that, if any other Regulated Fund or Co-Investment Affiliate, but not the Regulated Fund itself, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition 2(c)(iii), if:

(A) The Eligible Directors will have the right to ratify the selection of such director or board observer, if any;

(B) the Adviser agrees to, and does, provide periodic reports to the Board of the Regulated Fund with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and

(C) any fees or other compensation that any other Regulated Fund, or any Co-Investment Affiliate, or any affiliated person of either receives in connection with the right of any other Regulated Fund or a Co-Investment Affiliate to nominate a director or appoint a board observer or otherwise to participate in the governance or management of the portfolio company will be shared proportionately among the participating Co-Investment Affiliates (which each may, in turn, share its portion with its affiliated persons) and the participating Regulated Funds in accordance with the amount of each party's investment; and

(iv) the proposed investment by the Regulated Fund will not benefit the Advisers, the Co-Investment Affiliates, the other Regulated Funds or any affiliated person of any of them (other than the parties to the Co-Investment Transaction), except (A) to the extent permitted by condition 13, (B) to the extent permitted by sections 17(e) or 57(k) of the Act, as applicable, (C) indirectly, as a result of an interest in the securities issued by one of the parties to the Co-Investment Transaction, or (D) in the case of fees or other compensation described in condition 2(c)(iii)(C).

3. Each Regulated Fund has the right to decline to participate in any Potential Co-Investment Transaction or to invest less than the amount proposed.

4. The applicable Adviser will present to the Board of each Regulated Fund, on a quarterly basis, a record of all investments in Potential Co-Investment Transactions made by any of the other Regulated Funds and Co-Investment Affiliates during the preceding quarter that fell within the Regulated Fund's then-current Objectives and Strategies that were not made available to the Regulated Fund, and an explanation of why the investment opportunities were not offered to the Regulated Fund. All information presented to the Board pursuant to this condition will be kept for the life of the Regulated Fund and at least two years thereafter, and will be subject to examination by the Commission and its staff.

5. Except for Follow-On Investments made in accordance with condition 8 below,[11] a Regulated Fund will not invest in reliance on the Order in any issuer in which another Regulated Fund, Co-Investment Affiliate, or any affiliated person of another Regulated Fund or Co-Investment Affiliate is an existing investor.

6. A Regulated Fund will not participate in any Potential Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for each participating Regulated Fund and Co-Investment Affiliate. The grant to a Co-Investment Affiliate or another Regulated Fund, but not the Regulated Fund, of the right to nominate a director for election to a portfolio company's board of directors, the right to have an observer on the board of directors or similar rights to participate in the governance or management of the portfolio company will not be interpreted so as to violate this condition 6, if conditions 2(c)(iii)(A), (B) and (C) are met.

7 (a) If any Co-Investment Affiliate or any Regulated Fund elects to sell, exchange or otherwise dispose of an interest in a security that was acquired in a Co-Investment Transaction, the applicable Advisers will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed Disposition at the earliest practical time; and

(ii) formulate a recommendation as to participation by each Regulated Fund in the Disposition.

(b) Each Regulated Fund will have the right to participate in such Disposition on a proportionate basis, at the same price and on the same terms and conditions as those applicable to any participating Co-Investment Affiliates and any other Regulated Funds.

(c) A Regulated Fund may participate in such Disposition without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Co-Investment Affiliate and Regulated Fund in such Disposition is proportionate to its outstanding investments in the issuer immediately preceding the Disposition; (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in such Dispositions on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the Regulated Fund is provided on a quarterly basis with a list of all Dispositions made in accordance with this condition. In all other cases, the applicable Adviser will provide its written recommendation as to the Regulated Fund's participation to the Regulated Fund's Eligible Directors, and the Regulated Fund will participate in such Disposition solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(d) Each Co-Investment Affiliate and each Regulated Fund will bear its own expenses in connection with any such Disposition.

8. (a) If any Co-Investment Affiliate or any Regulated Fund desires to make a Follow-On Investment in a portfolio company whose securities were acquired in a Co-Investment

[11] This exception applies only to Follow-On Investments by a Regulated Fund in issuers in which that Regulated Fund already holds investments.

Transaction, the applicable Advisers will:

(i) Notify each Regulated Fund that participated in the Co-Investment Transaction of the proposed transaction at the earliest practical time; and

(ii) formulate a recommendation as to the proposed participation, including the amount of the proposed Follow-On Investment, by each Regulated Fund.

(b) A Regulated Fund may participate in such Follow-On Investment without obtaining prior approval of the Required Majority if: (i) The proposed participation of each Co-Investment Affiliate and each Regulated Fund in such investment is proportionate to its outstanding investments in the issuer immediately preceding the Follow-On Investment; (ii) the Board of the Regulated Fund has approved as being in the best interests of the Regulated Fund the ability to participate in Follow-On Investments on a pro rata basis (as described in greater detail in the application); and (iii) the Board of the Regulated Fund is provided on a quarterly basis with a list of all Follow-On Investments made in accordance with this condition. In all other cases, the applicable Adviser will provide its written recommendation as to the Regulated Fund's participation to the Regulated Fund's Eligible Directors, and the Regulated Fund will participate in such Follow-On Investment solely to the extent that a Required Majority determines that it is in the Regulated Fund's best interests.

(c) If, with respect to any Follow-On Investment:

(i) The amount of the Follow-On Investment is not based on the Co-Investment Affiliates' and the Regulated Funds' outstanding investments immediately preceding the Follow-On Investment; and

(ii) the aggregate amount recommended by the applicable Adviser to be invested by each Regulated Fund in the Follow-On Investment, together with the amount proposed to be invested by the participating Co-Investment Affiliates in the same transaction, exceeds the amount of the opportunity, then the amount to be invested by each such party will be allocated among them pro rata based on each participating party's capital available for investment in the asset class being allocated, up to the amount proposed to be invested by each.

(d) The acquisition of Follow-On Investments as permitted by this condition will be considered a Co-Investment Transaction for all purposes and subject to the other conditions set forth in the application.

9. The Independent Directors of each Regulated Fund will be provided quarterly for review all information concerning Potential Co-Investment Transactions and Co-Investment Transactions, including investments made by the Co-Investment Affiliates and the other Regulated Funds that the Regulated Fund considered but declined to participate in, so that the Independent Directors may determine whether all investments made during the preceding quarter, including those investments that the Regulated Fund considered but declined to participate in, comply with the conditions of the Order. In addition, the Independent Directors will consider at least annually the continued appropriateness for the Regulated Fund of participating in new and existing Co-Investment Transactions.

10. Each Regulated Fund will maintain the records required by section 57(f)(3) of the Act as if each of the Regulated Funds were a BDC and each of the investments permitted under these conditions were approved by the Required Majority under section 57(f) of the Act.

11. No Independent Director of a Regulated Fund will also be a director, general partner, managing member or principal, or otherwise an ''affiliated person'' (as defined in the Act), of any Co-Investment Affiliate.

12. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-Investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the 1933 Act) will, to the extent not payable by the Advisers under their respective advisory agreements with the Co-Investment Affiliates and the Regulated Funds, be shared by the participating Co-Investment Affiliates and the participating Regulated Funds in proportion to the relative amounts of the securities held or being acquired or disposed of, as the case may be.

13. Any transaction fee (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e) or 57(k) of the Act, as applicable) received in connection with a Co-Investment Transaction will be distributed to the participating Co-Investment Affiliates and Regulated Funds on a pro rata basis based on the amount they each invested or committed, as the case may be, in such Co-Investment Transaction. If any transaction fee is to be held by an Adviser pending consummation of the transaction, the fee will be deposited into an account maintained by the Adviser at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided pro rata among the participating Co-Investment Affiliates and Regulated Funds based on the amount each invests in such Co-Investment Transaction. None of the Co-Investment Affiliates, the Regulated Funds, the Advisers nor any affiliated person of the Regulated Funds or Co-Investment Affiliates will receive additional compensation or remuneration of any kind as a result of or in connection with a Co-Investment Transaction (other than (a) in the case of the Co-Investment Affiliates and the Regulated Funds, the pro rata transaction fees described above and fees or other compensation described in condition 2(c)(iii)(C), and (b) in the case of the Advisers, investment advisory fees paid in accordance with their respective investment advisory agreements with the Regulated Funds and Co-Investment Affiliates).

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19706 Filed 8–19–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72847; File No. SR–NYSEArca–2014–88]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change (1) to Reflect a Change to the Value Used by the iShares Silver Trust, ETFS Silver Trust, ETFS White Metals Basket Trust and ETFS Precious Metals Basket Trust With Respect to Calculation of the Net Asset Value of Shares of Each Trust; and (2) to Reflect a Change to the Underlying Benchmark for ProShares Ultra Silver and ProShares UltraShort Silver

August 14, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 13, 2014, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 reflect a change to the value used by the iShares Silver Trust, ETFS Silver Trust, ETFS White Metals Basket Trust and ETFS Precious Metals Basket Trust, each of which is currently listed on the Exchange under NYSE Arca Equities Rule 8.201, with respect to calculation of the net asset value of shares of each trust; and (2) to reflect a change to the underlying benchmark for ProShares Ultra Silver and ProShares UltraShort Silver, each of which is currently listed on the Exchange under NYSE Arca Equities Rule 8.200. 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 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 Exchange listing rules applicable to six exchange-traded products, all of which reference the ''London Silver Fix'', as described further below. The exchange-traded products are listed and traded pursuant to NYSE Arca Equities Rules 8.201, for Commodity-Based Trust Shares, and NYSE Arca Equities Rule 8.200, for Trust Issued Receipts. The proposed change would replace references to the ''London Silver Fix,'' a silver-price mechanism that will be discontinued on the close of business August 14, 2014.

The ''London Silver Fix'' is a mechanism for pricing silver that has been in place since 1898.[4] The London Silver Market Fixing Limited administers the London Silver Fix and announced, on May 14, 2014, that it will stop administering the London Silver Fix at the end of the day on August 14, 2014. This announcement followed Deutsche Bank AG's announcement that it planned to cease participation in the committee that establishes the London Silver Fix, which would leave only two members of the committee.

As a consequence, the LBMA launched a consultation with market participants, regulators and potential administrators on the London silver daily price mechanism. On July 11, 2014, the LBMA announced in a press release that CME Group, Inc. (''CME Group'') and Thomson Reuters were selected to provide the solution for the ''London Silver Price'' mechanism, as described further below. According to the LBMA press release, the price mechanism will be electronic, auction-based and auditable, and will be tradeable with an increased number of direct participants.[5] In terms of the division of responsibilities, CME Group will provide the price platform and methodology and Thomson Reuters will provide the administration and governance. The LBMA will develop a process of accreditation for ''silver participants,'' as described further below.

Exchange-Listed Silver-Based Products

The Exchange lists and trades shares of exchange traded products that reference the London Silver Fix benchmark for one or more purposes. The Exchange lists and trades shares of the iShares Silver Trust,[6] ETFS Silver Trust,[7] ETFS White Metals Basket Trust[8] and ETFS Precious Metals Basket Trust[9] (together the ''Silver Trusts'') under NYSE Arca Equities Rule 8.201. In addition, the Exchange lists and trades shares of the ProShares Ultra Silver and ProShares UltraShort Silver[10] (together, the ''Silver Funds'') under NYSE Arca Equities Rule 8.200.

With respect to the Silver Trusts, the net asset value of shares of the respective trusts is based on the London Silver Fix, as described in the applicable rule filings relating to listing and trading of shares of each of the Silver Trusts and in the registration statement under the 1933 Act relating to

[4] As described in the registration statement under the Securities Act of 1933 (15 U.S.C. 77a) (''1933 Act'') for the iShares Silver Trust (*see infra,* note 11), the London Bullion Market Association (''LBMA'') fixings (which include the ''London Silver Fix'') are an open process at which market participants can transact business on the basis of a single quoted price. Three market making members of the LBMA conduct the silver fixing meeting under the chairmanship of The Bank of Nova Scotia-ScotiaMocatta by telephone at 12:00 noon (London time) each working day. The other members of the silver fixing are Deutsche Bank AG and HSBC Bank USA N.A. (London branch). Orders executed at the fixing are conducted as principal-to-principal transactions between the client and the dealer through whom the order is placed. Clients place orders with the dealing rooms of the fixing members, who net all the orders before communicating their interest to their representative at the fixing. The metal price is then adjusted to reflect whether there are more buyers or sellers at a given price until such time as supply and demand is seen to be balanced. Orders can be changed throughout the proceedings as the price is moved higher and lower until such time as buyers' and sellers' orders are satisfied and the price is said to be ''fixed.''

[5] *See* ''LBMA Silver Price Solution: CME Group & Thomson Reuters,'' dated July 11, 2014, available at: *http://www.lbma.org.uk/_blog/lbma_media_centre/post/silverpricesolution/.*

[6] *See* Securities Exchange Act Release Nos. 58956 (November 14, 2008), 73 FR 71074 (November 24, 2008) (SR–NYSEArca–2008–124) (approving listing on the Exchange of the iShares Silver Trust); 53520 (March 20, 2006), 71 FR 14977 (March 24, 2006) (SR–PCX–2005–117) (order approving listing and trading of shares of the iShares Silver Trust pursuant to to unlisted trading privileges); 53521 (March 20, 2006), 71 FR 14967 (March 24, 2006) (SR–Amex–2005–72) (order approving listing and trading on the American Stock Exchange LLC of shares of the iShares Silver Trust).

[7] *See* Securities Exchange Act Release No. 59781 (April 17, 2009), 78 FR 18771 (April 24, 2009) (SR–NYSEArca–2009–28) (notice of filing and order granting accelerated approval relating to listing and trading of shares of the ETFS Silver Trust).

[8] *See* Securities Exchange Act Release No. 62620 (July 30, 2010), 75 FR 47655 (August 8, 2010) (SR–NYSEArca–2010–71) (notice of filing of proposed rule change to list and trade shares of the ETFS White Metals Basket Trust); 62875 (September 9, 2010), 75 FR 56156 (September 15, 2010) (SR–NYSEArca–2010–71) (order approving proposed rule change to list and trade shares of the ETFS White Metals Basket Trust).

[9] *See* Securities Exchange Act Release No. 62402 (June 29, 2010), 75 FR 39292 (July 8, 2010) (SR–NYSEArca–2010–56) (notice of filing of proposed rule change to list and trade shares of the ETFS Precious Metals Basket Trust); 62692 (August 11, 2010), 75 FR 50789 (August 17, 2010) (order approving proposed rule change to list and trade shares of the ETFS Precious Metals Basket Trust).

[10] *See* Securities Exchange Act Release Nos. 58457 (September 3, 2008), (73 FR 52711 (September 10, 2008) (SR–NYSEArca–2008–91) (notice of filing and order granting accelerated approval of proposed rule change regarding listing and trading of shares of 14 funds of the Commodities and Currency Trust, now the ProShares Trust II); 58162 (July 15, 2008), 73 FR 42391 (July 21, 2008) (SR–NYSEArca–2008–73) (notice of filing and immediate effectiveness of proposed rule change relating to trading of shares of 14 funds of the Commodities and Currency Trust pursuant to unlisted trading privileges). *See also* Securities Exchange Act Release Nos. 58161 (July 15, 2008), 73 FR 42380 (July 21, 2008) (SR–Amex–2008–39) (order approving listing and trading on the American Stock Exchange LLC of shares of 14 funds of the Commodities and Currency Trust); 57932 (June 5, 2008), 73 FR 33467 (June 12, 2008) (notice of proposed rule change regarding listing and trading of shares of 14 funds of the Commodities and Currency Trust).

each such trust.[11] After August 14, 2014, the London Silver Fix will no longer exist and it is, therefore, necessary for the Silver Trusts to change the benchmark price that each such trust uses for purposes of calculating the net asset value of such trust's shares. The sponsors of the Silver Trusts have represented that, on August 15, 2014, they intend to use the CME Group/Thomson Reuters price mechanism (the ''London Silver Price'') for purposes of determining the net asset value of shares of the Silver Trusts. Accordingly, the Exchange proposes to change the benchmark price used by the Silver Trusts for calculation of the net asset value of shares of each of such trust.

With respect to the Silver Funds, the existing ''Underlying Benchmark'' for each such fund is the U.S. dollar price of silver bullion as measured by the London Silver Fix.[12] The Silver Funds, therefore, similarly need to change the Underlying Benchmark for each such fund. The sponsor of the Silver Funds represents that it intends to change the Underlying Benchmark for the Silver Funds to the London Silver Price on August 15, 2014. Accordingly, the Exchange proposes to reflect a change in the Underlying Benchmark applicable to the Silver Funds.

The New London Silver Price Mechanism [13]

According to the ETFS Silver Registration Statement, as of August 15, 2014, CME Group will conduct an ''equilibrium auction'' once daily during London trading hours among LBMA-authorized participating bullion banks and market makers (''silver participants'') that establishes a price which provides reference silver prices for that day's trading, often referred to as the ''London Silver Price'' [14] (Reuters Instrument Code: ''LDNXAG''). The London Silver Price, determined according to the methodologies of CME Group and disseminated by Thomson Reuters, will be the silver valuation replacement for the London Silver Fix previously determined by the London Silver Market Fixing Ltd. that will be discontinued on August 14, 2014. The London Silver Price is anticipated to be the most widely used benchmark for daily silver prices and quoted by various financial information sources.

CME Group has established an electronic, over-the-counter, auction market for silver participants that discovers the London Silver Price over multiple auction rounds that begin at 12:00 noon London time each business day. The London Silver Price is the result of an ''equilibrium auction'' because it establishes a price for a troy ounce of silver London Good Delivery Bars [15] that will clear the maximum amount of bids and offers for silver entered by order-submitting silver participants each day. CME Group has indicated that it is expected that approximately six to seven silver participants having superior credit ratings (so-called ''first tier participants'') will be initially authorized to submit silver orders on the CME Group electronic system and that an additional number of bullion banks or brokers having lesser credit scores may also be silver participants. As the CME Group electronic silver auction market develops, CME Group expects to admit additional silver participants to the order submission process. Once the London Silver Price, which is calculated in US dollars, is established, Thomson Reuters will disseminate that day's London Silver Price to the markets and other market data providers such as Bloomberg via the Thomson Reuters Eikon and Elektron systems.

CME Group Auction Process

The CME Group auction process will begin with a notice of an auction round issued to silver participants before the commencement of the auction round stating a silver price in US dollars at which the auction round will be conducted. An auction round will last 30 seconds. Silver participants will electronically place bid and offer orders at the round's stated price and indicate whether the orders are for their own account or for the account of clients. All auction round order information other than the identity of those placing orders will be displayed electronically in real time for all silver participants. The CME Group system administrator will observe all auction round bid and offer order information, including the identity of those submitting orders. As long as the auction is open, silver participants may alter, change or withdraw their orders.

At the end of the auction round, the CME Group system will evaluate the equilibrium of the bid and offer orders submitted. If bid and offer orders indicate an imbalance outside of acceptable tolerances established for the CME Group system (*e.g.,* too many purchase orders submitted compared to sell orders or vice versa), a CME Group system algorithm will calculate a new auction round price principally based on the volume weighting of bid and offer orders submitted in the immediately completed auction round. For instance, if the order imbalance indicates that purchase orders (bids) outweigh sales orders (offers), then the new auction round price will be increased over that used in the prior auction round. Likewise, the new auction round price will be decreased from the prior round's price if offers outweigh bids. To clear the imbalance, the CME Group system then will issue another notice of auction round to silver participants at the newly calculated price. During this next 30 second auction round, silver participants again will submit orders, and after it ends, the CME Group system will evaluate for order imbalances. If order imbalances persist, a new auction price will be calculated and a further auction round will occur. This auction round process will continue until an equilibrium within specified tolerances is determined to exist. Once the CME Group system determines that orders are in equilibrium within system tolerances, the auction process ends and the equilibrium auction round price becomes the London Silver Price.

[11] *See supra,* notes 6–9. *See also* Post-Effective Amendment No. 1 on Form S–3 under the 1933 Act for the iShares Silver Trust, dated April 2, 2014 (No. 333–191498) and Form 8–K for the iShares Silver Trust, filed on July 18, 2014; Post-Effective Amendment No. 1 on Form S–1 under the 1933 Act for the ETFS White Metals Basket Trust, filed with the Commission on August 13, 2014 (No. 333–195441); Post-Effective Amendment No. 1 on Form S–3 under the 1933 Act for the ETFS Precious Metals Basket Trust, filed with the Commission on August 13, 2014 (No. 333–195675); Post-Effective Amendment No. 1 on Form S–3 under the 1933 Act for the ETFS Silver Trust, filed with the Commission on August 8, 2014 (No. 333–195514) (''ETFS Silver Registration Statement'').

[12] The ProShares Ultra Silver seeks daily investment results, before fees and expenses, that correspond to twice (200%) the daily performance of the Underlying Benchmark. The ProShares UltraShort Silver seeks daily investment results, before fees and expenses that correspond to twice the inverse (-200%) of the daily performance of the Underlying Benchmark. *See* Securities Exchange Act Release No. 58457 (September 3, 2008) (73 FR 52711) (September 10, 2008) (SR–NYSEArca–2008–91) (notice of filing and order granting accelerated approval of proposed rule change regarding listing and trading of shares of 14 funds of ProShares Trust II). *See also,* registration statement for the ProShares Trust II on Form S–1 under the 1933 Act, filed with the Commission on July 31, 2014 (No. 333–196885).

[13] The description herein of the London Silver Price mechanism is based, in part, on the ETFS Silver Registration Statement.

[14] The term ''London Silver Price'' means the price for an ounce of silver set by LBMA-authorized participating bullion banks and market makers in the electronic, over-the-counter auction operated by CME Group at approximately 12:00 noon London time, on each working day and disseminated by Thomson Reuters.

[15] A London Good Delivery Bar is acceptable for delivery in settlement of a transaction on the OTC market. A London Good Delivery Bar must contain between 750 ounces and 1,100 ounces of silver with a minimum fineness (or purity) of 999.0 parts per 1,000. A London Good Delivery Bar must also bear the stamp of one of the refiners who are on the LBMA-approved list.

The London Silver Price and all bid and offer order information for all auction rounds will become publicly available electronically via Thomson Reuters instantly after the conclusion of the equilibrium auction. The CME Group system also simultaneously matches bid and offer orders from the equilibrium auction for bilateral settlement among the silver participants. Orders reflecting any imbalance between bids and offers that are within the CME Group system tolerances will then be allocated to the first tier participants for settlement.

The London Silver Price is widely expected to be viewed as a full and fair representation of all market interest at the conclusion of the equilibrium auction. The CME Group's London Silver Price electronic auction methodology is similar to the non-electronic process previously used to establish the London Silver Fix where the London Silver Fix process adjusted the silver price up or down until all the buy and sell orders are matched, at which time the price was declared fixed. Nevertheless, the London Silver Price has several advantages over the previous London Silver Fix. The London Silver Price auction process will be fully transparent in real time to the silver participants and, at the close of each equilibrium auction, to the general public. The London Silver Price auction process also will be fully auditable by third parties since an audit trail exists from the time of each notice of an auction round. Moreover, the London Silver Price's audit trail and active, real time surveillance of the auction process by the CME Group system administrator combined with silver participants' agreement to abide by CME Group silver market rules and the Thomson Reuters code of conduct will deter manipulative and abusive conduct in establishing each day's London Silver Price.[16]

The Exchange believes the new London Silver Price mechanism will serve as an appropriate replacement to the London Silver Fix for purposes of determining the net asset value of shares of the Silver Trusts or as the Underlying Benchmark applicable to the Silver Funds because of the transparency of the auction process, the participation of an increased number of market participants compared to the London Silver Fix, and the auditability of the silver pricing mechanism.

In connection with this proposed rule change, (1) the sponsors of the Silver Trusts will each issue a press release informing the public of the date a trust will first use the London Silver Price to value the silver held by a trust; (2) the sponsor of the Silver Funds will issue a press release informing the public of the date the Silver Funds will first use the London Silver Price as the basis for their respective Underlying Benchmark; (3) the sponsors will each file the applicable press release with the Commission by means of Form 8–K, which will be available on the applicable Silver Trust's or Silver Fund's Web site; and (4) the sponsors will each file an amendment to the applicable registration statement relating to the proposed change.[17]

The sponsors for the Silver Trusts and the Silver Funds represent that there is no change to the investment objective of the applicable Silver Trust or the Silver Funds from that described in the applicable proposed rule change.[18] The Silver Trusts and the Silver Funds will comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.201 or 8.200, respectively.

Except for the changes noted above, all other facts presented and representations made in the proposed rule changes referenced above remain unchanged.

All terms referenced but not defined herein are defined in the applicable proposed rule change referenced above.[19]

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[20] that an exchange have rules that are 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, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that, according to the LBMA press release,[21] the new London Silver Price mechanism will be electronic, auction-based and auditable, and will be tradeable with an increased number of direct participants. The Exchange believes the new London Silver Price mechanism will serve as an appropriate replacement to the London Silver Fix for purposes of determining the net asset value of shares of the Silver Trusts or as the Underlying Benchmark applicable to the Silver Funds because of the transparency of the auction process, the participation of an increased number of market participants compared to the London Silver Fix, and the auditability of the silver pricing mechanism. All auction round order information other than the identity of those placing orders will be displayed electronically in real time for all silver participants. The CME Group system administrator will observe all auction round bid and offer order information, including the identity of those submitting orders. In addition, the London Silver Price and all bid and offer order information for all auction rounds will become publicly available electronically via Thomson Reuters instantly after the conclusion of the equilibrium auction, as described above.

The proposed change will permit the Silver Trusts and Silver Funds to continue to function as silver-based exchange-traded products by utilizing a new silver price mechanism to replace the London Silver Fix, which is not expected to be available after August 14, 2014, and that will provide a sound and reasonable basis for calculation of net asset value or will provide a suitable Underlying Benchmark, as applicable. Such price will be widely disseminated by one or more major market data vendors and/or exchanges. Prior to or following the effectiveness of this proposed rule change, (1) the sponsors of the Silver Trusts will each issue a press release informing the public of the date a trust will first use the London Silver Price to value the silver held by a trust; (2) the sponsor of the Silver Funds will issue a press release informing the public of the date the Silver Funds will first use the London Silver Price as the basis for their respective Underlying Benchmark; (3) the sponsors of the Silver Trusts and Silver Funds will each file the applicable press release with the Commission by means of Form 8–K, which will be available on the applicable Silver Trust's or Silver Fund's Web site; and (4) the sponsors of the Silver Trusts and Silver Funds will

[16] According to LBMA, the Prudential Regulation Authority (PRA) at the Bank of England now has overall responsibility for the prudential regulation of banks, building societies, credit unions, insurers and major investment firms, many of whom are active in the bullion market. The conduct of financial institutions is overseen by the Financial Conduct Authority (FCA), which was formed from the former Financial Services Authority and is separate from the Bank of England.

[17] The sponsors for the Silver Trusts and the Silver Funds represent that they will manage the Silver Trusts and the Silver Funds in the manner described in the applicable proposed rule change (*see supra,* notes 6–10), and will not implement the changes described herein until the instant proposed rule change is operative.

[18] *See supra,* notes 6–10.

[19] *See supra,* notes 6–10.

[20] 15 U.S.C. 78f(b)(5).

[21] *See supra,* note 5.

each file an amendment to the applicable registration statement under the 1933 Act relating to the proposed change. Such press releases and registration statement amendments will protect investors and the public interest by providing notification to investors of the new silver price mechanism prior to the use of the London Silver Price by the Silver Trusts and Silver Funds. The sponsors for the Silver Trusts and Silver Funds represent that there is no change to the investment objective of the applicable trust or the Silver Funds from that described in the applicable proposed rule change. The Silver Trusts and Silver Funds will comply with all initial and continued listing requirements under NYSE Arca Equities Rule 8.201 or 8.200, respectively. Except for the changes noted above, all other facts presented and representations made in proposed rule changes referenced above remain unchanged.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that the London Silver Price auction process will be fully transparent in real time to the silver participants and, at the close of each equilibrium auction, to the general public. The London Silver Price auction process also will be fully auditable by third parties since an audit trail exists from the time of each notice of an auction round. Moreover, the London Silver Price's audit trail and active, real time surveillance of the auction process by the CME Group system administrator combined with silver participants' agreement to abide by CME Group silver market rules and the Thomson Reuters code of conduct will deter manipulative and abusive conduct in establishing each day's London Silver Price. The Silver Trusts and Silver Funds will continue to be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.201 and 8.200, respectively. Except for the changes noted above, all other facts presented and representations made in proposed rule changes referenced above remain unchanged.[22]

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 proposed change will permit the Silver Trusts and Silver Funds to continue to function as silver-based exchange-traded products by utilizing a new silver price mechanism to replace the London Silver Fix, which is not expected to be available after August 15, 2014, and that will provide a sound and reasonable basis for calculation of net asset value or will provide a suitable Underlying Benchmark, as applicable.

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

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[23] and Rule 19b–4(f)(6) thereunder.[24]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that the proposed change will provide additional transparency to silver pricing compared to the previous London Silver Fix for several reasons. The Exchange represents that the London Silver Price auction process is fully auditable by third parties, and an audit trail will exist from the time of each notice of an auction round. Moreover, the Exchange represents there will be active, real time surveillance of the auction process by the CME Group system administrator. The Exchange also represents that the initial number of silver participants expected to participate in the auction process (approximately six to seven) exceeds the number of market participants determining the London Silver Fix prior to August 15, 2014, and will contribute to the integrity and reliability of the pricing process. The Commission believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Waiver of the operative delay will allow the Silver Trusts and the Silver Funds, which are actively traded and widely held exchange-traded products, to use the London Silver Price as the basis for calculating net asset value or as an Underlying Benchmark, as applicable, by August 15, 2014, thereby facilitating the transition to the new price mechanism without disruption in trading. Therefore, the Commission designates the proposed rule change to be operative upon filing.[25]

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)[26] 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 Number SR–NYSEArca–2014–88 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–NYSEArca–2014–88. 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

[22] *See supra,* notes 6–10.

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the 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.

[25] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[26] 15 U.S.C. 78s(b)(2)(B).

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Section, 100 F Street NE., Washington, DC 20549, on official business days between 10 a.m. and 3 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com.* 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–NYSEArca–2014–88 and should be submitted on or before September 10, 2014

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19703 Filed 8–19–14; 8:45 am]

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[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72844; File No. SR–EDGA–2014–22]

Self-Regulatory Organizations; EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendments to the EDGA Exchange, Inc. Fee Schedule

August 14, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 11, 2014, EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its fees and rebates applicable to Members [3] of the Exchange pursuant to EDGA Rule 15.1(a) and (c) (''Fee Schedule'') to: (1) harmonize the definitions of Average Daily Trading Volume (''ADV'') and Total Consolidated Volume (''TCV'') with those contained in the BATS Exchange, Inc. (''BATS'') and BATS–Y Exchange, Inc. (''BYX'') fee schedules; and (2) amend the criteria of both Step-Up Tier 1 and Step-Up Tier 2 under Footnote 4.

The text of the proposed rule change is available on the Exchange's Internet Web site at *www.directedge.com,* at the Exchange's principal office, and at the Public Reference Room of the Commission.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to: (1) Harmonize the definitions of ADV and TCV with those contained in the BATS and BYX fee schedules; and (2) amend the criteria of both Step-Up Tier 1 and Step-Up Tier 2 under Footnote 4.

ADV and TCV Definitions

On January 31, 2014, Direct Edge Holdings LLC (''DE Holdings''), the former parent company of the Exchange, completed its business combination with BATS Global Markets, Inc., the parent company of BATS and BYX.[4] As part of its effort to reduce regulatory duplication and relieve firms that are members of the Exchange, BATS, and BYX of conflicting or unnecessary regulatory burdens, the Exchange is now engaged in the process of reviewing and amending certain Exchange, BATS, and BYX Rules. To conform to comparable BATS and BYX rules for purposes of its harmonization efforts due to its business combination, the Exchange proposes to amend the definitions of ADV and TCV to make each definition similar to those contained in the BATS and BYX fee schedules.

Currently, the Exchange determines the liquidity adding reduced fee that it will provide to Members based on the Exchange's tiered pricing structure based on the calculation of ADV,[5] and/or average daily TCV.[6] Like BATS and BYX, the Exchange currently excludes from is definition of ADV and TCV days where its system experiences a disruption that lasts for more than 60 minutes during Regular Trading Hours,[7] and the last Friday in June (the ''Russell Reconstitution Day''). BATS and BYX also exclude from its definitions of ADV and TCV days with a scheduled early market close.[8] Similarly, the General Notes section of the Exchange's Fee Schedule states that trading activity on days when the market closes early are

[3] The term ''Member'' is defined as ''any registered broker or dealer, or any person associated with a registered broker or dealer, that has been admitted to membership in the Exchange. A Member will have the status of a ''member'' of the Exchange as that term is defined in Section 3(a)(3) of the Act.'' *See* Exchange Rule 1.5(n).

[4] *See* Securities Exchange Act Release No. 71449 (January 30, 2014), 79 FR 6961 (February 5, 2014) (SR–EDGA–2013–34). Upon completion of the combination, DE Holdings and BATS Global Markets, Inc. each became intermediate holding companies, held under a single new holding company. The new holding company, formerly named ''BATS Global Markets Holdings, Inc.,'' changed its name to ''BATS Global Markets, Inc.''

[5] As provided in the Fee Schedule, ''ADV'' is currently defined as ''the average daily volume of shares that a Member executed on the Exchange for the month in which the fees are calculated. ADV is calculated on a monthly basis, excluding shares on any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during Regular Trading Hours (''Exchange System Disruption'') and on the last Friday in June (the ''Russell Reconstitution Day''). With prior notice to the Exchange, a Member may aggregate ADV with other Members that control, are controlled by, or are under common control with such Member (as evidenced on such Member's Form BD).''

[6] As provided in the Fee Schedule, ''TCV'' is currently defined as ''the volume reported by all exchanges and trade reporting facilities to the consolidated transaction reporting plans for Tapes A, B and C securities for the month in which the fees are calculated, excluding volume on any day that the Exchange experiences an Exchange System Disruption or the Russell Reconstitution Day.''

[7] ''Regular Trading Hours'' is defined as ''the time between 9:30 a.m. and 4:00 p.m. Eastern Time.'' *See* Exchange Rule 1.5(y).

[8] *See* Securities Exchange Act Release Nos. 72590 (July 10, 2014), 79 FR 41605 (July 16, 2014) (SR–BYX–2014–009); and 72589 (July 10, 2014), 79 FR 41618 (July 16, 2014) (SR–BATS–2014–025).

not counted toward volume tiers.[9] To harmonize the definitions of ADV and TCV with BATS and BYX, the Exchange proposes relocate this exclusion from the General Notes section of the Fee Schedule and include it the definitions of ADV and TCV. By amending the definitions of ADV and TCV, the Exchange is not proposing to modify any of the existing rates or the percentage thresholds at which a Member may qualify for certain reduced fees pursuant to the tiered pricing structure.

Step Up Tiers 1 and 2

Footnote 4 of the Fee Schedule contains the Step-Up Tier 1 and Step-Up Tier 2 (collectively, the ''Step-Up Tiers''). Step-Up Tier 1 provides Members with a reduced fee of $0.0003 per share for adding liquidity to the Exchange when the Member, on an MPID basis, adds more than 0.10% of the TCV on EDGA on a daily basis, measured monthly, more than the MPID's December 2012 or September 2013 added ADV. The Step-Up Tier 2 provides Members with a reduced fee of $0.0003 per share to add liquidity to the Exchange when the Member: (i) On an MPID basis, adds more than 0.05% of the TCV on EDGA on a daily basis, measured monthly, more than the MPID's December 2012 or September 2013 added ADV; and (ii) has an ''added liquidity'' to ''added plus removed liquidity'' ratio of at least 85%. Under both tiers, where an MPID's December 2012 and September 2013 ADV is zero, the Exchange would apply a default ADV baseline of 10,000,000 shares. The Exchange now proposes to delete default ADV baseline of 10,000,000 shares for both tiers.

Implementation Date

The Exchange proposes to implement these amendments to its Fee Schedule on August 11, 2014.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[10] in general, and furthers the objectives of Section 6(b)(4),[11] in particular, as 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.

ADV and TCV Definitions

The Exchange believes that the proposal to amend the definitions of ADV and TCV are reasonable, as they are designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that the proposed rule change will provide greater harmonization between similar Exchange, BATS and BYX rules, resulting in greater uniformity and less burdensome and more consistent standards for common members. As such, the proposed rule change would foster cooperation and coordination with persons engaged in facilitating transactions in securities and would remove impediments to and perfect the mechanism of a free and open market and a national market system. By amending the definitions of ADV and TCV, the Exchange is not proposing to amend the thresholds a Member must achieve to become eligible for, or the dollar value associated with, the tiered fees. The Exchange currently excludes trading activity on days where the market closes early and is simply proposing to relocate this provision from the General Notes section of its Fee Schedule to the definitions of ADV and TCV. Doing so would enable the Exchange to maintain definitions of ADV and TCV similar to those of BATS and BYX. Lastly, the Exchange believes that the proposed change is not unfairly discriminatory because it applies uniformly to all Members.

Step-Up Tiers 1 and 2

The Exchange believes its proposal to delete the default ADV baseline of 10,000,000 shares for the Step-Up Tiers represents an equitable allocation of reasonable dues, fees, and other charges. The objective to removing the default ADV baseline for the Step-Up Tiers is to increase the number of Members who may be eligible to achieve the tier and to encourage firms who are currently not Members to become Members of the Exchange. Specifically, firms who were not Members during either December 2012 or September 2013 would have previously defaulted to the ADV baseline of 10,000,000 shares. The deletion of the default ADV baseline of 10,000,000 is, therefore, reasonable and equitable because it will enhance the value of the Step-Up Tiers to Members whose market was unable to meet the baseline eligibility because they were not Members in December 2012 or September 2013, thereby encouraging them to increase their volume on the Exchange in order to qualify for the Step-Up Tiers or incentive firms who are not currently Members to become Members. Such increased volume would increase potential revenue to the Exchange and allow the Exchange to spread its administrative and infrastructure costs over a greater number of shares, which would result in lower per share costs. The Exchange may then pass on these savings to Members in the form of reduced fees. The increased liquidity would also benefit all investors by deepening EDGA's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. Lastly, the Exchange believes that the proposed change is not unfairly discriminatory because it applies uniformly to all Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes its proposed amendments to its Fee Schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed amendment to the definition of ADV and TCV is not designed to address any competitive issues but rather to provide greater harmonization among similar Exchange and BATS and BYX rules, resulting in less burdensome and more efficient and consistent standards for common members. The Exchange also believes that its proposal to delete the default ADV baseline of 10,000,000 shares for the Step-Up Tiers would increase intermarket competition because it offers Members increased opportunities to be eligible for the Step-Up Tiers and receive the discounted rate, thereby encouraging them to increase their volume on the Exchange in order to qualify for the Step-Up Tiers or incentive firms who are not currently Members to become Members. In addition, the Exchange believes that deleting the default ADV baseline of 10,000,000 shares for the Step-Up Tiers would enhance intramarket competition, as it is intended to increase the competitiveness of and draw additional volume to the Exchange. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to

[9] Days with a scheduled early market close are December 24, 2014, the trading day after Thanksgiving, and the trading day before July 4th.

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(2) [13] thereunder. 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.

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–EDGA–2014–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–EDGA–2014–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGA–2014–22, and should be submitted on or before September 10, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19702 Filed 8–19–14; 8:45 am]

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[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72849; File No. SR–ICEEU–2014–13]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change Relating to the 2014 ISDA Credit Derivatives Definitions

August 14, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 14, 2014, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The principal purpose of the proposed changes is to amend the ICE Clear Europe Clearing Rules (the ''Rules'') and the ICE Clear Europe CDS Procedures (the ''CDS Procedures'') to incorporate references to revised Credit Derivatives Definitions, as published by the International Swaps and Derivatives Association, Inc. (''ISDA'') on February 21, 2014 (the ''2014 ISDA Definitions''). Consistent with the approach being taken throughout the CDS market, the industry standard 2014 ISDA Definitions will be applicable to certain products cleared by ICE Clear Europe beginning on September 22, 2014.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

ICE Clear Europe proposes to amend its existing Rules and CDS Procedures to incorporate references to the 2014 ISDA Definitions to be effective by the industry implementation date of September 22, 2014. ICE Clear Europe principally proposes to (i) revise the Rules and CDS Procedures to make proper distinctions between the 2014 ISDA Definitions and the ISDA Credit Derivatives Definitions published previously in 2003 (as amended in 2009, the ''2003 ISDA Definitions'') and related documentation; and (ii) make conforming changes throughout the Rules and the CDS Procedures to reference provisions from the proper ISDA Definitions. In addition, the ICE Clear Europe CDS Risk Policy has been revised to reflect appropriate portfolio margin treatment between CDS Contracts cleared under the 2003 and 2014 ISDA Definitions.

As described by ISDA, the 2014 Definitions make a number of changes from the 2003 ISDA Definitions to the standard terms for CDS Contracts,

including (i) introduction of new terms applicable to credit events involving financial reference entities and settlement of such credit events, (ii) introduction of new terms applicable to credit events involving sovereign reference entities and settlement of such credit events, (iii) implementation of standard reference obligations applicable to certain reference entities, and (iv) various other improvements and drafting updates that reflect market experience and developments since the 2009 amendments to the 2003 ISDA Definitions.

Commencing on the implementation date of September 22, 2014, ICE Clear Europe intends to accept for clearing new transactions in eligible contracts that reference the 2014 ISDA Definitions. In addition, the amendments will provide for the conversion of certain existing contracts currently based on the 2003 ISDA Definitions into contracts based on the 2014 ISDA Definitions. (This approach is consistent with expected industry practice for similar contracts not cleared by ICE Clear Europe, which will be subject to a multilateral amendment ''protocol'' sponsored by ISDA.) For contracts that are not converting automatically, ICE Clear Europe expects to continue to accept for clearing both new transactions referencing the 2014 ISDA Definitions and new transactions referencing the 2003 ISDA Definitions (and such contracts based on different definitions will not be fungible). The ISDA protocol implementation has been developed with a high level of industry involvement and consultation. ICE Clear Europe understands, through industry consensus, that Clearing Members plan to adhere to the ISDA protocol and would desire ICE Clear Europe to convert certain protocol-eligible contracts cleared at ICE Clear Europe into contracts based on the 2014 ISDA Definitions, consistent with the ISDA protocol. Therefore, in an effort to achieve consistency across the CDS marketplace, ICE Clear Europe's implementation plan is intended to be fully consistent with the planned ISDA protocol implementation. (Consistent with the protocol, most ICE Clear Europe CDS contracts will convert, with certain exceptions involving CDS on so-called protocol excluded reference entities, which are principally sovereigns and financial reference entities.)

ICE Clear Europe proposes to amend Parts 1, 9 and 15 of the Rules and the CDS Procedures, as well as the CDS Risk Policy. Each of these changes is described in detail as follows. All capitalized terms not defined herein are defined in the Rules.

Part 1 of the Rules has been amended to provide new definitions for ''2003 Credit Derivatives Definitions'' (which replaces the existing ''Credit Derivatives Definitions'' term) and ''2014 Credit Derivatives Definitions,'' ''2003-type CDS Contract,'' ''2014-type CDS Contract,'' ''Applicable Credit Derivatives Definitions'' and ''Component Transaction.'' The new definitions accommodate the 2014 ISDA Definitions, provide terms that allow for distinctions between the 2014 ISDA Definitions and the 2003 ISDA Definitions and have been applied throughout the Rules and CDS Procedures. Additionally, conforming changes in the definitions of ''CDS Contract'' and ''Set'' have been made. Rule 109(b)(vii) has been amended to use the new term Applicable Credit Derivatives Definitions and to correct certain other references to defined terms.[3] Rule 905(b) has also been amended to take into account the possibility that, as a result of the rule amendments, CDS Contracts may have different Applicable Credit Derivative Definitions.

In Part 15 (Credit Default Swaps) of the Rules, Rule 1501 has been revised to incorporate new definitions relating to the 2014 ISDA Definitions. In connection with a new concept in the 2014 ISDA Definitions that permits a delivery of an ''Asset Package'' in the case of certain credit events involving financial and sovereign reference entities, a new definition of ''Asset Package Delivery Notice'' has been added, as well as related references that ''Asset Package Delivery,'' ''Asset Package,'' and ''Prior Deliverable Obligation'' have the meanings assigned to them in the 2014 ISDA Definitions. The term ''Credit Event Announcement'' has been removed as it is no longer used. The definition of ''Determining Body'' has been revised to clarify that relevant determinations will be made under the Applicable Credit Derivatives Definitions. The definitions of ''Restructuring Credit Event Notice'' and ''Triggered Restructuring CDS Contract Portion'' have been revised to include references, as appropriate, to the 2014 ISDA Definitions as well as the current 2003 ISDA Definitions. Clarifying amendments with respect to defined terms are also made in the definitions of ''Restructuring CDS Contract,'' ''Restructuring Credit Event Announcement'' and ''Restructuring Reference Entity.'' Conforming amendments are also made throughout Part 15 to use the new defined term ''Relevant Restructuring Credit Event'' from the CDS Procedures.[4] Certain typographical corrections have been made as well.

Rule 1505 is amended to include references to Asset Package Delivery Notices in provisions addressing certain notices that may be provided in connection with CDS Contracts that are Matched Pairs.

Rules 1509 and 1510 have been amended to include delivery mechanics with respect to Asset Packages (in circumstances where physical settlement applies) and related procedures for delivering notices with respect thereto, consistent with the adoption of the Asset Package delivery concept under the 2014 ISDA Definitions. Rule 1509(g) has been amended to provide that if Asset Package Delivery is applicable, then in circumstances where the Asset Package is deemed to be zero, physical settlement shall be deemed to occur on a delivery-versus-payment basis in accordance with the timetable set out in the 2014 ISDA Definitions.

In addition, Rules 1509(b) and (c), 1512(e), 1513(a) and (b), and 1514(a) and sections 2.3(b), 2.4(d) and (e), 2.5(e), 2.6 and 2.7 of Exhibit 4 (Settlement and Notice Terms) are updated to make reference to the parallel provisions of the 2014 ISDA Definitions in conjunction with the existing references to specific provisions of the 2003 ISDA Definitions. Paragraph 2.5(f) of Exhibit 4 has been revised to add parallel and substantially similar provisions relating to quotations in connection with fallback cash settlement in the context of the 2014 ISDA Definitions to those that currently apply under the 2003 ISDA Definitions.

The CDS Procedures are revised as applicable to implement the definitional changes in the Rules and the 2014 ISDA Definitions. These changes include clarification of references to provisions within the DC Rules, clarification as to whether previous references to ''Credit Derivatives Definitions'' are to the 2003 ISDA Definitions or the 2014 ISDA Definitions and the addition of provisions consistent with the 2014 ISDA Definitions. The revisions to the CDS Procedures are intended to ensure that all ICE Clear Europe CDS Products are treated consistently with the

[3] Similar conforming changes have been made throughout the Rules and CDS Procedures with respect to the use of the term ''Applicable Credit Derivative Definitions.''

[4] Similar conforming changes have been made throughout the Rules and Procedures with respect to ''Relevant'' Restructuring Credit Event.

applicable ISDA Definitions in effect from time to time, as is practice today.

In paragraph 1.2 of the CDS Procedures, cross-references to a variety of terms defined in the 2014 ISDA Definitions have been added, and distinctions between terms used in the 2003 ISDA Definitions and 2014 ISDA Definitions have been made. In addition, a definition of ''2014 CDD Protocol'' has been added to mean the 2014 ISDA Credit Derivatives Definition Protocol published by ISDA. A definition has also been added for ''Protocol Effective Date'' which is defined in the 2014 CDD Protocol. In the definition of ''Acceptance Time,'' clause (b) has been deleted as it relates to former acceptance timing for the weekly clearing cycle that no longer applies. (This change is not specifically related to the 2014 ISDA Definitions but is intended to reflect current acceptance timing.) In addition, a definition has been added for ''Relevant Restructuring Credit Event'' to mean in respect of a CDS contract using the 2003 ISDA Definitions, any Restructuring and with respect to a CDS Contract using the 2014 ISDA Definitions, an M(M)R Restructuring. (This reflects a difference between the 2003 and 2014 ISDA Definitions with respect to triggering of settlement as a result of such Restructuring events.) A definition for ''Restructuring Credit Event Notice'' has also been defined as a Credit Event Notice in respect of a Relevant Restructuring Credit Event.

In addition, a correction has been made to the definition of ''Daily Aggregate MTM Interest Amount'' to properly incorporate the defined term Mark-to-Market Interest. The definitions of ''NEMO Triggering Period'', ''Notification Cut-Off Time'' and ''RMP Deadline Time'' have been amended to specify the applicable deadlines and cut-off points under the 2014 ISDA Definitions as well as 2003 ISDA Definitions. The definition of ''Single Name Contract'' was modified to mean a CDS Contract having, as the Reference Entity, an Eligible Single Name Reference Entity. A definition of ''Original Annex Date'' has been added for purposes of distinguishing the treatment of certain iTraxx Europe CDS contracts under the 2014 and 2003 ISDA Definitions under revised paragraph 9.1 (based on the date of publication of the relevant underlying index). Various conforming references to the new or revised defined terms have been made throughout the CDS Procedures, and various provisions have been renumbered.

Paragraph 2.2(f) was modified to clarify that the existing requirement that a CDS Clearing Member must have access to at least one physical settlement system that is customary for settlement of deliverable obligations under CDS contracts does not apply to a settlement system only required for Asset Package delivery under the 2014 ISDA Definitions. Paragraph 4.1 was modified to change the defined terms ''CM1'' and ''CM2'' to the terms ''protection buyer'' and ''protection seller,'' respectively. Per amendments to paragraph 4.3(c), CDS Trade Particulars relating to an Eligible Single Name Reference Entity submitted for clearing on or after the Protocol Effective Date must identify whether the 2003 or 2014 ISDA Definitions apply. An incorrect reference to Acceptance Notices has been removed from paragraph 4.4(c). Paragraph 4.6 has been revised to clarify that certain deemed deliveries of Credit Event Notices are only relevant under 2003-type CDS Contracts. Non-substantive changes to improve drafting clarity have been made in paragraph 4.8. Paragraphs 4.9 and 4.10 have been revised to reflect the potentially separate treatment of component transactions under the 2003 and 2014 ISDA Definitions, and to make certain other conforming changes to defined terms. Paragraph 4.11 was revised to add certain parallel references to determination of Successors under the 2014 ISDA Definitions. Amendments in paragraph 4.13(b) and (e) reference the ''NOPS Cut-off Date'' which is the relevant defined term in the 2014 ISDA Definitions. Paragraphs 4.19–4.21 have been renumbered. In addition, cross-references in paragraph 5.7 have been updated.

Paragraphs 6.2, 6.3, 6.4 and 6.6 have been revised to add parallel references to relevant provisions of the 2014 ISDA Definitions and to incorporate the concept of Asset Package Delivery Notices, among other conforming changes. Paragraphs 6.3(f)(xi) and 6.3(g) are amended to clarify that the Electronic Notice Process does not apply to Asset Package Delivery Notices. Paragraph 6.5 (Disputes Relating to Deliverable Obligations) was amended so that the dispute resolution mechanics therein apply in connection with Asset Packages deliverable in lieu of Prior Deliverable Obligations or Package Observable Bonds, in addition to other deliverable obligations.

In paragraph 7 (Cleared CDS Products: Eligible Sets), a new provision 7.4 was added to clarify that the determination of whether the 2003 ISDA Definitions or 2014 ISDA Definitions applies to an index CDS Contract is made apply separately for each Component Transaction.

Paragraphs 8.1 and 8.2(g) are updated to make reference to the parallel provisions of the 2014 ISDA Definitions in conjunction with the existing references to specific provisions of the 2003 ISDA Definitions, and to distinguish between relevant provisions of the 2003 and 2014 ISDA Definitions, as appropriate.

Paragraph 9 of the CDS Procedures, which sets out the contract terms for iTraxx Europe Contracts, has been revised to implement the 2014 ISDA Definitions and related definitions and provisions. Specifically, paragraph 9.1 is amended to clarify that different sub-provisions of paragraph 9 will apply to CDS Contracts depending on when they are accepted for clearing in relation to the Protocol Effective Date and the MCA/STS Changeover Time. In revised paragraph 9.2, which applies for iTraxx Contracts with an Original Annex Date on or after the Protocol Effective Date (i.e., for transactions in the September 2014 or later versions of the index), the definition of ''iTraxx Terms Supplement'' in subparagraph (b) is updated to include a reference to the new ''iTraxx Europe Untranched Standard Terms Supplement'' expected to be published by Markit North America, Inc. on or about September 20, 2014 to incorporate the 2014 ISDA Definitions. Paragraph 9.2(c) contains certain amendments to the Standard iTraxx 2014 CDS Supplement and iTraxx 2014 Confirmation generally consistent with those for prior versions of the iTraxx Terms Supplement in existing paragraph 9.

Revised paragraph 9.3 applies to iTraxx Europe CDS Contracts that are accepted for clearing after the Protocol Effective Date but with an Original Annex Date before the Protocol Effective Date (i.e., for new transactions in older versions of the index). Pursuant to the new iTraxx Europe Legacy Untranched Standard Terms Supplement, expected to be published on or about September 20, 2014, it is expected that certain Component Transactions of such contracts will be 2014-type CDS Contracts and others will remain 2003-type CDS Contracts. Paragraph 9.3 contains definitions and provisions generally similar to those in paragraph 9.2, and makes comparable amendments to the Standard iTraxx Legacy CDS Supplement.

Revised paragraph 9.4 was formerly paragraph 9.2 and applies to iTraxx Europe CDS Contracts accepted for clearing after the MCA/STS Changeover Time and before the Protocol Effective Date. As a result of the conversion of such existing contracts as of the Protocol Effective Date as described in

paragraph 9.7 below, such terms will apply only until the Protocol Effective Date.

Former paragraph 9.3 has been renumbered as paragraph 9.5, and former paragraph 9.4 has been renumbered as paragraph 9.6. Consistent with the provisions of paragraph 9.7, paragraph 9.6 was modified so that it applies to iTraxx Europe CDS Contracts accepted for clearing before the MCA/STS Changeover Time and will apply only until the Protocol Effective Date.

New paragraph 9.7 was added to provide for the conversion of Contracts into 2014-type CDS Contracts as of the Protocol Effective Date. iTraxx Europe CDS Contracts accepted for clearing before the Protocol Effective Date (and thus subject to paragraph 9.4 or 9.6) will after the Protocol Effective Date be subject to paragraph 9.3. Former paragraph 9.5 has been renumbered as paragraph 9.8, and has been revised to add appropriate parallel references to the 2014 ISDA Definitions in conjunction with existing references to the 2003 ISDA Definitions.

Changes to paragraph 10 (Contract Terms for Single Name CDS Contracts) reflect a variety of modifications to defined terms, including replacing ''SNEC'' with ''Single Name'' (or, as applicable, ''STEC'' to follow the industry standard acronym). The provisions in existing paragraph 11 of the CDS Procedures (addressing Standard Western European Sovereign contracts) have also been combined with those in paragraph 10, under the general category of Single Name CDS Contracts. New paragraph 10.1 specifies the applicable contract terms for all Single Name CDS Contracts based on the time of acceptance for clearing. The existing subparagraphs of paragraph 10 have been renumbered accordingly. Definitions have been moved to paragraph 10.3, with various amendments made to incorporate the 2014 ISDA Definitions and address the treatment of Contracts that are converting into 2014-type CDS Contracts. The definition of ''List of Eligible Single Name Reference Entities'' has been amended to reflect that a contract can be either a 2003-type CDS Contract or a 2014-type CDS Contract. The definition of ''Protocol Excluded Reference Entity'' has been added to mean each Eligible Single Name Reference Entity that is an Excluded Reference Entity (as defined in the 2014 CDD Protocol). Contracts on such reference entities will not convert into 2014-type CDS Contracts, and such reference entities are expected to consist principally of certain financial and sovereign reference entities). Definitions have also been added for ''Relevant Transaction Type,'' ''STEC Contract'' (CDS Single Name Contract referencing a Standard European Corporate) and ''Non-STEC Single Name Contract'' (Single Name CDS Contract referencing a Standard European Financial Entity, Standard Western European Sovereign or Protocol Excluded Reference Entity). Conforming changes to defined terms and cross references have been made in paragraph 10.5. Paragraph 10.6 has been revised to add parallel provisions referencing the 2014 ISDA Definitions and address certain new features of the 2014 ISDA Definitions, including the Standard Reference Obligation concept and specific terms for Financial Reference Entities.

Paragraph 10.7 has been added to address conversion of STEC Contracts that are 2003-type CDS Contracts as of the Protocol Effective Date. After the Protocol Effective Date, such contracts will be deemed 2014-type CDS Contracts. Paragraph 10.8 has been amended to provide that updates to standard ISDA Confirmations will be reviewed and implemented by the clearing house in the same manner as updates to standard ISDA physical settlement matrices. Former paragraph 11 (Contract Terms for Sovereign Contracts) has been deleted as sovereign CDS contracts are now included within the definition of ''Non-STEC Single Name Contract.'' Finally, corresponding changes to provision numbering throughout the CDS Procedures have been made as necessary.

The ICE Clear Europe CDS Risk Policy has been revised to provide for appropriate portfolio treatment between CDS Contracts cleared under the 2003 and 2014 Definitions and to make certain other changes. In the revised framework, each index, sub-index or underlying single name is deemed a separate ''Risk Factor.'' The revisions introduce a ''Risk Sub-Factor'' as a specific single name and any unique combination of instrument attributes (e.g., restructuring clause, 2003 or 2014 ISDA Definitions, debt tier, etc.) The union of all Risk Sub-Factors that share the same underlying single name form a single name Risk Factor. The portfolio treatment at the Risk Sub-Factor level is provided for in the revised risk policy, as appropriate. The policy also reflects a change in the 2014 ISDA Definitions that restructuring credit events (including sovereign restructurings) other than M(M)R Restructuring do not require separate triggering of each contract and are thus treated as ''hard'' credit events such as bankruptcy and failure to pay. Other changes are made to the risk policy regarding physical settlement, including referencing the cash settlement fallback where physical settlement fails.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act [5] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to the extent applicable, derivative agreements, contracts and transactions and to comply with the provisions of the Act and the rules and regulations thereunder. ICE Clear Europe believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICE Clear Europe, in particular, Section 17A(b)(3)(F),[6] because ICE Clear Europe believes that the proposed rule change will assure the prompt and accurate clearance and settlement of securities transactions and derivatives agreements, contracts, and transactions. ICE Clear Europe believes the proposed changes to the Rules and CDS Procedures and risk policy conform to the 2014 ISDA Definitions as published by ISDA in conjunction with an industry-wide effort. As part of this effort, CDS market participants have developed the 2014 ISDA Definitions to reflect market experience since the ISDA Credit Derivatives Definitions were last significantly amended in 2009 (including credit events involving financial and sovereign entities), and to make various related improvements and clarifications to the terms of CDS contracts and the operation of the CDS market. The changes to the Rules thus incorporate references to the 2014 ISDA Definitions in order to permit clearing of contracts referencing the new definitions, and distinguish where applicable between the 2014 ISDA Definitions and the 2003 ISDA Definitions. ICE Clear Europe plans to accept for clearing contracts referencing the industry standard 2014 ISDA Definitions beginning with the planned industry-wide implementation on September 22, 2014 (and to convert certain existing contracts to the new definitions as of that date). ICE Clear Europe believes the revisions to the Rules are necessary in order to permit clearing of contracts on the new terms, and to provide the market with the necessary assurances that ICE Clear Europe plans to implement the 2014 ISDA Definitions consistent with

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] *Id.*

industry practice. As such, the proposed rule change is designed to promote the prompt and accurate clearance and settlement of securities transactions and derivatives agreements, contracts, and transactions within the meaning of Section 17A(b)(3)(F) [7] of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed changes to the Rules in order to incorporate references to the 2014 ISDA Definitions will apply consistently across all Participants and Non-Participant Parties and facilitate changes sought to be made throughout the CDS market. Furthermore, the proposed changes to the Rules in order to incorporate references to the 2014 ISDA Definitions do not preclude other market participants from making similar changes (and indeed it is expected that other market participants will do so, including for uncleared transactions). ICE Clear Europe does not expect that the proposed changes will affect access to clearing for Participants or their customers, or materially affect the cost of clearing. As a result, ICE Clear Europe does not believe the proposed rule change will have any impact, or impose any burden, on competition not appropriate 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

Written comments relating to the proposed changes to the rules have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*) or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ICEEU–2014–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ICEEU–2014–13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at *https://www.theice.com/clear-europe/regulation.*

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–ICEEU2014–13 and should be submitted on or before September 10, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19705 Filed 8–19–14; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72848; File No. SR–BOX–2014–16]

Self-Regulatory Organizations; BOX Options Exchange LLC; Order Granting Approval of a Proposed Rule Change To Adopt New Trade Allocation Algorithms for Matching Trades at the Conclusion of the PIP and the COPIP

August 14, 2014.

I. Introduction

On June 16, 2014, BOX Options Exchange LLC (''Exchange'' or ''BOX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its rules regarding the Price Improvement Period (''PIP'') and Complex Order Price Improvement Period (''COPIP'') (''auction mechanisms''). The proposed rule change was published for comment in the **Federal Register** on July 2, 2014.[3] The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

The PIP [4] and COPIP [5] are electronic auction mechanisms that permit an Options Participant to expose an agency order (''PIP Order'' for PIP and ''COPIP Order'' for COPIP, each, an ''Agency Order'') and provide such order an opportunity for price improvement. Currently, the PIP and COPIP rules permit an initiating Options Participant (''Initiating Participant'') to submit an Agency Order into the PIP or COPIP along with a matching contra order (''Primary Improvement Order''). The Exchange will commence a PIP or COPIP by broadcasting a message to other Options Participants that contains information concerning series, size, auction start price, side of market, and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 72477 (June 26, 2014), 79 FR 37798 (''Notice'').

[4] *See* BOX Rule 7150.

[5] *See* BOX Rule 7245.

time of conclusion. The PIP or the COPIP will last 100 milliseconds, unless terminated earlier due to certain circumstances. At the conclusion of the PIP or the COPIP, the Agency Order is matched against the best prevailing quotes or orders on BOX, including Improvement Orders [6] and any Unrelated Orders,[7] on a price/time priority basis, subject to certain exceptions.[8]

The PIP is utilized for the submission of agency orders for single options series instruments, while the COPIP is utilized for the submission of Complex Orders. BOX proposes to amend the PIP and the COPIP to amend the priority and allocation algorithms at the conclusion of the auction mechanisms. BOX further proposes to eliminate the broadcast of Improvement Order responses submitted during the PIP and the COPIP. In addition, BOX proposes to remove the Market Maker Prime [9] designation and Customer PIP Order type (''CPO'') from the PIP.

A. Priority and Allocation at the Conclusion of the PIP

BOX proposes to amend the priority and trade allocation algorithm for matching orders at the conclusion of the PIP.[10] The PIP Order will continue to be matched with opposite side competing orders and quotes in price priority. If the total quantity of orders, quotes, Improvement Orders, Legging Orders [11] and the Primary Improvement Order is equal to or less than the quantity of the PIP Order at a given price level, all orders at the price will be filled and the balance of the PIP Order will be executed at the next best price. If the total quantity of orders, quotes, Improvement Orders, Legging Orders, and the Primary Improvement Order is greater than the quantity of the PIP Order at a given price level, the allocation will be as described below.

Public Customer Allocation

BOX proposes that all orders, other than Legging Orders and the Primary Improvement Order, for the account of Public Customers,[12] whether Improvement Orders or Unrelated Orders, including quotes and orders on the BOX Book prior to the PIP Broadcast, will be allocated for execution against the PIP Order first.[13] Where there are multiple such orders for the account of Public Customers at the same price, the trade allocation will be by time priority.[14] BOX has represented that this allocation methodology is the same as the allocation for the price improvement auction on NASDAQ OMX PHLX (''Phlx'').[15]

Primary Improvement Order Allocation

After the Public Customer allocation, the Primary Improvement Order will receive its applicable trade allocation.[16] Specifically, when a Single-Priced Primary Improvement Order [17] is matched by or matches any competing Improvement Orders and/or non-Public Customers' Unrelated Orders at the final price level, the Initiating Participant's Primary Improvement Order retains priority for up to forty percent (40%) of the remaining size of the PIP Order after Public Customer orders are satisfied. However, if only one competing order matches the Initiating Participant's Single-Priced Primary Improvement Order at the final price level, then the Initiating Participant may retain priority for up to fifty percent (50%) of the remaining size of the PIP Order after Public Customer orders are satisfied.[18]

When an Initiating Participant submits a Max Improvement Primary Improvement Order,[19] the Initiating Participant will be allocated its full size at each price level, except where restricted by the designated limit price, until a price level is reached where the balance of the PIP Order can be fully executed. At the final price level, the Initiating Participant will be entitled to receive up to forty percent (40%) of the remaining size of the PIP Order after Public Customer orders are satisfied. However, if only one competing order matches the Initiating Participant's Max Improvement Primary Improvement Order at the final price level, then the Initiating Participant may retain priority for up to fifty percent (50%) of the remaining size of the PIP Order after Public Customer orders are satisfied.[20]

Pursuant to proposed BOX Rule 7150(h), Public Customer orders and Legging Orders will not be considered when determining whether the Initiating Participant retains 40% or 50% because neither Public Customer order allocation nor Legging Order allocation will be affected by the Initiating Participant retaining the difference between 40% and 50%.

Market Maker Allocation

After the Primary Improvement Order allocation, any remaining unallocated quantity of the PIP Order will be allocated to orders and quotes, including Improvement Orders and quotes and orders on the BOX Book prior to the PIP Broadcast for the account of Market Makers.[21] Where there are orders/quotes for the accounts of more than one Market Maker at the same price, the trade allocation formula for Market Makers will provide for the allocation of contracts among Market Makers based on size *pro rata* for the remaining contracts.

The proposed Market Maker allocation would follow the formula: (B * C), where component B is derived by dividing the quantity of contracts for the Market Maker at the price level by the total quantity of contracts of all Market Makers at the price level, while component C is the remaining quantity of the PIP Order to be allocated after the Primary Improvement Order allocation. If the quantity of contracts for the Market Maker order in B is greater than the original quantity of the PIP Order,

[6] Improvement Orders are competing order submitted to the auction mechanisms by order flow providers and market makers. *See* Box Rule 7150(f)(1).

[7] *See* BOX Rules 7150(a) (defining an Unrelated Order for purposes of the PIP auction as a non-Improvement Order entered into the BOX market during a PIP) and 7245(a) (defining an Unrelated Order for purposes of a COPIP auction as a non-Improvement Order entered on BOX during a COPIP or BOX Book Interest during a COPIP).

[8] *See* BOX Rules 7150(f)(4) and 7245(f)(3).

[9] *See* BOX Rule 7160.

[10] *See* Notice, *supra* note 3, at 37799, for a detailed description of the current PIP allocation process.

[11] *See* BOX Rule 7240(c)(1).

[12] As discussed below under the heading ''Professional Customers,'' upon approval of the proposed rule change, Professionals would be treated in the same manner as broker-dealers for purposes of the PIP and COPIP, and not in the same manner as non-Professional Public Customers. *See* proposed BOX Rules 100(a)(50), 7150(a)(2) and 7245(a)(4).

[13] *See* proposed BOX Rule 7150(g)(1).

[14] *See* Notice, *supra* note 3, at 37800, for examples illustrating trade allocations where the Primary Improvement Order is for the account of a Public Customer.

[15] *See* Notice, *supra* note 3, at 37800. *See also* Phlx Rule 1080(n)(ii)(E).

[16] *See* proposed BOX Rule 7150(g)(2). When starting a PIP, the Initiating Participant may submit to the Exchange the Primary Improvement Order with a designation of the total amount of the PIP Order it is willing to hat this is.to the other PIP Participants (''PIP Surrender Quantity''). If the Primary Improvement Order has designated a PIP Surrender Quantity, the Primary Improvement Order allocation will be reduced, if necessary, by the amount of the PIP Surrender Quantity. *See* Notice, *supra* note 3, at 37799–800.

[17] *See* BOX Rule 7150(f) (defining the term as ''a single price order that is equal to or better than that of the National Best Bid Offer (''NBBO'') at the time of the commencement of the PIP.

[18] *See* proposed BOX Rule 7150(h)(1). *See* Notice, *supra* note 3, at 37801, for an example illustrating allocation of 50% rather than 40% to the Primary Improvement Order.

[19] *See* BOX Rule 7150(f) (defining the term as ''an auto-match submission that will automatically match both the price and size of all competing quotes and orders at any price level achieved during the PIP or only up to a limit price'').

[20] *See* proposed BOX Rule 7150(h)(2). *See* Notice, *supra* note 3, at 37801, for an example illustrating allocation to the Primary Improvement Order with a specified auto-match limit price.

[21] *See* proposed BOX Rule 7150(g)(3).

the Market Maker's quantity will be capped at the size of the original PIP Order for purposes of calculating B. If the trade allocation for a Market Maker would be greater than the quantity of the Market Maker order/quote at a price level, the Market Maker's trade allocation will not exceed the size of the Market Maker order/quote at that price level. If the trade allocation for a Market Maker would result in a fraction of a contract, it will be rounded down. In certain circumstances, due to rounding down, it is possible that some Market Maker orders will not be filled even though there is sufficient quantity of the PIP Order to be allocated.[22]

Remaining Orders Allocation

After the Market Maker allocation, any remaining unallocated quantity of the PIP Order will be allocated to any remaining orders, other than Legging Orders and Market Maker orders, including orders for the account of Professionals and orders on the BOX Book prior to the PIP Broadcast, not receiving allocation in the rounds described above.[23]

Where there is more than one remaining unallocated order, including Improvement Orders, at the same price, the trade allocation to each such order will follow the formula: (B * C) where component B is derived by dividing the quantity of contracts for the order at the price level by the total quantity of contracts for all remaining orders at the price level, while component C is the remaining quantity of the PIP Order to be allocated after the Market Maker allocation. If the quantity of contracts for the order in B is greater than the original quantity of the PIP Order, the quantity of contracts for the order will be capped at the size of the original PIP Order for purposes of calculating B. If the trade allocation for an order/quote would be greater than the quantity of the order/quote at the price level, the trade allocation will not exceed the size of the order/quote at the price level. If the trade allocation would result in a fraction of a contract, it will be rounded down.[24]

Additional Allocation

If, at the end of the remaining orders allocation, there remains any unallocated quantity of the PIP Order, the balance will be allocated to all remaining quotes and orders, if any, other than Legging Orders and the Primary Improvement Order. The allocation method will be to allocate one contract of the PIP Order per quote/order sequentially until each remaining quote/order has received one contract or until the PIP Order is fully allocated. The allocation sequence among quotes/orders in this step will be in order of size with the largest remaining quote/order allocated first. Where two or more such quotes/orders are the same size, the trade allocation sequence will be by time priority.[25]

Legging Order Allocation

If, after the allocation of all orders, quotes and Improvement Orders, there remains any unallocated quantity of the PIP Order, to the extent of any Surrender Quantity, allocation will be made to any Legging Orders at the same price in time priority.[26] If, at the end of the Legging Order allocation, there remains any unallocated quantity of the PIP Order, the balance will be allocated to the Initiating Participant regardless of any applicable PIP Surrender Quantity.

Quotes and Orders on the BOX Book

Currently, all quotes and orders on the BOX Book prior to the PIP Broadcast, excluding any proprietary quotes or orders from the Initiating Participant, are filled at the end of the PIP in time priority before any other order at the same price.[27] In addition, current BOX Rule 7150(g)(3) states that the Primary Improvement Order follows in time priority all quotes and orders on the BOX Book prior to the PIP Broadcast that are equal to the: (A) Single-Priced Primary Improvement Order price; or (B) execution price of a Max Improvement Primary Improvement Order that results in the balance of the PIP Order being fully executed, except any proprietary quote or order from the Initiating Participant.

BOX proposes that quotes and orders on the BOX Book prior to the PIP Broadcast no longer be allocated against the PIP Order at the end of the PIP in time priority before any other order at the same price. Instead, as described above in the *Market Maker Allocation* Section above,[28] quotes and orders on the BOX Book prior to the PIP Broadcast will now be considered alongside all other quotes and orders, whether Improvement Order(s), Legging Order(s), or Unrelated Order(s) received by BOX during the PIP (excluding all Legging Orders and Unrelated Orders that were immediately executed during the interval of the PIP), for matching at the conclusion of the PIP. Consequently, BOX is proposing to remove the exceptions for quotes and orders on the BOX Book prior to the PIP Broadcast in BOX Rules 7150(f)(4)(i) and (g)(3). BOX has represented that this is consistent with Phlx.[29] Proprietary quotes or orders from the Initiating Participant at the Primary Improvement Order price shall not be executed against the PIP Order during or at the conclusion of the PIP.

B. Priority and Allocation at the Conclusion of the COPIP

Pursuant to current BOX Rule 7245, Complex Orders may be submitted to the COPIP, which is substantially similar to the PIP except as necessary to account for distinctions between regular orders on the BOX Book and Complex Orders.[30] BOX proposes to amend the COPIP priority and allocation rule to adopt similar changes to those being proposed to the PIP allocation.[31] Complex Orders on the Complex Order Book will continue to be executed in price/time priority, but in the event an execution opportunity occurs for a Complex Order on the Complex Order Book against a COPIP Order at the end of a COPIP, the COPIP execution will

[22] *See* Notice, *supra* note 3, at 37802, for an example illustrating Market Maker trade allocations.

[23] *See* proposed BOX Rule 7150(g)(4). Currently, Professionals are treated like Public Customers in circumstances where BOX yields priority to Public Customers under SEC Rule 11a1–1(T). Under the proposed rule change, pursuant to which Improvement Orders will not be broadcast, transactions executed on BOX will qualify under SEC Rule 11a2–2(T) as described below. As a result, Professionals will no longer be treated like Public Customers for purposes of priority. *See* Notice, *supra* note 3, at 37802, for an example showing a comparison of Professional Customer PIP trade allocation (before and after the proposed rule change).

[24] *See* Notice, *supra* note 3, at 37802, for an example illustrating Market Maker trade allocations.

[25] *See* proposed BOX Rule 7150(g)(5). *See* Notice, *supra* note 3, at 37803, for an example illustrating additional allocation when limited by a PIP Surrender Quantity with multiple Market Maker orders.

[26] *See* proposed BOX Rule 7150(g)(6). Legging Orders may receive allocations of a PIP Order when the Legging Order is at a price better than the final price level or at the final price level in the event the Initiating Participant has specified a Surrender Quantity. *See* Notice, *supra* note 3, at 37803–4, for examples illustrating trade allocations where the Primary Improvement Order's PIP Surrender Quantity is: (i) greater than, and (ii) less than, the sum of Legging Orders at the final price level.

[27] *See* BOX Rule 7150(f)(4)(i). *See* Notice, *supra* note 3, at 37804–5, for an example illustrating trade allocations for orders on the BOX Book prior to the PIP Broadcast, which are eligible for execution at the conclusion of the PIP.

[28] *See* Section II.A., *supra.*

[29] *See* Phlx Rule 1080(n)(ii)(E)(2).

[30] References to Legging Orders do not appear in the COPIP rules because Legging Orders interact only with the PIP. However, the COPIP rules do include other provisions for interacting with interest on the BOX Book.

[31] *See* Notice, *supra* note 3, at 37806–7, for a detailed description of the current COPIP allocation.

occur according to the priority algorithm described below.

Specifically, BOX has proposed that, at the end of the COPIP, the COPIP Order will continue to be matched with opposite side competing orders in price priority. If the total quantity of orders, Improvement Orders, BOX Book Interest and the Primary Improvement Order is equal to or less than the quantity of the COPIP Order at a given price level, all orders at the price will be filled and the balance of the COPIP Order will be executed at the next best price.

If the total quantity of orders, Improvement Orders, BOX Book Interest and the Primary Improvement Order is greater than the quantity of the COPIP Order at a given price level, the allocation will be as follows:

BOX Book Interest Allocation

BOX Book Interest is currently executed in priority over Complex Orders. BOX Book Interest [32] will continue to be allocated for execution against the COPIP Order in priority over Complex Orders and in time priority.[33]

Public Customer Allocation

After the BOX Book Interest allocation, Complex Orders, other than the Primary Improvement Order, for the account of Public Customers, including Improvement Orders and orders on the Complex Order Book prior to the COPIP Broadcast, will be allocated for execution against the COPIP Order in priority over other Complex Orders. Where there are multiple such Complex Orders for the account of Public Customers, allocation among all Public Customers, other than the Initiating Participant, at the same price will be by time priority.[34]

Primary Improvement Order Allocation

After the Public Customer allocation, the Primary Improvement Order will receive its applicable trade allocation.[35] Specifically, when a Single-Priced Primary Improvement Order [36] is matched by or matches any Complex Order(s) at the final price level, the Initiating Participant's Primary Improvement Order retains priority for up to forty percent (40%) of the remaining size of the COPIP Order after BOX Book Interest and Public Customer orders are satisfied. However, if only one Complex Order matches the Initiating Participant's Single-Priced Primary Improvement Order at the final price level, then the Initiating Participant may retain priority for up to fifty percent (50%) of the remaining size of the COPIP Order after BOX Book Interest and Public Customer orders are satisfied.[37]

When the Initiating Participant submits a Max Improvement Primary Improvement Order,[38] the Initiating Participant shall be allocated its full size at each price level, except where restricted by the designated limit price, until a price level is reached where the balance of the COPIP Order can be fully executed. At the final price level, the Initiating Participant will be entitled to receive up to forty percent (40%) of the remaining size of the COPIP Order after BOX Book Interest and Public Customer orders are satisfied. However, if only one competing Complex Order matches the Initiating Participant's Max Improvement Primary Improvement Order at the final price level, then the Initiating Participant may retain priority for up to fifty percent (50%) of the remaining size of the COPIP Order after BOX Book Interest and Public Customer orders are satisfied.[39] Public Customer orders and BOX Book Interest will not be considered when determining whether the Initiating Participant retains 40% or 50% in proposed BOX Rule 7245(h) because neither Public Customer order allocation nor BOX Book Interest allocation will be affected by the Initiating Participant retaining the difference between 40% and 50%.[40]

Market Maker Allocation

After the Primary Improvement Order allocation, any remaining unallocated quantity of the COPIP Order will be allocated to Complex Orders, including Improvement Orders and orders on the Complex Order Book prior to the COPIP Broadcast, for the account of Market Makers.[41] Where there are Complex Orders for the accounts of more than one Market Maker at the same price, the trade allocation formula for Market Makers will provide for the allocation of contracts among Market Makers based on size pro rata for the remaining Strategies. The proposed Market Maker allocation would follow the formula: (B * C) where component B is derived by dividing the quantity of Strategies for the Market Maker at the price level by the total quantity of Strategies for all Market Makers at the price level, while component C is the remaining quantity of the COPIP Order to be allocated after the Primary Improvement Order allocation. If the quantity of Strategies for the Market Maker order in B is greater than the original quantity of the COPIP Order, the Market Maker's quantity will be capped at the size of the original COPIP Order for purposes of calculating B. If the trade allocation for a Market Maker would be greater than the quantity of the Market Maker order at the price level, the Market Maker's trade allocation will not exceed the size of the Market Maker order at the price level. If the trade allocation for a Market Maker would result in a fraction of a Strategy, it will be rounded down. In certain circumstances, due to rounding down, it is possible that some Market Maker orders will not be filled even though there is sufficient quantity of the COPIP Order to be allocated.[42]

Remaining Complex Orders Allocation

After the Market Maker allocation, any remaining unallocated quantity of the COPIP Order will be allocated to any remaining Complex Orders, other than Market Maker orders, including orders for the account of Professionals and orders on the Complex Order Book prior to the COPIP Broadcast, not receiving allocation above.[43]

Where there is more than one remaining unallocated Complex Order, including Improvement Orders, at the same price, the trade allocation to each

[32] ''BOX Book Interest'' is defined as bids and offers on the BOX Book for the individual legs of a Strategy. *See* BOX Rule 7245(a)(3).

[33] *See* proposed BOX Rule 7245(g)(1). *See* Notice, *supra* note 3, at 37807, for an example illustrating allocations of BOX Book Interest at multiple price levels eligible for execution at the end of a COPIP.

[34] *See* proposed BOX Rule 7245(g)(2). *See* Notice, *supra* note 3, at 37808, for examples illustrating allocations of Primary Improvement Orders for the accounts of Public Customers in two different scenarios.

[35] *See* proposed BOX Rule 7150(h). If the Primary Improvement Order has designated a COPIP Surrender Quantity, the Primary Improvement Order allocation will be reduced, if necessary, in accordance with the COPIP Surrender Quantity.

[36] *See* BOX Rule 7245(f) (defining the term as ''a single price order that is equal to or better than cNBBO, cBBO (each as defined in [BOX] Rule 7240(a)) and BBO on the Complex Order Book for the Strategy at the time of the commencement of the COPIP.

[37] *See* proposed BOX Rule 7245(h)(1). *See* Notice, *supra* note 3, at 37809, for an example illustrating allocation of 50% rather than 40% to the Primary Improvement Order.

[38] *See* BOX Rule 7245(f) (defining the term as ''an auto-match submission that will automatically match both the price and size of all competing orders, including Improvement Orders and Unrelated Orders, at any price level achieved during the COPIP or only up to a limit price'').

[39] *See* proposed BOX Rule 7245(h)(2). *See* Notice, *supra* note 3, at 37809–10, for examples illustrating COPIP allocation with and without auto-matching.

[40] The first sentence of proposed BOX Rule 7245(h)(1) deletes from the current rule the words ''or BOX Book Interest'' in order to be consistent with the proposal not to consider BOX Book Interest for purposes of determining the Primary Improvement Order's trade allocation percentage.

[41] *See* proposed BOX Rule 7245(g)(4).

[42] *See* Notice, *supra* note 3, at 37810, for an example illustrating COPIP allocations to Market Makers.

[43] *See* proposed BOX Rule 7245(g)(5). *See* Notice, *supra* note 3, at 37810–1, for an example illustrating comparison of COPIP trade allocations to Professionals before and after the proposed rule change.

such Complex Order will follow the formula: (B * C) where component B is derived by dividing the quantity of Strategies for the Complex Order at the price level by the total quantity of Strategies for all remaining Complex Orders at the price level, while component C is the remaining quantity of the COPIP Order to be allocated after the Market Maker allocation. If the quantity of Strategies for the Complex Order in B is greater than the original quantity of the COPIP Order, the quantity of Strategies for the Complex Order will be capped at the size of the original COPIP Order for purposes of calculating B. If the trade allocation for a Complex Order would be greater than the quantity of Strategies for the Complex Order at the price level, the trade allocation will not exceed the quantity of Strategies for the Complex Order at the price level. If the trade allocation would result in a fraction of a Strategy, it will be rounded down.

Additional Allocation

The balance of the COPIP Order will be allocated to all remaining orders, if any, other than the Primary Improvement Order. The allocation method will be to allocate one Strategy of the COPIP Order per order sequentially until each remaining order has received one Strategy or until the COPIP Order is fully allocated. The allocation sequence among orders in this step will be in order of size with the largest remaining order allocated first. Where two or more such orders are the same size, trade allocation sequence will be by time priority. If, at the end of the additional allocation, there remains any unallocated quantity of the COPIP Order, the balance will be allocated to the Initiating Participant regardless of any applicable COPIP Surrender Quantity.[44]

Complex Orders on the Complex Order Book

Currently, all Complex Orders on the Complex Order Book prior to the COPIP Broadcast, excluding any proprietary orders from the Initiating Participant, are filled at the end of the COPIP in time priority before any other Complex Orders at the same price.[45] Further, BOX Rule 7245(g)(3) states that the Primary Improvement Order follows in time priority all Complex Orders on the Complex Order Book prior to the COPIP Broadcast that are equal to the: (A) Single Priced Primary Improvement Order price; or (B) execution price of a Max Improvement Primary Improvement Order that results in the balance of the COPIP Order being fully executed, except any proprietary order(s) from the Initiating Participant.

BOX proposes that quotes and orders on the Complex Order Book prior to the COPIP Broadcast will no longer be allocated against the COPIP Order at the end of the COPIP in time priority before any other order at the same price. Specifically, quotes and orders on the Complex Order Book prior to the COPIP Broadcast will now be considered alongside all other orders, whether Improvement Order(s), including Unrelated Order(s) received by BOX during the COPIP (excluding all Unrelated Orders that were immediately executed during the interval of the COPIP), for matching at the conclusion of the COPIP.[46] Therefore, BOX has proposed removing the exceptions for quotes and orders on the BOX Book prior to the COPIP Broadcast in BOX Rules 7245(f)(3)(ii) and (g)(3). BOX has represented that this proposed change is consistent with Phlx.[47] Proprietary quotes or orders from the Initiating Participant at the Primary Improvement Order price shall not be executed against the COPIP Order during or at the conclusion of the COPIP.

C. Professional Customer Priority in the PIP and COPIP

Pursuant to BOX Rule 100(a)(50), a ''Professional'' is a person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). Under current BOX rules, Public Customers, including Professionals, benefit from certain order priority advantages in PIP and COPIP transactions on BOX (''Order Priority''). BOX proposes to amend Rule 100(a)(50), and related cross references in BOX Rules 7150(a)(2) and 7145(a)(4), to limit the availability of order priority advantages in PIP and COPIP transactions to non-Professional, Public Customers on BOX.[48] Thus Professionals will now be treated like non-Public Customers for order priority in PIP and COPIP transactions instead of receiving the same order priority afforded to non-Professional, Public Customers. According to BOX, the order-sending behavior and trading activity of Professionals tend to be more similar to broker-dealers trading on a proprietary basis, and therefore it is not unfairly discriminatory to give Professional orders the same priority as broker-dealers for allocation purposes. BOX has represented that other exchanges also treat Professionals as non-Public Customers for Order Priority in auction transactions.[49]

D. Improvement Orders in PIP and COPIP

Currently, Improvement Order responses submitted during the PIP and COPIP are broadcast via the High Speed Vendor Feed (''HSVF'') but are not disseminated through OPRA.[50] The Exchange proposes to no longer broadcast Improvement Orders received during the PIP or the COPIP. The Exchange believes that this proposed change will encourage greater participation in the PIP and the COPIP, which may lead to greater price improvement because a Participant will be encouraged to submit Improvement Orders at the best possible price at which the Participant is willing to participate.[51]

BOX does not currently allow Participants to cancel their Improvement Orders and only allows them to decrease the size of their Improvement Order by improving the price of that order.[52] BOX proposes to allow Participants to cancel their Improvement Orders at any time up to the end of the PIP or COPIP. Additionally, because a Participant will be able to cancel its Improvement Order and submit a new modified Improvement Order, BOX proposes to not allow a Participant to decrease the size of its Improvement Order by improving the price of that order. BOX believes that by allowing a Participant to cancel its Improvement Order, the Participant will be more willing to enter aggressively priced responses. BOX has represented that these proposed changes are consistent with Phlx's Rules.[53]

[44] *See* proposed BOX Rule 7245(g)(6). *See* Notice, *supra* note 3, at 37811, for an example illustrating additional allocation to multiple market maker orders when limited by a COPIP Surrender Quantity.

[45] *See* BOX Rule 7245(f)(3)(ii).

[46] *See* Notice, *supra* note 3, at 37811–2, for an example illustrating allocation to orders on the Complex Order Book prior to the COPIP Broadcast for orders eligible for execution at the conclusion of the COPIP.

[47] *See* Phlx Rule 1080(n)(ii)(E)(2)(d).

[48] *See* proposed BOX Rule 7150(g)(4). Currently, Professionals are treated like Public Customers in circumstances where BOX yields priority to Public Customers under SEC Rule 11a1–1(T). Under the proposed rule change, pursuant to which Improvement Orders will not be broadcast, transactions executed on BOX will qualify under SEC Rule 11a2–2(T) as described below. As a result, Professionals will no longer be treated like Public Customers for purposes of priority.

[49] *See* Phlx Rule 1000(b)(14).

[50] *See* BOX Rules 7150(f)(1) and 7245(f)(1).

[51] *See* Notice, *supra* note 3, at 37814.

[52] *See* BOX Rules 7150(f)(2) and 7245(f)(2).

[53] *See* NASDAQ OMX PHLX LLC (''Phlx'') Rule 1080(n)(ii)(6) and (n)(ii)(9). *See* Notice, *supra* note 3, at 37814.

E. PIP Market Maker Prime Designation and CPO Order Type

Current BOX Rule 7160 provides that at the commencement of each PIP, a single Market Maker Prime may be designated for that PIP only. When the PIP was first adopted, BOX introduced the Market Maker Prime designation to encourage Market Makers to quote aggressively on the BOX Book and not wait for a PIP to begin.[54] BOX proposes to eliminate the Market Maker Prime designation because, according to BOX, Market Makers rarely use the Market Maker Prime functionality.[55]

Current BOX Rule 7150(h) provides for a CPO order type. A CPO allows a Public Customer to submit an order on a single options series, through an order flow provider (''OFP''),[56] specifying one price for entry on the BOX Book (in the applicable minimum increment for that series) and a different price for interaction with a PIP (in one cent increments). The CPO was intended to provide access to the PIP on behalf of a Public Customer. However, according to BOX, because CPOs are rarely submitted, BOX proposes to eliminate the CPO order type.[57] Public Customers may continue to submit orders to the BOX Book and Improvement Orders during the PIP.

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 and, in particular, with Section 6(b) of the Act.[58] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[59] 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 foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect customers, issuers, brokers and dealers.

Under the proposed rule change, at the conclusion of a PIP, Public Customer orders have first priority to trade against the Agency Order. After the execution of Public Customer orders, the Primary Improvement Order may be allocated up to 40% of the remaining size of the PIP Order (however, if only one competing order matches the Primary Improvement Order, then the Primary Improvement Order may be allocated up to 50% of the PIP Order). Market Maker orders and quotes next have priority. After the Market Maker allocation, any remaining unallocated quantity of the PIP Order will be allocated to any remaining orders (other than Legging Orders and Market Maker orders), including orders for the account of Professionals. Legging Orders have final priority. Under the proposed rule change, the allocation at the conclusion of a COPIP auction is substantially the same as the allocation at the conclusion of a PIP auction except BOX Book Interest has priority over all orders at the end of a COPIP auction. The Commission believes that the proposed matching algorithm set forth in the PIP and the COPIP rules are sufficiently clear regarding how orders are to be allocated in the PIP and the COPIP auctions and do not raise any novel issues. The proposed changes to the PIP and COPIP mechanisms are similar in many aspects to the features found in the price improvement mechanisms of other options exchanges, including: the ability to cancel Improvement Orders;[60] the non-dissemination of Improvement Orders to OPRA;[61] and the execution allocation scheme which gives Public Customers and the Initiating Participant priority over other Participants and Professional Customers;[62] and the execution of orders on the book at the end of the PIP auction.[63]

Under the proposed rule change, Improvement Orders will no longer be disseminated to Participants and to OPRA. The Commission notes that, according to the Exchange, this may encourage Participants to submit Improvement Orders at the best possible price that the Participant is willing to interact with the Agency Order, which could lead to greater price improvement for the Agency Order.[64]

Finally, BOX will eliminate the Market Maker Prime designation and CPO order type. According to the Exchange, Market Makers rarely use the Market Maker Prime functionality. The Commission notes that Public Customers currently have and will continue to have opportunities to participation in the PIP and COPIP, without the limitations that the CPO order type would impose.

IV. Section 11(a) of the Act

Section 11(a)(1) of the Act[65] prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises discretion (collectively, ''covered accounts'') unless an exception applies. Rule 11a2–2(T) under the Act,[66] known as the ''effect versus execute'' rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member: (i) must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution; (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule. For the reasons set forth below, the Commission believes that BOX's Participants effecting transactions through the PIP and COPIP, including executions of PIP Orders and COPIP Orders against orders on the BOX Book and the Complex Order Book, would satisfy the requirements of Rule 11a2–2(T).[67]

[54] *See* Securities Exchange Act Release No. 47186 (January 14, 2003), 78 FR 3062 (January 22, 2003) (Notice of Filing SR–BSE–2002–15).

[55] *See* Notice, *supra* note 3, at 37805.

[56] As defined in BOX Rule 100(a)(45), the term Order Flow Provider or ''OFP'' means those Options Participants representing as agent Customer Orders on BOX and those non-Market Maker Participants conducting proprietary trading.

[57] *See* Notice, *supra* note 3, at 37805.

[58] 15 U.S.C. 78f(b). 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).

[59] 15 U.S.C. 78f(b)(5).

[60] *See, e.g.,* Chicago Board Options Exchange, Incorporated (''CBOE'') Rule 6.74A(b)(1)(I).

[61] *See,e.g.,* CBOE Rule 6.74A(b)(1)(F), Phlx Rule 1080(n)(ii)(A)(6).

[62] *See, e.g.,* ISE Rule 723(d), Miami International Securities Exchange LLC (''MIAX'') Rule 515A(a)(2)(iii), and Phlx Rule 1080(n)(ii)(E).

[63] *See id.*

[64] *See* Notice, *supra* note 3, at 37814.

[65] 15 U.S.C. 78k(a)(1).

[66] 17 CFR 240.11a2–2(T).

[67] The Commission notes that it has previously found that transactions effected through the BOX PIP and COPIP are consistent with the requirements of Section 11(a), relying in part upon Rule 11a1–1(T) and in part upon Rule 11a2–2(T) thereunder. *See* Securities Exchange Act Release Nos. 68177 (November 7, 2012), 77 FR 67851 (November 14, 2012) and 71148 (December 19, 2013), 78 FR 78437 (December 26, 2013).

The Rule's first condition is that orders for covered accounts be transmitted from off the exchange floor. The Commission has previously found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means.[68] The Exchange has represented that orders sent to BOX, regardless of where it executes within the BOX system, including the Complex Order Book, the BOX Book, a PIP or a COPIP, will be transmitted from remote terminals directly to BOX by electronic means. The Exchange also represents that orders for covered accounts from OFPs and BOX Market Makers will only be submitted from electronic systems from remote locations, separate from BOX. Because the Exchange has represented that there are no other Options Participants that are able to submit order to BOX other than OFPs or Market Makers, the Commission believes that orders received through the PIP and COPIP would satisfy the off-floor transmission requirement.

Second, the Rule requires that the member not participate in the execution of its order. The Exchange represents that at no time following the submission of an order is a Participant able to acquire control or influence over the result or timing of an order's execution.[69] According to the Exchange, the execution of an order is determined by what other orders are entered into BOX at or around the same time, what orders are on the Complex Order Book and on the BOX Book, whether a PIP or COPIP is initiated and where the order is ranked based on the priority ranking algorithm.[70] In addition, as noted above, BOX proposes to no longer broadcast Improvement Orders received during the PIP and COPIP. As a result, responses to the PIP and COPIP auctions would no longer be visible to Participants.[71] Accordingly, the Commission believes that a member does not participate in the execution of an order submitted through the PIP or the COPIP, including orders that execute against an order on the BOX Book or the Complex Order Book.

Third, Rule 11a2–2(T) requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that this requirement is satisfied when automated systems facilities are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.[72] BOX has represented that the PIP and COPIP are designed so that no broker-dealer has any special or unique trading advantage in the handling of its orders after transmitting its orders to BOX.[73] Based on the Exchange's representation, the Commission believes that the PIP and COPIP satisfy this requirement.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T) thereunder.[74] BOX represents that Participants relying on Rule 11a2–2(T) for transactions effected through the PIP and COPIP must comply with this condition of the Rule and that the Exchange has represented that it will enforce this requirement pursuant to its obligation under Section 6(b)(1) of the Act to enforce compliance with federal securities laws.[75]

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[76] that the proposed rule change (SR–BOX–2014–16), be and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[77]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–19704 Filed 8–19–14; 8:45 am]

BILLING CODE 8011–01–P

[68] *See, e.g.,* Securities Exchange Act Release Nos. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (approving BATS options trading); 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48) (approving equity securities listing and trading on BSE); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) (approving NOM options trading); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (approving The Nasdaq Stock Market LLC); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR–NYSE–90–52 and SR–NYSE–90–53) (approving NYSE's Off-Hours Trading Facility); and 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) (''1979 Release'').

[69] *See* Notice, *supra* note 3, 79 FR at 37816.

[70] *See id.*

[71] *See* Notice, *supra* note 3, 79 FR at 37814.

[72] In considering the operation of automated execution systems operated by an exchange, the Commission noted that, while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). *See* 1979 Release, *supra* note 55.

[73] *See* Notice, *supra* note 3, 79 FR at 37815.

[74] *See* 17 CFR 240.11a2–2(T)(a)(2)(iv). In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated persons thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member in connection with effecting transactions for the account during the period covered by the statement. *See* 17 CFR 240.11a2–2(T)(d).

[75] *See* Notice, *supra* note 3, 79 FR at 37817.

[76] 15 U.S.C. 78s(b)(2).

[77] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice: 8829]

Culturally Significant Objects Imported for Exhibition Determinations: ''Treasures From India: Jewels From the Al-Thani Collection''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Treasures from India: Jewels from the Al-Thani Collection,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York, New York, from on or about October 28, 2014, until on or about January 25, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The

mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated; August 13, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–19759 Filed 8–19–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 8830]

Culturally Significant Objects Imported for Exhibition Determinations: ''Goya: Order and Disorder''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Goya: Order and Disorder,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Museum of Fine Arts Boston, Boston, Massachusetts, from on or about October 12, 2014, until on or about January 19, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: August 13, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–19763 Filed 8–19–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 8831]

Culturally Significant Objects Imported for Exhibition Determinations: ''Italian Style: Fashion Since 1945''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Italian Style: Fashion Since 1945,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at the Minneapolis Institute of Arts, Minneapolis, Minnesota, from on or about October 26, 2014, until on or about January 4, 2015, the Portland Art Museum, Portland, Oregon, from on or about February 7, 2015, until on or about May 3, 2015, the Frist Center for the Visual Arts, Nashville, Tennessee, from on or about June 5, 2015, until on or about September 7, 2015, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6469). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: August 13, 2014.

Kelly Keiderling,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2014–19753 Filed 8–19–14; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 8828]

In the Matter of the Designation of Mujahidin Shura Council in the Environs of Jerusalem (MSC), Also Known as MSC, Also Known as Mujahideen Shura Council in the Environs of Jerusalem, Also Known as Mujahideen Shura Council, Also Known as Majlis Shura al-Mujahedin Fi Aknaf Bayt al-Maqdis, Also Known as Majlis Shura al-Mujahidin, Also Known as Majlis Shura al-Mujahideen, Also Known as Magles Shoura al-Mujahddin, as a Foreign Terrorist Organization Pursuant to Section 219, of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled in this matter and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that there is a sufficient factual basis to find that the relevant circumstances described in section 219 of the Immigration and Nationality Act, as amended (hereinafter ''INA'') (8 U.S.C. 1189), exist with respect to Mujahidin Shura Council in the Environs of Jerusalem (MSC), also known as MSC, also known as Mujahideen Shura Council in the Environs of Jerusalem, also known as Mujahideen Shura Council, also known as Majlis Shura al-Mujahedin Fi Aknaf Bayt al-Maqdis, also known as Majlis Shura al-Mujahidin, also known as Majlis Shura al-Mujahideen, also known as Magles Shoura al-Mujahddin.

Therefore, I hereby designate the aforementioned organization and its aliases as a Foreign Terrorist Organization pursuant to section 219 of the INA.

This determination shall be published in the **Federal Register**.

Dated: August 1, 2014.

John F. Kerry,

Secretary of State.

[FR Doc. 2014–19778 Filed 8–19–14; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF STATE

[Public Notice 8832]

Notice of Declaration of Foreign Countries as Reciprocating Countries for the Enforcement of Family Support (Maintenance) Obligations

This notice amends and supplements Department of State Public Notice 6434, 73 FR 72555 (November 28, 2008).

Background. Section 459A of the Social Security Act (42 U.S.C. 659A)

authorizes the Secretary of State with the concurrence of the Secretary of Health and Human Services to declare foreign countries or their political subdivisions to be reciprocating countries for the purpose of the enforcement of family support obligations if the country has established or has undertaken to establish procedures for the establishment and enforcement of duties of support for residents of the United States. These procedures must be in substantial conformity with the standards set forth in the statute. The statutory standards are: establishment of child support orders, including the establishment of paternity if necessary to establish the order; enforcement of child support orders, including collection and distribution of payments under such orders; cost-free services (including administrative and legal services), as well as paternity testing; and the designation of an agency as Central Authority to facilitate enforcement.

Once such a declaration is made, support agencies in jurisdictions of the United States participating in the program established by Title IV–D of the Social Security Act (the IV–D program) must provide enforcement services under that program to such reciprocating countries as if the request for service came from a U.S. State.

The declaration authorized by the statute may be made ''in the form of an international agreement, in connection with an international agreement or corresponding foreign declaration, or on a unilateral basis.'' The Secretary of State has authorized either the Department of State's Legal Adviser or the Assistant Secretary of State for Consular Affairs to make such a declaration after consultation with the other.

As of this date, the following countries (or Canadian provinces or territories) have been designated foreign reciprocating countries:

Country	Effective date
Australia	May 21, 2001.
Canadian Provinces or Territories:	
Alberta	Sept. 4, 2002.
British Columbia	Dec. 15, 1999.
Manitoba	July 11, 2000.
New Brunswick	Feb. 1, 2004.
Newfoundland and Labrador	Aug. 7, 2002.
Northwest Territories	Feb. 7, 2004.
Nova Scotia	Dec. 18, 1998.
Nunavut	Jan. 20, 2004.
Ontario	Aug. 7, 2002.
Prince Edward Island	Feb. 2, 2013.
Saskatchewan	Jan. 24, 2007.
Yukon	May 22, 2007.
Czech Republic	May 3, 2000.
El Salvador	June 21, 2007.
Finland	Sept. 29, 2007.
Hungary	Jan. 22, 2007.
Ireland	Sept. 10, 1997.
Israel	July 1, 2009.
Netherlands	May 1, 2002.
Norway	June 10, 2002.
Poland	June 14, 1999.
Portugal	Mar. 17, 2001.
Slovak Republic	Feb. 1, 1998.
Switzerland	Sept. 30, 2004.
United Kingdom of Great Britain and Northern Ireland	Dec. 17, 2007.

Each of these countries (or Canadian provinces or territories) has designated a Central Authority to facilitate enforcement and ensure compliance with the standards of the statute. Information relating to the designated Central Authorities and the procedures for processing requests may be obtained by contacting the United States Central Authority for International Child Support, Department of Health and Human Services, Office of Child Support Enforcement (OCSE), 370 L'Enfant Promenade SW., 4-East, Washington, DC 20447; phone (202) 401–9373, fax (202) 205–5927, email: *ocseinternational@acf.hhs.gov.*

As of this date, a reciprocity agreement has been signed, but is not yet in effect, with Costa Rica.

The law also permits individual states of the United States to establish or continue existing reciprocating arrangements with foreign countries when there has been no Federal declaration. Many states have such arrangements with additional countries not yet the subject of a Federal declaration. Information as to these arrangements may be obtained from the individual State IV–D Agency.

FOR FURTHER INFORMATION CONTACT: Questions regarding this notice, the status of negotiations, declarations and agreements may be obtained by contacting Michael Coffee at the Office of the Assistant Legal Adviser for Private International Law, SA–4, South Building, 2430 E Street NW., Washington, DC 20037–2851; phone (202) 776–8420, fax (202) 776–8482, email: *CoffeeMS@state.gov.*

Dated: August 8, 2014.

Michael S. Coffee,

Attorney-Adviser, Office of Private International Law, Office of the Legal Adviser, Department of State.

[FR Doc. 2014–19794 Filed 8–19–14; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice: 8827]

In the Matter of the Designation of Mujahidin Shura Council in the Environs of Jerusalem (MSC); Also Known as MSC; Also Known as Mujahideen Shura Council in the Environs of Jerusalem; Also Known as Mujahideen Shura Council; Also Known as Majlis Shura al-Mujahedin Fi Aknaf Bayt al-Maqdis; Also Known as Majlis Shura al-Mujahidin; Also Known as Majlis Shura al-Mujahideen; Also Known as Magles Shoura al-Mujahddin as a Specially Designated Global Terrorist

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the entity known as Mujahidin Shura Council in the Environs of Jerusalem (MSC), also known as MSC, also known as Mujahideen Shura Council in the Environs of Jerusalem, also known as Mujahideen Shura Council, also known as Majlis Shura al-Mujahedin Fi Aknaf Bayt al-Maqdis, also known as Majlis Shura al-Mujahidin, also known as Majlis Shura al-Mujahideen, also known as Magles Shoura al-Mujahddin, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: August 1, 2014.

John F. Kerry,

Secretary of State.

[FR Doc. 2014–19776 Filed 8–19–14; 8:45 am]

BILLING CODE 4710–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Office of Commercial Space Transportation; Notice of Availability of the Final Environmental Assessment (EA) for Issuing an Experimental Permit to Space Exploration Technologies Corp. (SpaceX) for Operation of the DragonFly Vehicle at the McGregor Test Site, McGregor, Texas, and Finding of No Significant Impact (FONSI)

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

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA; 42 U.S.C. 4321, et seq.), Council on Environmental Quality NEPA implementing regulations (40 CFR Parts 1500–1508), and FAA Order 1050.1E, Change 1, the FAA is announcing the availability of the Final EA for Issuing an Experimental Permit to SpaceX for Operation of the DragonFly Vehicle at the McGregor Test Site, McGregor, Texas, and FONSI.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Czelusniak, Federal Aviation Administration, 800 Independence Avenue SW., Suite 325, Washington, DC 20591; email *Daniel.Czelusniak@faa.gov;* or phone (202) 267–5924.

SUPPLEMENTARY INFORMATION: The Final EA was prepared to analyze the potential environmental impacts of SpaceX's proposal to conduct suborbital launches and landings of the DragonFly reusable launch vehicle (RLV) at the McGregor, Texas test site located in McLennan and Coryell Counties. To conduct this experimental testing, SpaceX must obtain an experimental permit from the FAA. Under the Proposed Action addressed in the EA, the FAA would issue an experimental permit to SpaceX, which would authorize SpaceX to conduct suborbital launches and landings of the DragonFly RLV from the McGregor test site. To support the DragonFly RLV activities under the experimental permit, SpaceX would construct a 40 foot (ft) by 40 ft launch pad. Therefore, the Proposed Action analyzed in the EA includes the activities that would be authorized by the experimental permit (i.e., the operation of the launch vehicle) as well as the construction of the launch pad. SpaceX anticipates the DragonFly RLV program would require up to two years to complete (2014–2015). Therefore, the Proposed Action considers one new permit and one potential permit renewal. A maximum of 30 annual operations are proposed in each year of operation.

The Final EA addresses the potential environmental impacts of implementing the Proposed Action and the No Action Alternative. Under the No Action Alternative, the FAA would not issue an experimental permit to SpaceX for the operation of the DragonFly RLV at the McGregor test site. Existing SpaceX activities would continue at the McGregor test site, which include engine testing for the Falcon 9 launch vehicle.

The impact categories considered in the Final EA include air quality; noise and compatible land use; Department of Transportation Act: Section 4(f); historical, architectural, archaeological, and cultural resources; fish, wildlife, and plants; water quality (surface waters, groundwater, wetlands, and floodplains); natural resources and energy supply; hazardous materials, pollution prevention, and solid waste; light emissions and visual impacts; and socioeconomics, environmental justice, and children's environmental health and safety risks. The Final EA also considers the potential cumulative environmental impacts.

The FAA has posted the Final EA and FONSI on the FAA Web site at *http://www.faa.gov/about/office_org/headquarters_offices/ast/environmental/review/permits/.*

The FAA published a Notice of Availability of the Draft EA in the **Federal Register** on May 21, 2014. A Notice of Availability of the Draft EA was also published in *The McGregor Mirror* on May 22, 2014. The FAA mailed copies of the Draft EA to the following agencies: Texas Historical Commission (State Historic Preservation Officer), Texas Commission on Environmental Quality, Texas Parks and Wildlife Department, and U.S. Fish and Wildlife Service. An electronic version of the Draft EA was also made available on the FAA Web site. In addition, the FAA printed and mailed a copy of the Draft EA to the McGinley Memorial Library, located at 317 Main Street, McGregor, Texas 76657. The public comment period ended on June 19, 2014. The FAA received letters from the U.S. Department of Interior, Texas Parks and Wildlife Department, and Tonkawa Tribe of Oklahoma. The Final EA responds to all substantive comments and includes any changes or edits resulting from the comments received.

Issued in Washington, DC on: August 12, 2014.

Daniel Murray,

Manager, Space Transportation Development Division.

[FR Doc. 2014–19818 Filed 8–19–14; 8:45 am]

BILLING CODE 4310–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2014–0019]

Notice of Proposed Buy America Waiver for the Pad and Rubber Boot of a Concrete Block Used in New York City Transit South Ferry Station's Low Vibration Track System

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of proposed Buy America waiver and request for comment.

SUMMARY: New York City Transit (NYCT), an agency of the Metropolitan Transportation Authority (MTA), has requested a Buy America waiver for the procurement of pads and rubber boots of a concrete block used in its Low Vibration Track (LVT) system on the basis of non-availability. The procurement for the pads and rubber boots are part of the South Ferry Station project. This notice is to inform the public of the waiver request and to seek public comment to inform FTA's decision whether to grant the request. If granted, the waiver would be limited to this one procurement for the South Ferry Station project. The waiver would be conditioned upon the requirement that NYCT must complete the safety testing of U.S.-manufactured pads and rubber boots necessary to meets its specifications within the timeframe provided herein, and to substitute U.S.-manufactured pads and rubber boots for the foreign-made pads and rubber boots to the extent possible.

DATES: Comments must be received by August 27, 2014. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Please submit your comments by one of the following means, identifying your submissions by docket number FTA–2014–0019:

1. *Web site: http://www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site.

2. *Fax:* (202) 493–2251.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must make reference to the ''Federal Transit Administration'' and include docket number FTA–2014–0019. Due to the security procedures in effect since October 2011, mail received through the U.S. Postal Service may be subject to delays. Parties making submissions responsive to this notice should consider using an express mail firm to ensure the prompt filing of any submissions not filed electronically or by hand. Note that all submissions received, including any personal information therein, will be posted without change or alteration to *http://www.regulations.gov.* For more information, you may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000 (65 FR 19477), or you may visit *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mary J. Lee, Attorney-Advisor, at (202) 366–0985 or *mary.j.lee@dot.gov.*

SUPPLEMENTARY INFORMATION: The purpose of this notice is to provide notice and seek comment on whether FTA should grant a non-availability waiver for the procurement of the pad and rubber boot of the concrete block used in NYCT's LVT system for the South Ferry Station Project.

With certain exceptions, FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless ''the steel, iron, and manufactured goods used in the project are produced in the United States.'' 49 U.S.C. 5323(j)(1). A manufactured product is considered produced in the United States if: (1) The manufacturing processes for the product take place in the United States; and (2) the components of the product are of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR 661.5(d). If, however, FTA determines that ''the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality,'' then FTA may issue a waiver (non-availability waiver). 49 U.S.C. 5323(j)(2)(B); 49 CFR 661.7(c).

On March 21, 2014, FTA granted a waiver for the pad and the rubber boot to MTA Capital Construction Company, a construction management company for MTA expansion projects that is responsible for managing NYCT's Second Avenue Subway (SAS) Project. This waiver was limited to Phase 1 of the SAS Project and in granting the waiver FTA expressed its expectation that MTA would continue its good faith efforts to seek U.S. manufacturers of the pad and rubber boot. On April 29, 2014, FTA followed up with a letter and reiterated its expectations that MTA continue to seek U.S.-manufactured pads and rubber boots and provided its findings on potential U.S. manufacturers.[1]

On July 14, 2014, NYCT requested another Buy America waiver for the pads and rubber boots to be procured for its South Ferry Station project. While NYCT has been conducting its own searches for U.S. manufacturers to find a U.S.-made pad and rubber boot, and Construction Polymers Technologies, Inc. (CPT)—the manufacturer for the concrete block for which the pad and rubber boot are components—has found U.S. manufacturers, NYCT asserts that safety testing of U.S.-manufactured pads and boots must be conducted before they can be used in NYCT's LVT system. NYCT represents that all of the necessary testing that it must undertake with respect to new and untested items such as the pad and the boot will take approximately three months *after* CPT conducts its own testing and produces its results. FTA has been informed that CPT expects to produce its test results to NYCT on or about September 15, 2014. Accordingly, because of the timing of the contract award, which NYCT anticipates will occur by the end of September 2014, as well as the construction schedule, NYCT has requested a waiver. If the waiver is not granted, NYCT asserts that there would be no Buy America compliant items that also meet its safety specifications, which cannot be waived.

The purpose of this notice is to publish the waiver request and seek public comment from all interested parties in accordance with 49 U.S.C. 5323(j)(3)(A). Comments will help FTA understand completely the facts surrounding the request, including the effects of a potential waiver and the merits of the request. If the waiver is

[1] FTA leveraged the resources of the U.S. Department of Commerce, National Institute of Standards and Technology (NIST), through an interagency agreement currently in place, and had NIST conduct a supplier scouting resulting in a report completed by NIST of potential U.S.-manufacturers for the pad and rubber boot.

granted, it would be limited to a single procurement for the South Ferry Station Project and conditioned upon NYCT completing the safety testing for the U.S.-made pad and rubber boot within approximately three months of receipt of CPT's test results, which is expected on or about September 15, 2014. In addition, once all of the testing is complete within the aforementioned timeframe and if the testing confirms that the U.S-made pad and rubber boot meet NYCT's safety specifications, FTA expects NYCT to substitute the U.S.-made pads and rubber boots for the foreign-made items to the extent possible. A full copy of the request has been placed in docket number FTA–2014–0019.

Dana Nifosi,

Acting Chief Counsel.

[FR Doc. 2014–19732 Filed 8–19–14; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0112]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel TUNATAILS.COM; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before September 19, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0112. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel TUNATAILS.COM is:

Intended Commercial Use Of Vessel: Charter 6 pack fishing, Gulf of Mexico

Geographic Region: Louisiana, Mississippi, Alabama, Florida

The complete application is given in DOT docket MARAD–2014–0112 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: August 11, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–19644 Filed 8–19–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0062]

ICD–10–CM/AIS Mapping Software

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Request for information; reopening of comment period.

SUMMARY: This document announces the reopening of the comment period on a Request for Information (RFI) regarding the potential development of a mapping software to translate the International Statistical Classification of Diseases and Related Health Problems, 10th Revision, Clinical Modification (ICD–10–CM) discharge diagnoses into Abbreviated Injury Scale (AIS) pre-dot codes, injury descriptors, and severity scores. The original RFI was issued on June 12, 2014, and had a 60-day comment period ending on August 11, 2014. In response to continued interest in this issue, NHTSA is reopening the comment period for this RFI until September 30, 2014.

DATES: The comment period for the RFI published on June 12, 2014 (79 FR 33799) is extended. Comments must be received no later than September 30, 2014.

ADDRESSES:

Comments: You may submit comments [identified by Docket Number NHTSA–2014–0062] by any of the following methods:

- *Internet:* To submit comments electronically, go to the U.S. Government regulations Web site at *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* Written comments may be faxed to 202–493–2251.
- *Mail:* Send comments to Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Hand Delivery:* If you plan to submit written comments by hand or courier, please do so at 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except federal holidays
- You may call Docket Management at 1–800–647–5527.

Instructions: For detailed instructions on submitting comments and additional

information see the Comments heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: For questions about the program discussed herein, contact John Kindelberger, Chief of the Evaluation Division, Office of Regulatory Analysis and Evaluation, Room W53–312, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202–366–4696. Email: *john.kindelberger@dot.gov.*

SUPPLEMENTARY INFORMATION: On June 12, 2014, NHTSA published a notice (79 FR 33799) requesting comment and information the potential development of a mapping software to translate the International Statistical Classification of Diseases and Related Health Problems, 10th Revision, Clinical Modification (ICD–10–CM) discharge diagnoses into Abbreviated Injury Scale (AIS) pre-dot codes, injury descriptors, and severity scores.

On January 16, 2009, the U.S. Department of Health and Human Services (HHS) published a final rule adopting ICD–10–CM to replace ICD–9–CM in transactions covered by the Health Insurance Portability Accountability Act (HIPAA). The deadline for adopting ICD–10–CM has been postponed several times but is currently scheduled to take place at some point after October 1, 2015 (*http://www.cms.gov/Medicare/Coding/ICD10/index.html?redirect=/icd10*).

The ''Moving Ahead for Progress in the 21st Century'' Act (MAP–21), signed into law on July 6, 2012, requires the FHWA to establish measures for State departments of transportation to assess and report numbers and rates per vehicle mile traveled of roadway fatalities and serious injuries. [§ 1203; 23 USC 150(c).] In Notice of Proposed Rulemaking 79 FR 13845 (Mar. 11, 2014), which can be found at *http://www.regulation.gov,* the FHWA recommends that States prepare themselves so that no later than January 1, 2020, all States use a medical record injury outcome reporting system that links injury outcomes from medical records to crash reports.

The DOT seeks comments and information from the public sector, private sector, and academic communities concerning the potential development of ICD–10–CM/AIS mapping software that would address the issues described in this RFI. While comments are welcome on any area of the RFI, the DOT is particularly interested in responses to the questions listed below. Responders are reminded that feedback or comments on any aspect of this notice are welcome from all interested public, private, and academic entities. While all feedback is welcome, the DOT is particularly interested in feedback on the following questions. Respondents may respond, to some, all, or none of these specific questions:

1. Is there a need for a mapping tool that translates ICD–10–CM codes to the AIS standard?
2. Is there a need for an updated mapping tool that translates ICD–9–CM codes to the AIS standard?
3. Are any steps currently being taken to develop a mapping tool?
4. What capabilities should such a mapping tool possess?
5. What platforms should the mapping tool run on?
6. Should the mapping tool be non-proprietary?

Injury data enables epidemiologists, researchers, and policymakers to better identify the severity of injuries in addition to where, when, and why they occur. This data is, however, frequently spread among discrete databases that are difficult to link to each other or to injury causation data. The ability to link these datasets together is thus critical to efforts to understand injury trends, set injury prevention priorities, identify high risk populations and geographic areas, and develop targeted injury prevention strategies. The DOT, however, is particularly interested in forging and maintaining links among vehicle crash and injury datasets as such links can provide more complete information and better understanding of crash outcomes.

State trauma registry and hospital discharge databases are two of the more significant sources of injury data. Trauma registries are designed to collect large amounts of information about the most seriously injured patients and are not typically used for injury surveillance purposes on their own. Hospital discharge datasets are designed primarily to monitor hospital census, utilization, and financial information but record enough information—like diagnosis codes and external cause/E-codes—to make them useful injury surveillance tools. In addition, the pre-hospital emergency medical services (EMS) patient care reports, compliant with the National EMS Information System (NEMSIS) Standard, may be helpful, as they can serve as good link between the crash data and hospital data. NEMSIS data is submitted to the state level by local EMS agencies, and the collective statewide data is submitted to the National EMS Database. The most effective linkage point at this time is at the State level.

These datasets are generally coded using different methodologies. Trauma registries use the Abbreviated Injury Scale while hospitals and emergency departments use the International Statistical Classification of Diseases and Related Health Problems for diagnosis, reporting, and billing.

The Abbreviated Injury Scale (AIS), developed by the Association for the Advancement of Automotive Medicine (AAAM), is an anatomically based, consensus derived, global severity scoring system that classifies each injury by body region according to its relative importance on a 6-point ordinal scale (1 = minor and 6 = maximal). The AIS is the basis for the Injury Severity Score (ISS) calculation of the multiply injured patient. The AIS is protected by copyright, and both individual use and site licenses can be purchased from AAAM (*http://www.aaam.org/about-ais.html*).

The maximum AIS (MAIS) severity level is a recognized person-level injury severity indicator. For example, the Organization for Economic Co-Operation and Development's International Traffic Safety Data and Analysis Group (IRTAD) has recommended that MAIS of level three or higher be used as the standard for a seriously injured person in a motor vehicle crash (*http://www.internationaltransportforum.org/irtadpublic/pdf/Road-Casualties-Web.pdf*).

Maintained by the World Health Organization (WHO), the International Statistical Classification of Diseases and Related Health Problems (ICD) is the international standard diagnostic tool for epidemiology, health management, and clinical purposes. While a version of the ninth revision, ICD–9–CM, is currently still widely used in the US, a replacement based on the tenth revision, ICD–10–CM, has been developed by a National Center for Health Statistics (NCHS) Technical Advisory Panel following extensive consultation with physician groups, clinical coders, and others to assure clinical accuracy and utility (*http://www.cdc.gov/nchs/icd/icd10cm.htm*).

In the early 90's researchers at Johns Hopkins University developed a software tool (ICDMAP) that allowed analysts to generate a Maximum AIS (MAIS) or an Injury Severity Score (ISS) for each injured patient in the hospital discharge database using the ICD–9–CM diagnosis codes of each patient's record.

The ICDMAP enabled statewide performance measurement by MAIS and allowed analysts to associate the severity outcomes to with crash, vehicle, and roadway circumstances for planning and/or evaluation of countermeasures.

While the ICDMAP-generated results are not as precise as those derived by clinicians in trauma registries, this approach has been validated and yields good sensitivity in estimating severity for studying the larger universe of injury hospitalizations. Translating ICD codes to AIS allows all crash-involved injuries to be compiled and analyzed in terms of AIS and MAIS severity. When linked to causal information—State crash databases, for example—ICD codes can be used to improve measurement of crash-related injury severity.

There is not, however, currently any known software or service capable of translating between ICD–10–CM and AIS. Once hospitals transition to the ICD–10–CM, combining these two sets of injury data will no longer be possible, and analyses will be less complete and less useful. Significant effort is needed to develop a mapping tool that will enable mapping of ICD–10–CM diagnosis codes with the corresponding AIS severity codes.

RFI Guidelines

Responses to this notice are not offers and cannot be accepted by the Government to form a binding contract or issue a grant. Information obtained as a result of this RFI may be used by the Government for program planning on a non-attribution basis. This RFI notice is NOT a solicitation for proposals, applications, proposal abstracts, or quotations. This RFI notice is not to be construed as a commitment on the part of the Government to award a contract or grant, nor does the Government intend to directly pay for any information or responses submitted as a result of this RFI notice.

Comments

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the Docket number of this document (NHTSA–2014–0062) in your comments.

Your primary comments must not be more than 15 pages long (49 CFR 553.21). However, you may attach additional documents to your primary comments. There is no limit on the length of the attachments.

Please submit one copy of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg_reproducible.* DOT's guidelines may be accessed at *http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject_areas/statistical_policy_and_research/data_quality_guidelines/index.html.*

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://www.regulations.gov.*

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail. You may also periodically access *http://www.regulations.gov* and enter the number for this docket (NHTSA–2014–0062) to see if your comments are on line.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC, 20590. In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR Part 512).

Will the agency consider late comments?

In our response, we will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Federal Docket Management System (FDMS) at *http://www.regulations.gov.*

(2) FDMS provides two basic methods of searching to retrieve dockets and docket materials that are available in the system: (a) ''Quick Search'' to search using a full-text search engine, or (b) ''Advanced Search,'' which displays various indexed fields such as the docket name, docket identification number, phase of the action, initiating office, date of issuance, document title, document identification number, type of document, **Federal Register** reference, CFR citation, etc. Each data field in the advanced search may be searched independently or in combination with other fields, as desired. Each search yields a simultaneous display of all available information found in FDMS that is relevant to the requested subject or topic.

(3) You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the ''pdf'' versions of the documents are word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

Authority: 49 U.S.C. 30111, 30181–83 delegation of authority at 49 CFR 1.95 and 501.8.

Issued in Washington, DC.

Terry Shelton,

Associate Administrator for the National Center for Statistics and Analysis.

[FR Doc. 2014–19744 Filed 8–19–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub–No. 364X)]

Norfolk Southern Railway Company—Abandonment Exemption—in Hopewell, Va.

On July 31, 2014, Norfolk Southern Railway Company (NSR) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to abandon a 0.46-mile line of railroad, part of the City Point Branch, between milepost CP 9.40 and milepost CP 9.86 in the City of Hopewell, Va. (the Line).[1] The Line traverses United States Postal Service Zip Code 23860, and includes the station of Hopewell. NSR has requested expedited consideration of its petition.

NSR states that the Line does not contain federally granted right-of-way. Any documentation in NSR's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, In Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by November 18, 2014, or sooner if expedited.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than November 28, 2014, or 10 days after service of a decision granting the petition for exemption, whichever occurs first. Each OFA must be accompanied by a $1,600 filing fee.[2]

All interested persons should be aware that, following abandonment, the Line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for interim trail use/rail banking under 49 CFR 1152.29 will be due no later than September 9, 2014. Each interim trail use request must be accompanied by a $300 filing fee.[3]

All filings in response to this notice must refer to Docket No. AB 290 (Sub-No. 364X) and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001; and (2) William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037. Replies to the petition are due on or before September 9, 2014.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245–0238 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA typically will be within 30 days of its service.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: August 14, 2014.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2014–19739 Filed 8–19–14; 8:45 am]

BILLING CODE 4915–01–P

[1] NSR states that the sole shipper on the Line, Regional Enterprises (Regional), supports the abandonment. According to NSR, the abandonment is intended to facilitate Regional's plan to acquire the Line from NSR as private track and incorporate it into Regional's transload facility.

[2] *See* 49 CFR 1002.2(f)(25).

[3] *See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2014 Update,* EP 542 (Sub–No. 22), slip op. at 17, item 27(i) (STB served July 11, 2014).

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 employers' qualified educational assistance programs.

DATES: Written comments should be received on or before October 20, 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 regulation 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: Employers' Qualified Educational Assistance Programs.

OMB Number: 1545–0768.

Regulation Project Number: EE–178–78 (TD 7898).

Abstract: Internal Revenue Code section 127(a) provides that the gross income of an employee does not include amounts paid or expenses incurred by an employer if furnished to the employee pursuant to a qualified educational assistance program. This regulation requires that a qualified educational assistance program must be a separate written plan of the employer and that employees must be notified of the availability and terms of the program. Also, substantiation may be required to verify that employees are entitled to exclude from their gross income amounts paid or expenses incurred by the employer.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals or households.

Estimated Number of Respondents: 5,200.

Estimated Time Per Respondent: 7 minutes.

Estimated Total Annual Burden Hours: 615.

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: August 6, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–19654 Filed 8–19–14; 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 dual consolidated loss regulations.

DATES: Written comments should be received on or before October 20, 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 regulation should be directed to Kerry Dennis, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Dual Consolidated Loss Regulations.

OMB Number: 1545–1946.

Regulation Project Number: T.D. 9315.

Abstract: Section 1503(d) denies the use of the losses of one domestic corporation by another affiliated domestic corporation where the loss corporation is also subject to the income tax of a foreign country. These final regulations address various dual consolidated loss issues, including exceptions to the general prohibition against using a dual consolidated loss to reduce the taxable income of any other member of the affiliated group.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,780.

Estimated Time per Respondent: 1 hour, 32 minutes.

Estimated Total Annual Burden Hours: 2,740.

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: August 4, 2014.

R. Joseph Durbala,

IRS Reports Clearance Officer.

[FR Doc. 2014–19659 Filed 8–19–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

United States Mint

Privacy Act of 1974, as Amended

AGENCY: United States Mint, Treasury.

ACTION: Notice of proposed alteration.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a the Department of the Treasury (Treasury) and the United States Mint propose alterations to the current Treasury system of records entitled, Department of the Treasury/United States Mint—.009 Order Management System (OMS) previously known as Retail Sales System (RSS); Customer Mailing List; Order Processing Records for Coin Sets, Medals and Numismatic Items; Records of Undelivered Orders; and Product Descriptions, Availability and Inventory.

DATES: Comments must be received no later than September 19, 2014. The proposed altered system of records will be effective September 29, 2014 unless the United States Mint receives comments that would result in a contrary determination.

ADDRESSES: Comments should be sent to the Disclosure Office, United States Mint, 801 9th Street NW., Washington, DC 20220, Attention: Revisions to Privacy Act Systems of Records. Comments can be faxed to (202) 756–6153 or emailed to *Kathleen.Saunders-Mitchell@usmint.treas.gov.* For emails, please place ''Revisions to SORN'' in the subject line. Comments will be made available for public inspection upon written request. The United States Mint will make such comments available for public inspection and copying at the above listed location, on official business days between the hours of 9 a.m. and 5 p.m. Eastern Time. Persons wishing to inspect the comments submitted must request an appointment by telephoning (202) 354–6788. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Kathleen Saunders-Mitchell, 801 9th Street NW., Washington, DC 20220, by telephone at (202) 354–6788 (not a toll free number), or by email at *Kathleen.Saunders-Mitchell@usmint.treas.gov.*

SUPPLEMENTARY INFORMATION: The United States Mint, a bureau of Treasury, last published its inventory of Privacy Act systems of record on January 8, 2013, 78 FR 1307 at 1314. Included in that inventory was a system of records entitled Treasury/United States Mint .009—Retail Sales System. The United States Mint is proposing to alter this existing system of records to reflect attributes of its new electronic commerce system: Order Management System. The existing and new systems share some similar features in that they both support an online store, order fulfillment, and a customer database; however, the new system differs from the existing system in that it is cloud-based, has significantly expanded data management and marketing customization capabilities, and uses Web measurement and customization technologies (some of which collect and store personally identifiable information). The United States Mint intends the new system to be more durable, accommodate greater customer traffic, and generally allow the bureau to conduct its numismatic sales operations in a more productive, reliable, and secure manner in accordance with 31 U.S.C. 5111(a)(3) and 5136. Because the system is a contractor-operated commercial cloud-based system, uses Web measurement and customization technologies (some of which collect and store personally identifiable information), and is capable of delivering targeted marketing based on the behavior and interests of the customer, the United States Mint has taken appropriate steps to minimize the risk of unauthorized access to the system by confirming that the system, the bureau's facilities, and the contractor's facilities have appropriate information security controls that have been tested and deployed prior to system operation. The United States Mint is also making disclosures to, and obtaining consent from, the individuals providing the information, as required by applicable laws, regulations, and guidelines.

The United States Mint is altering this system of records to allow for—(1) a change of the system's name from Retail Sales System to Order Management System; (2) additions to the system location to reflect its cloud-based structure; (3) additions of government contractor and subcontractor employees to the categories of individuals in the system; (4) additions to categories of records in the system to reflect the addition of government contractor and subcontractor activities, and the system's expanded capabilities, such as storing employee audit and access records, customer birth month, credit card information, chat and phone call records, gift recipient names and delivery information, Internet Protocol (IP) addresses and device settings, product preferences, bureau online store browsing behavioral information, and market segmentation; (5) additions to the purpose of the system to reflect the United States Mint's intention to use the data in the system to better understand its customer base, allow easier and more efficient sales checkout and customer service, and deliver targeted marketing suggestions to customers based on their interests; (6) additions to the retrievability section to include employee and contractor user identifications, product preferences, email addresses, market segmentation categories, bureau online store browsing behavioral information; (7) additions to record source categories to include gift recipients, government contractor and subcontractor employees, applications that generate derived data, and internet service providers of persons who visit our online store; and (8) changes to the notification procedures.

In accordance with 5 U.S.C. 552a(r), a report of this altered system of records has been provided to the Office of Management and Budget and to Congress.

Helen Goff Foster,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

Treasury/United States Mint .009

SYSTEM NAME:

Description of changes: The system name will be changed from Retail Sales System to Order Management System. When altered as proposed, the system name will read as follows:

Treasury/United States Mint .009—Order Management System.

SYSTEM LOCATION:

Description of changes: The system location will be changed to indicate that electronic data are stored in an automated system with a central location at the contractor's facility in Allen, Texas, and is accessible from United States Mint Headquarters in Washington, DC. When altered as proposed, the system location will read as follows:

Electronic records are maintained at the contractor's location in Allen, Texas and are accessible from United States Mint Headquarters, 801 9th Street NW., Washington, DC 20220. Paper records are stored at the United States Mint Headquarters, 801 9th Street NW., Washington, DC 20220.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Description of changes: Categories of individuals in the system will be changed to add employees of government contractors and subcontractors. When altered as proposed, the categories of individuals covered by the system will read as follows:

Members of the public, federal employees, and employees of government contractors and subcontractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Description of changes: Categories of records in the system will be changed to add Federal employee, government contractor employee, and subcontractor employee audit logs and system access records; customer birth month and credit card information; chat and phone call records; gift recipient names and delivery information; site visitor IP addresses and device settings; customer product preferences; bureau online catalog browsing and behavioral information; and market segmentation. When altered as proposed, the categories of records in the system will read as follows:

(a) Names and user IDs of Federal employees, employees of government contractors and subcontractors, and audit logs and records of their system access;

(b) Customer names, billing and shipping addresses, phone numbers, email addresses, payment, birth month, and credit card information, product and communication preferences, order history, and intended uses of subscribed promotional materials of—(1) individuals who have purchased numismatic items online, by phone, in person or by mail order, or subscribed to receive bureau product-related communications or promotional materials, and (2) individuals who have registered to create an account to purchase products online;

(c) Names, addresses, and delivery information of gift recipients;

(d) Tracked Web browsing and behavioral information, IP addresses, device settings, market segmentation is collected for registered account holders, purchasers, and email newsletter subscribers.

(e) Notes and transcripts of contractor and subcontractor employees and persons who use the online live chat feature; and

(f) Notes, recordings and transcripts of phone calls of contractor and subcontractor employees and persons who contact the United States Mint customer service center.

* * * * *

PURPOSE(S):

Description of changes: The purpose of the system will be changed to add the United States Mint's intention to use the data in the system to better understand its customer base, allow easier and more efficient checkout and customer service, and deliver targeted marketing suggestions (including through Web measurement and customization technologies, some of which collect and store personally identifiable information) to customers based upon their interests. When altered as proposed, the categories of records in the system will read as follows:

The purpose of this system is to permit the United States Mint to perform the following: Maintain a mailing list of customers and interested parties to provide continuous communication and promotional materials about existing and upcoming numismatic product offerings, circulating coins, and activities; record and maintain records of customers' and interested parties' order information and requests for promotional materials; record and maintain records on individuals who have registered to create accounts and have opted-in to Web measurement and customization technologies that collect and store personally identifiable information to perform market segmentation that allows them to receive targeted marketing suggestions and allows the United States Mint to better understand its customer base; record and maintain records on individuals who have registered to create accounts and have opted-in to having their information retained for more efficient checkout and capturing and processing of orders through each stage of the order life cycle; maintain integrity and security of orders, customer information, and the system; record and maintain customer phone calls and chats with customer service representatives; research and resolve orders that were not successfully delivered to customers and interested parties; and maintain a list of its products and monitor and maintain product and promotional material inventory levels to meet customer and interested party demand, while remaining within mandated mintage levels, as applicable.

* * * * *

RETRIEVABILITY:

Description of changes: The retrievability will be changed to add new identifiers used to retrieve information from the system, including employee user identification, product preferences, email address, market segmentation categories, bureau online catalog browsing behavioral information. When altered as proposed, the retrievability section system will read as follows:

Name, address, phone number, email address, customer number or order number, order date, whether or not the account is flagged (such as due to an unusual quantity ordered or an order requiring verification for processing and completion), product preferences, market segmentation categories, bureau online catalog browsing behavioral information, shipment tracking number, any internal identification number that may be assigned to the request, employee, government contractor and subcontractor employee user identification.

SAFEGUARDS:

Description of changes: The safeguards will be changed to reflect further administrative access controls. When altered as proposed, the safeguards section will read as follows:

Paper records are stored in secured filing cabinets with access only by authorized personnel. Electronic records are stored in secured systems subject to access controls in accordance with Department of the Treasury and United States Mint policies and procedures. Access to electronic records is restricted to authorized personnel, and is subject to multiple security controls, including an access-approval process, unique user identifier, user authentication and account management, and password management. Only those individuals requiring the information to accommodate handling of transactions with the customers, or otherwise with a need to know the information for the performance of their official duties, can access information pertaining to an individual.

RECORD SOURCE CATEGORIES:

Description of changes: The record source categories will be changed to reflect a reference to gift recipients and inclusion of government contractor and subcontractor employees, applications that generate derived data, and internet service providers of persons who visit our bureau online catalog. When altered as proposed, the record source section will read as follows:

Members of the public (including customers who provide information about third-party gift recipients), IP addresses of persons who visit the bureau online catalog, applications that generate derived data, government employees, government contractor employees, and subcontractor employees.

* * * * *

NOTIFICATION PROCEDURE:

Description of changes: The notification procedures will be amended to leave out the ability for customers to change orders once the online transaction has been processed.

When altered as proposed, the record source section will read as follows:

Requests from individuals wishing to be notified if they are currently named in this system of records, or seeking access to any record contained in the system of records, or seeking to contest its content, should be addressed to the ''System Manager and Address'' described above. Requests may be made in accordance with instructions appearing at 31 CFR Part 1, subpart C, appendix H. Requests for information or specific guidance on where to send records requests should be addressed to the following official: Disclosure Officer, United States Mint, 801 9th Street NW., Washington DC 20220. Individuals who have previously registered on the bureau's Web site for a customer account or electronic product notifications may access their system records online by authenticating with their valid username and password. Individuals making requests and inquiries concerning their system records must provide identification to include their name, address, telephone number, customer identification number and order number (or a combination of identifying information including order information depending on the request) which must be successfully validated in the system.

* * * * *

[FR Doc. 2014–19712 Filed 8–19–14; 8:45 am]

BILLING CODE 4810–37–P

UNITED STATES SENTENCING COMMISSION

Final Priorities for Amendment Cycle

AGENCY: United States Sentencing Commission.

ACTION: Notice of final priorities.

SUMMARY: In June 2014, the Commission published a notice of possible policy

priorities for the amendment cycle ending May 1, 2015. *See* 79 FR 31409 (June 2, 2014). After reviewing public comment received pursuant to the notice of proposed priorities, the Commission has identified its policy priorities for the upcoming amendment cycle and hereby gives notice of these policy priorities.

FOR FURTHER INFORMATION CONTACT: Jeanne Doherty, Public Affairs Officer, 202–502–4502, *jdoherty@ussc.gov.*

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent commission in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal sentencing courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and submits guideline amendments to the Congress not later than the first day of May each year pursuant to 28 U.S.C. 994(p).

Pursuant to 28 U.S.C. 994(g), the Commission intends to consider the issue of reducing costs of incarceration and overcapacity of prisons, to the extent it is relevant to any identified priority.

As part of its statutory authority and responsibility to analyze sentencing issues, including operation of the federal sentencing guidelines, the Commission has identified its policy priorities for the amendment cycle ending May 1, 2015. The Commission recognizes, however, that other factors, such as the enactment of any legislation requiring Commission action, may affect the Commission's ability to complete work on any or all of its identified priorities by the statutory deadline of May 1, 2015. Accordingly, it may be necessary to continue work on any or all of these issues beyond the amendment cycle ending on May 1, 2015.

As so prefaced, the Commission has identified the following priorities:

(1) Continuation of its work with Congress and other interested parties on statutory mandatory minimum penalties to implement the recommendations set forth in the Commission's 2011 report to Congress, titled *Mandatory Minimum Penalties in the Federal Criminal Justice System,* including its recommendations regarding the severity and scope of mandatory minimum penalties, consideration of expanding the ''safety valve'' at 18 U.S.C. 3553(f), and elimination of the mandatory ''stacking'' of penalties under 18 U.S.C. 924(c), and to develop appropriate guideline amendments in response to any related legislation.

(2) Continuation of its work on economic crimes, including (A) a comprehensive, multi-year study of section 2B1.1 (Theft, Property Destruction, and Fraud) and related guidelines, including examination of the loss table, the definition of loss, and role in the offense; (B) a study of offenses involving fraud on the market; and (C) consideration of any amendments to such guidelines that may be appropriate in light of the information obtained from such studies.

(3) Continuation of its multi-year study of statutory and guideline definitions relating to the nature of a defendant's prior conviction (*e.g.,* ''crime of violence,'' ''aggravated felony,'' ''violent felony,'' ''drug trafficking offense,'' and ''felony drug offense'') and the impact of such definitions on the relevant statutory and guideline provisions (*e.g.,* career offender, illegal reentry, and armed career criminal), possibly including recommendations to Congress on any statutory changes that may be appropriate and development of guideline amendments that may be appropriate.

(4) Implementation of the directive to the Commission in section 10 of the Fair Sentencing Act of 2010, Public Law 111–220 (enacted August 3, 2010) (requiring the Commission, not later than 5 years after enactment, to ''study and submit to Congress a report regarding the impact of the changes in Federal sentencing law under this Act and the amendments made by this Act'').

(5) Study of the operation of section 3B1.2 (Mitigating Role) and related provisions in the *Guidelines Manual* (e.g., the ''mitigating role cap'' in section 2D1.1(a)(5)), and consideration of any amendments to the *Guidelines Manual* that may be appropriate in light of the information obtained from such study.

(6) Study of the guidelines applicable to immigration offenses and related criminal history rules, and consideration of any amendments to such guidelines that may be appropriate in light of the information obtained from such study.

(7) Continuation of its comprehensive, multi-year study of recidivism, including (A) examination of circumstances that correlate with increased or reduced recidivism; (B) possible development of recommendations for using information obtained from such study to reduce costs of incarceration and overcapacity of prisons; and (C) consideration of any amendments to the *Guidelines Manual* that may be appropriate in light of the information obtained from such study. The Commission also intends to study risk assessment tools and their various uses, possibly including development of recommendations about the proper role of these tools.

(8) Continuation of its multi-year review of federal sentencing practices pertaining to imposition and violations of conditions of probation and supervised release, including possible consideration of amending the relevant provisions in Chapters Five and Seven of the *Guidelines Manual.*

(9) Continuation of its work with the legislative, executive, and judicial branches of government, and other interested parties, with respect to the Commission's December 2012 report to Congress, titled *The Continuing Impact of United States* v. *Booker on Federal Sentencing,* and development of appropriate guideline amendments in response to any related legislation.

(10) Beginning a multi-year effort to simplify the operation of the guidelines, including an examination of (A) the overall structure of the guidelines post-*Booker,* (B) cross references in the *Guidelines Manual,* (C) the use of relevant conduct in offenses involving multiple participants, (D) the use of acquitted conduct in applying the guidelines, and (E) the use of departures.

(11) Continuation of its work with Congress and other interested parties on child pornography offenses to implement the recommendations set forth in the Commission's December 2012 report to Congress, titled *Federal Child Pornography Offenses.*

(12) Study of the availability of alternatives to incarceration.

(13) Implementation of any crime legislation enacted during the 113th Congress warranting a Commission response.

(14) Resolution of circuit conflicts, pursuant to the Commission's continuing authority and responsibility, under 28 U.S.C. 991(b)(1)(B) and *Braxton* v. *United States,* 500 U.S. 344 (1991), to resolve conflicting interpretations of the guidelines by the federal courts.

(15) Consideration of any miscellaneous guideline application issues coming to the Commission's attention from case law and other sources.

Authority: 28 U.S.C. 994(a), (o); USSC Rules of Practice and Procedure 5.2.

Patti B. Saris,

Chair.

[FR Doc. 2014–19766 Filed 8–19–14; 8:45 am]

BILLING CODE 2210–40–P

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of final action regarding technical and conforming amendments to federal sentencing guidelines effective November 1, 2014.

SUMMARY: On April 30, 2014, the Commission submitted to the Congress amendments to the sentencing guidelines and official commentary, which become effective on November 1, 2014, unless Congress acts to the contrary. Such amendments and the reasons for amendment subsequently were published in the **Federal Register**. 79 FR 25996 (May 6, 2014). The Commission has made technical and conforming amendments, set forth in this notice, to commentary provisions and policy statements related to those amendments.

DATES: The Commission has specified an effective date of November 1, 2014, for the amendments set forth in this notice.

FOR FURTHER INFORMATION CONTACT: Jeanne Doherty, Public Affairs Officer, (202) 502–4502, *jdoherty@ussc.gov.*

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission, an independent commission in the judicial branch of the United States government, is authorized by 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for federal courts. Section 994 also directs the Commission to review and revise periodically promulgated guidelines and authorizes it to submit guideline amendments to Congress not later than the first day of May each year. *See* 28 U.S.C. 994(o), (p). Absent an affirmative disapproval by Congress within 180 days after the Commission submits its amendments, the amendments become effective on the date specified by the Commission (typically November 1 of the same calendar year). *See* 28 U.S.C. 994(p).

Unlike amendments made to sentencing guidelines, amendments to commentary and policy statements may be made at any time and are not subject to congressional review. To the extent practicable, the Commission endeavors to include amendments to commentary and policy statements in any submission of guideline amendments to Congress. Occasionally, however, the Commission determines that technical and conforming changes to commentary and policy statements are necessary. This notice sets forth technical and conforming amendments to commentary and policy statements that will become effective on November 1, 2014.

Authority: USSC Rules of Practice and Procedure 4.1.

Patti B. Saris,
Chair.

1. *Amendment:*

Chapter One, Part A, Subpart 2 (Continuing Evolution and Role of the Guidelines) is amended by striking ''127 S. Ct. 2456'' and inserting ''551 U.S. 338''; by striking ''2463'' and inserting ''347–48''; by striking ''wholesale,' *id.,*'' and inserting ''wholesale[,]' *id.* at 348''; by striking ''2464'' and inserting ''350''; by striking ''127 S. Ct. at 2465'' both places such term appears and inserting ''551 U.S. at 351''; by striking ''128 S. Ct. 586, 596'' and inserting ''552 U.S. 38, 49''; by striking ''128 S. Ct. at 597'' and inserting ''552 U.S. at 51''; by striking ''*Id.* at 2464'' and inserting ''*Rita,* 551 U.S. at 350''; by striking ''128 S. Ct. at 594'' and inserting ''552 U.S. at 46''; by striking ''128 S. Ct. 558'' and inserting ''552 U.S. 85''; and by striking ''571'' and inserting ''103''.

The Commentary to § 1B1.1 captioned ''Background'' is amended by striking ''128 S. Ct. 2198, 2200–03'' and inserting ''553 U.S. 708, 709–16''.

The Commentary to § 1B1.10 captioned ''Background'' is amended by striking ''130 S. Ct. 2683'' and inserting ''560 U.S. 817''.

The Commentary to § 2M3.1 captioned ''Application Notes'' is amended by striking ''50 U.S.C. § 435 note'' and inserting ''50 U.S.C. § 3161 note''.

The Commentary to § 5G1.3 captioned ''Application Notes'' is amended in Note 2(A) by striking ''subsection (c)'' and inserting ''subsection (d)''.

Reason for Amendment:

This proposed amendment makes certain technical changes to the Introduction and the Commentary in the *Guidelines Manual.*

First, the proposed amendment makes clerical changes to provide U.S. Reports citations for certain Supreme Court cases. The changes are made to—

(1) Subpart 2 of Part A of Chapter One (Introduction, Authority, and General Application Principles);

(2) the Background Commentary to § 1B1.1 (Application Instructions); and

(3) the Background Commentary to § 1B1.10 (Reduction in Term of Imprisonment as a Result of Amended Guideline Range (Policy Statement)).

Second, the proposed amendment makes a clerical change to Application Note 1 to § 2M3.1 (Gathering or Transmitting National Defense Information to Aid a Foreign Government) to reflect the editorial reclassification of a section in the United States Code.

Finally, the proposed amendment makes a technical and conforming change to Application Note 2(A) to § 5G1.3 (Imposition of a Sentence on a Defendant Subject to an Undischarged Term of Imprisonment) to reflect that subsection (c) was redesignated as subsection (d) by Amendment 8 of the amendments submitted by the Commission to Congress on April 30, 2014, 79 FR 25996 (May 6, 2014).

[FR Doc. 2014–19764 Filed 8–19–14; 8:45 am]

BILLING CODE 2210–40–P

UNITED STATES SENTENCING COMMISSION

Possible Formation of Tribal Issues Advisory Group

AGENCY: United States Sentencing Commission.

ACTION: Request for public comment on possible formation of Tribal Issues Advisory Group.

SUMMARY: The Commission is interested in forming a new Tribal Issues Advisory Group, on an ad hoc or continuing basis, or establishing other means to study issues that have been raised in recent years related to the operation of the federal sentencing guidelines in Indian Country and areas that have significant American Indian population. Therefore, the Commission hereby requests comment on the merits of forming such a group, including comment on the scope, duration, and potential membership of any such advisory group.

DATES: Public comment should be received on or before October 20, 2014.

ADDRESSES: Comments should be sent to the Commission by electronic mail or regular mail. The email address is *pubaffairs@ussc.gov.* The regular mail address is United States Sentencing Commission, One Columbus Circle NE., Suite 2–500, South Lobby, Washington, DC 20002–8002, Attention: Public Affairs—Tribal Issues Comment.

FOR FURTHER INFORMATION CONTACT: Jeanne Doherty, Public Affairs Officer, 202–502–4502, *jdoherty@ussc.gov.*

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and

policy statements for federal sentencing courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and submits guideline amendments to the Congress not later than the first day of May each year pursuant to 28 U.S.C. 994(p). Under 28 U.S.C. 995 and Rule 5.4 of the Commission's Rules of Practice and Procedure, the Commission may create standing or ad hoc advisory groups to facilitate formal and informal input to the Commission. Upon creating an advisory group, the Commission may prescribe the policies regarding the purpose, membership, and operation of the group as the Commission deems necessary or appropriate.

In 2002, the Commission established the Native American Advisory Group (NAAG) with the purpose of considering ''any viable methods to improve the operation of the federal sentencing guidelines in their application to Native Americans under the Major Crimes Act.'' The NAAG was convened as an ad hoc group tasked with writing an interim and a final report. The membership of the advisory group was diverse in terms of geography, tribal affiliation, and professional background, and included federal judges, Assistant United States Attorneys, a United States Probation Officer, an Assistant Federal Public Defender, a Victim/Witness specialist, private legal practitioners, academics, and representatives from the Department of Justice, the Department of Interior, the Bureau of Indian Affairs, the United States Commission on Civil Rights, and the National Indian Gaming Commission.

The Final Report issued by the group in 2003 made specific recommendations on offenses that had a significant percentage of American Indian offenders (manslaughter, sexual abuse, aggravated assault, and the use of alcohol as an aggravating factor), and it encouraged the Commission to continue tribal involvement in the development of federal sentencing policy. (The 2003 Report of the NAAG may be accessed through the Commission's Web site at *www.ussc.gov.*) For the Commission's amendments in response to this report, *see* USSG App. C, Amends. 652, 663.

Since the NAAG issued its final report, new issues and concerns have arisen involving American Indian defendants and victims, and there have been important changes in tribal criminal jurisdiction. For example, in 2010, the Tribal Law and Order Act of 2010 (Pub. L. 111–211) was enacted to address high rates of violent crime in Indian Country by improving criminal justice funding and infrastructure in tribal government, and expanding the sentencing authority of tribal court systems. In 2013, the Violence Against Women Reauthorization Act of 2013 (Pub. L. 113–4) was enacted to expand the criminal jurisdiction of tribes to prosecute, sentence, and convict Indians and non-Indians who assault Indian spouses or dating partners or violate a protection order in Indian Country. It also established new assault offenses and enhanced existing assault offenses. Both Acts increased criminal jurisdiction for tribal courts, but also required more robust court procedures and provided more procedural protections for defendants. For the Commission's response to the Violence Against Women Reauthorization Act of 2013, *see* Amendment 2 of the amendments submitted to Congress on April 30, 2014, 79 FR 25996 (May 6, 2014).

Furthermore, in 2009 and 2010, the Commission held a series of regional public hearings regarding federal sentencing policy to coincide with the 25th anniversary of the Sentencing Reform Act. At regional hearings in Denver and Phoenix, the Commission heard testimony on Indian Country issues. The testimony expressed concern about the perception in tribal communities that American Indian offenders prosecuted federally receive more severe sentences than other offenders prosecuted at the state level, the disparity in the application of the federal sentencing guidelines on American Indians in Indian Country, and how tribal court convictions are taken into account for purposes of sentencing and risk assessment, among other uses. More recently, the Commission received written submissions and testimony during the public comment period and public hearings on the amendments in response to the Violence Against Women Reauthorization Act of 2013, that expressed the same concerns heard in the testimony at the regional hearings, but also addressed additional matters for consideration, such as ensuring accountability for Indian and non-Indian offenders who victimize American Indians, the need to better acknowledge tribal court protection orders in the guidelines, and the importance of consultation with tribal communities on sentencing issues that affect them. (The testimony and written submissions are available through the Commission's Web site at *www.ussc.gov.*)

In 2014, the Commission received a letter from the United States Attorneys who make up the Native American Issues Subcommittee and the Racial Disparities Working Group of the Attorney General's Advisory Group at the Department of Justice. (The letter is available through the Commission's Web site at *www.ussc.gov.*) The letter urged the Commission to consider ''forming a new American Indian Sentencing Advisory Group to study whether American Indian defendants in federal court face disparities in sentencing.'' It noted that since the NAAG Report of 2003, the issue of potential sentencing disparities has remained a subject of great debate, citing academic research and concerns heard from tribal leaders and members of the Federal Judiciary. The letter also explained that because the NAAG's work was completed prior to the United States Supreme Court decision in *United States* v. *Booker,* 543 U.S. 220 (2005), further review is appropriate.

In light of this, the Commission is considering whether to form a new Tribal Issues Advisory Group, on an ad hoc or continuing basis, or establishing other means to study the issues that have been raised in recent years. Therefore, the Commission hereby requests comment on the merits of forming such a group, including comment on the scope, duration, and potential membership of any such advisory group.

Public comment should be sent to the Commission as indicated in the **ADDRESSES** section above.

Authority: 28 U.S.C. 994(a), (o), (p), 995; USSC Rules of Practice and Procedure 5.2, 5.4.

Patti B. Saris,

Chair.

[FR Doc. 2014–19765 Filed 8–19–14; 8:45 am]

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FEDERAL REGISTER

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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Revised 12-Month Finding on a Petition To List the Upper Missouri River Distinct Population Segment of Arctic Grayling as an Endangered or Threatened Species; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R6–ES–2013–0120; 4500030113]

Endangered and Threatened Wildlife and Plants; Revised 12-Month Finding on a Petition To List the Upper Missouri River Distinct Population Segment of Arctic Grayling as an Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a revised 12-month finding on a petition to list the Upper Missouri River distinct population segment (Upper Missouri River DPS) of Arctic grayling (*Thymallus arcticus*) as an endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). After review of the best available scientific and commercial information, we find that listing the Upper Missouri River DPS of Arctic grayling is not warranted at this time. The best available scientific and commercial information indicates that habitat-related threats previously identified, including habitat fragmentation, dewatering, thermal stress, entrainment, riparian habitat loss, and effects from climate change, for the Upper Missouri River DPS of Arctic grayling have been sufficiently ameliorated and that 19 of 20 populations of Arctic grayling are either stable or increasing. This action removes the Upper Missouri River DPS of the Arctic grayling from our candidate list. Although listing is not warranted at this time, we ask the public to submit to us any new information that becomes available concerning the threats to the Upper Missouri River DPS of Arctic grayling or its habitat at any time.

DATES: The finding announced in this document was made on August 20, 2014.

ADDRESSES: This finding is available on the Internet at *http://www.regulations.gov* at Docket Number FWS–R6–ES–2013–0120. Supporting documentation we used in preparing this finding is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Montana Ecological Services Office, 585 Shepard Way, Suite 1, Helena, MT 59601. Please submit any new information, materials, comments, or questions concerning this finding to the above street address.

FOR FURTHER INFORMATION CONTACT: Jodi Bush, Field Supervisor, Montana Ecological Services Office (see **ADDRESSES**); telephone 406–449–5225. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*) requires that, for any petition to revise the Federal Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information that listing the species may be warranted, we make a finding within 12 months of the date of receipt of the petition. In this finding, we will determine that the petitioned action is: (1) Not warranted, (2) warranted, or (3) warranted, but the immediate proposal of a regulation implementing the petitioned action is precluded by other pending proposals to determine whether species are endangered or threatened, and expeditious progress is being made to add or remove qualified species from the Federal Lists of Endangered and Threatened Wildlife and Plants. We must publish these 12-month findings in the **Federal Register**.

Previous Federal Actions

We have published a number of documents on Arctic grayling since 1982, and have been involved in litigation over previous findings. We describe previous federal actions that are relevant to this document below.

We published our first status review for the Montana Arctic grayling (*Thymallus arcticus montanus*), then thought to be a subspecies of Arctic grayling, in a **Federal Register** document on December 30, 1982 (47 FR 58454). In that document, we designated the purported subspecies, Montana Arctic grayling, as a Category 2 species. At that time, we designated a species as Category 2 if a listing as endangered or threatened was possibly appropriate, but we did not have sufficient data to support a proposed rule to list the species.

On October 9, 1991, the Biodiversity Legal Foundation and George Wuerthner petitioned us to list the fluvial (riverine) populations of Arctic grayling in the Upper Missouri River basin as an endangered species throughout its historical range in the coterminous United States. We published a notice of a 90-day finding in the January 19, 1993, **Federal Register** (58 FR 4975), concluding the petitioners presented substantial information indicating that listing the fluvial Arctic grayling of the Upper Missouri River in Montana and northwestern Wyoming may be warranted. This finding also noted that taxonomic recognition of the Montana Arctic grayling (*Thymallus arcticus montanus*) as a subspecies (previously designated as a category 2 species) was not widely accepted, and that the scientific community generally considered this population a geographically isolated member of the wider species (*T. arcticus*).

On July 25, 1994, we published notification of a 12-month finding in the **Federal Register** (59 FR 37738), concluding that listing the DPS of fluvial Arctic grayling in the Upper Missouri River was warranted but precluded by other higher priority listing actions. This DPS determination predated our DPS policy (61 FR 4722, February 7, 1996), so the entity did not undergo a DPS analysis as described in the policy. The 1994 finding placed fluvial Arctic grayling of the Upper Missouri River on the candidate list and assigned it a listing priority of 9, indicating that the threats were imminent but of moderate to low magnitude.

On May 31, 2003, the Center for Biological Diversity and Western Watersheds Project (Plaintiffs) filed a complaint in U.S. District Court in Washington, DC, challenging our 1994 ''warranted but precluded'' determination for the DPS of fluvial Arctic grayling in the Upper Missouri River basin. On May 4, 2004, we elevated the listing priority number of the fluvial Arctic grayling to 3 (69 FR 24881), indicating threats that were imminent and of high magnitude. On July 22, 2004, the Plaintiffs amended their complaint to challenge our failure to emergency list this population. We settled with the Plaintiffs in August 2005, and we agreed to submit a revised determination on whether this population warranted listing as endangered or threatened to the **Federal Register** on or before April 16, 2007.

On April 24, 2007, we published a revised 12-month finding on the petition to list the Upper Missouri River DPS of fluvial Arctic grayling (72 FR 20305) (''2007 finding''). In this finding, we determined that fluvial Arctic grayling of the upper Missouri River did not constitute a species, subspecies, or DPS under the Act. Therefore, we found that the upper Missouri River

population of fluvial Arctic grayling was not a listable entity under the Act, and, as a result, listing was not warranted. With that document, we withdrew the fluvial Arctic grayling from our candidate list.

On November 15, 2007, the Center for Biological Diversity, Federation of Fly Fishers, Western Watersheds Project, George Wuerthner, and Pat Munday filed a complaint (CV–07–152, in the District Court of Montana) to challenge our 2007 finding. We settled this litigation on October 5, 2009. In the stipulated settlement, we agreed to: (a) Publish, on or before December 31, 2009, a document in the **Federal Register** soliciting information on the status of the upper Missouri River Arctic grayling; and (b) submit, on or before August 30, 2010, a new 12-month finding for the upper Missouri River Arctic grayling to the **Federal Register**.

On October 28, 2009, we published in the **Federal Register** a notice of intent to conduct a status review of Arctic grayling (*Thymallus arcticus*) in the upper Missouri River system (74 FR 55524). To ensure the status review was based on the best available scientific and commercial data, we requested information on the taxonomy, biology, ecology, genetics, and population status of the Arctic grayling of the upper Missouri River system; information relevant to consideration of the potential DPS status of Arctic grayling of the upper Missouri River system; threats to the species; and conservation actions being implemented to reduce those threats in the upper Missouri River system. That document further specified that the status review might consider various DPS designations that include different life histories of Arctic grayling in the upper Missouri River system and different DPS configurations, including fluvial, adfluvial (lake populations), or all life histories of Arctic grayling in the upper Missouri River system.

On September 8, 2010, we published a revised 12-month finding on the petition to list the Upper Missouri River DPS of Arctic grayling (75 FR 54708) (''2010 finding''). In this finding, we determined that fluvial and adfluvial Arctic grayling of the upper Missouri River did constitute a DPS under the Act. Further, we found that a DPS configuration including both adfluvial and fluvial life histories was the most appropriate for the long-term conservation of Arctic grayling because genetic evidence indicated that fluvial and adfluvial life-history forms did not represent distinct evolutionary lineages. We concluded by finding that the Upper Missouri River DPS of Arctic grayling was warranted for listing under the Act, but precluded by other higher priority listing actions.

On September 9, 2011, we reached an agreement with plaintiffs in Endangered Species Act Section 4 Deadline Litig., Misc. Action No. 10–377 (EGS), MDL Docket No. 2165 (D. D.C.) (known as the ''MDL case'') on a schedule to publish proposed listing rules or not-warranted findings for the species on our candidate list. This agreement stipulated that we would submit for publication in the **Federal Register** either a proposed listing rule for the Upper Missouri River DPS of Arctic grayling, or a not-warranted finding, no later than the end of Fiscal Year 2014.

On November 26, 2013, we published a document in the **Federal Register** (78 FR 70525) notifying the public that we were initiating a status review of the Upper Missouri River DPS of Arctic grayling to determine whether the entity meets the definition of an endangered or threatened species under the Act. That document requested general information (taxonomy, biology, ecology, genetics, and status) on the Arctic grayling of the upper Missouri River system, as well as information on the conservation status of, threats to, planned and ongoing conservation actions for, habitat selection of, habitat requirements of, and considerations concerning the possible designation of critical habitat for the Arctic grayling of the upper Missouri River system.

This document constitutes a revised 12-month finding (''2014 finding'') on whether to list the Upper Missouri River DPS of Arctic grayling (*Thymallus arcticus*) as endangered or threatened under the Act, and fulfills our commitments under the MDL case.

Species Information

Taxonomy and Species Description

The Arctic grayling (*Thymallus arcticus*) is a fish belonging to the family Salmonidae (salmon, trout, charr, whitefishes), subfamily *Thymallinae* (graylings), and it is represented by a single genus, *Thymallus.* Arctic grayling have elongate, laterally compressed, trout-like bodies with deeply forked tails, and adults typically average 300–380 millimeters (mm) (12–15 inches (in.)) in length. Coloration can be striking, and varies from silvery or iridescent blue and lavender, to dark blue (Behnke 2002, pp. 327–328). A prominent morphological feature of Arctic grayling is the sail-like dorsal fin, which is large and vividly colored with rows of orange to bright green spots, and often has an orange border (Behnke 2002, pp. 327–328).

For more detail on taxonomy and species description, see the 2010 finding (75 FR 54708).

Distribution

Arctic grayling are native to Arctic Ocean drainages of Alaska and northwestern Canada, as far east as Hudson's Bay, and westward across northern Eurasia to the Ural Mountains (Scott and Crossman 1998, pp. 301–302; Froufe *et al.* 2005, pp. 106–107; Weiss *et al.* 2006, pp. 511–512). In North America, they are native to northern Pacific Ocean drainages as far south as the Stikine River in British Columbia (Nelson and Paetz 1991, pp. 253–256; Behnke 2002, pp. 327–331).

For a full discussion on the global distribution of Arctic grayling, see the 2010 finding (75 FR 54709–54710). Here, we focus on the distribution of Arctic grayling within the conterminous United States.

Distribution in the Conterminous United States

Two disjunct groups of Arctic grayling were native to the conterminous United States: One in the upper Missouri River basin in Montana and Wyoming (currently extant only in Montana); and another in Michigan that was extirpated in the late 1930s (Hubbs and Lagler 1949, p. 44), and has not been detected since.

During the status review process, the Service received information indicating that Arctic grayling may have also been native to areas outside the Upper Missouri River basin in Montana and Wyoming. This information included multiple historical newspaper clippings and several reports from early Army expeditions purporting that Arctic grayling were captured in the Yellowstone River drainage in Montana and the Snake River drainage in Idaho (Shea 2014, entire). Some of these reports even included descriptions of captured fish. However, none of the descriptions mentions the colorful, sail-like dorsal fin of Arctic grayling, a prominent feature that clearly distinguishes Arctic grayling from other salmonids. In addition, a similar species resembling Arctic grayling (i.e., mountain whitefish) is native to both the Yellowstone River drainage and Snake River drainage. Mountain whitefish were sometimes referred to as ''grayling'' in some areas of the West (Ellis 1914, p. 75). Thus, it is likely that early reports of Arctic grayling occurring outside the upper Missouri River basin were mountain whitefish misidentified as Arctic grayling. Therefore, without information to the contrary, we consider Arctic grayling to

be native only to the upper Missouri River basin in Montana and Wyoming and to Michigan.

Native Distribution of Arctic Grayling in the Upper Missouri River Basin

The first Euro-American ''discovery'' of Arctic grayling in North America is attributed to members of the Lewis and Clark Expedition, who encountered the species in the Beaverhead River in August 1805 (Nell and Taylor 1996, p. 133). Vincent (1962, p. 11) and Kaya (1992, pp. 47–51) synthesized accounts of Arctic grayling occurrence and abundance from historical surveys and contemporary monitoring to determine the historical distribution of the species in the upper Missouri River system (Figure 1). We base our conclusions on the historical distribution of Arctic grayling in the upper Missouri River basin on these two reviews. Arctic grayling were widely but irregularly distributed in the upper Missouri River system above the Great Falls in Montana and in northwest Wyoming within the present-day location of Yellowstone National Park (Vincent 1962, p. 11). They were estimated to inhabit up to 2,000 kilometers (km) (1,250 miles (mi)) of stream habitat until the early 20th century (Kaya 1992, pp. 47–51). Arctic grayling were reported in the mainstem Missouri River, as well as in the Smith, Sun, Jefferson, Madison, Gallatin, Big Hole, Beaverhead, and Red Rock Rivers (Vincent 1962, p. 11; Kaya 1992, pp. 47–51; USFWS 2007; 72 FR 20307, April 24, 2007). Anecdotal accounts report that the species may have been present in the Ruby River, at least seasonally (Magee 2005, pers. comm.), and were observed there as recently as the early 1970s (Holton, undated).

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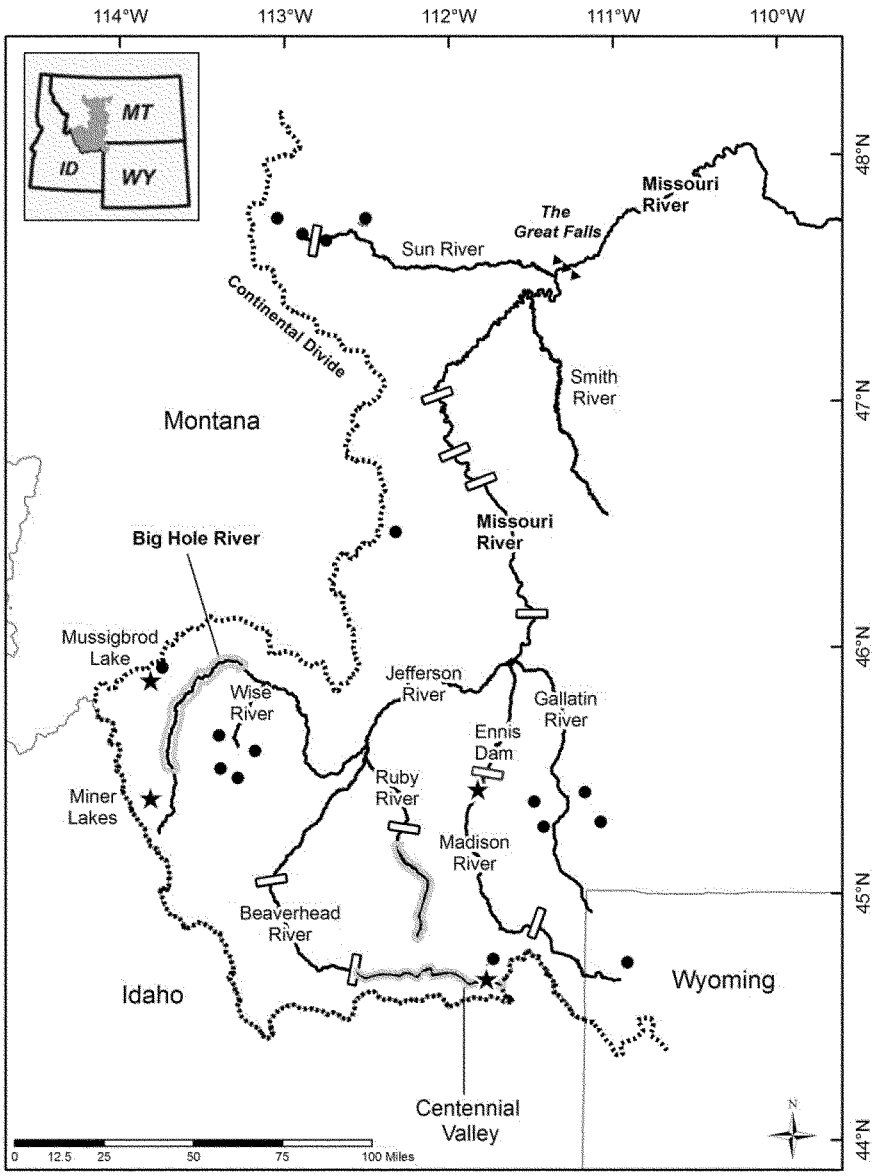

Figure 1. Historical (solid black lines and stars) and current (gray outlines, stars, and circles) distribution of Arctic grayling in the upper Missouri River basin. Stars represent populations included in the DPS in the 2010 finding. Circles denote introduced populations included in the DPS in this finding. Small rectangles denote locations of mainstem river dams.

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Fluvial Arctic grayling were historically widely distributed in the upper Missouri River basin, but a few adfluvial populations also were native to the basin. For example, Arctic grayling are native to Red Rock Lakes, in the Centennial Valley (Vincent 1962, pp. 112–121; Kaya 1992, p. 47). Vincent (1962, p. 120) stated that Red Rock Lakes were the only natural lakes in the upper Missouri River basin accessible to colonization by Arctic grayling, and concluded that Arctic grayling there were the only native adfluvial population in the basin. However, Arctic grayling were also native to Elk Lake (in the Centennial Valley; Kaya 1990, p. 44) and a few small lakes in the upper Big Hole River drainage, based on recent genetic information (Peterson and Ardren 2009, p. 1768).

The distribution of native Arctic grayling in the upper Missouri River went through a dramatic reduction in the first 50 years of the 20th century, especially in riverine habitats (Vincent 1962, pp. 86–90, 97–122, 127–129; Kaya 1992, pp. 47–53). The native populations that formerly resided in the

Smith, Sun, Jefferson, Beaverhead, Gallatin, and mainstem Missouri Rivers are considered extirpated, and the only remaining native fluvial population is found in the Big Hole River and some of its tributaries (Kaya 1992, pp. 51–53). The fluvial form currently occupies less than 10 percent of its historical range in the Missouri River system (Kaya 1992, p. 51). Other native populations in the upper Missouri River occur in two small, headwater lakes in the upper Big Hole River system (Miner and Mussigbrod Lakes); the upper Ruby River (recently reintroduced from Big Hole River stock); the Madison River upstream from Ennis Reservoir; Elk Lake in the Centennial Valley (recently reintroduced from Red Rock Lakes stock); and the Red Rock Lakes in the Centennial Valley (Everett 1986, p. 7; Kaya 1992, p. 53; Peterson and Ardren 2009, pp. 1762, 1768; see Figure 1).

Introduced Lake-Dwelling Arctic Grayling in the Upper Missouri River Basin

From 1898 through the 1960s, an estimated 100 million Arctic grayling were stocked across Montana and other western States. The sources of these stockings varied through time as different State, Federal, and private hatchery operations were created, but the ultimate source for all hatcheries in Montana appears to be stock from two Montana populations: Centennial Valley and Madison River (Peterson and Ardren 2009, p. 1767; Leary 2014, unpublished data; MFISH 2014a). Arctic grayling derived from these two sources were stocked on top of every known native Arctic grayling population in the upper Missouri River basin. In addition, Arctic grayling were stocked in multiple high elevation lakes, some of which likely were historically fishless.

There are 20 known, introduced Arctic grayling populations that exist in the upper Missouri River basin. These 20 populations, along with the 6 populations existing in native habitat, comprise the listable entity (total of 26 populations) of Arctic grayling in the upper Missouri River basin. However, six of these introduced populations are considered to have low conservation value because they occupy unnatural habitat, are not self-sustaining, or are used as captive brood reserves. These six populations are Axolotl Lake, Green Hollow Lake, Sunnyslope Canal, Tunnel Lake, South Fork Sun River, and Elk Lake. The Axolotl and Green Hollow populations are captive brood reserves maintained in natural lakes for reintroduction purposes. Sunnyslope Canal is a fluvial population that occurs in unnatural habitat (irrigation canal). Tunnel Lake is stocked with ''rescued'' fish from Sunnyslope Canal, but lacks a spawning tributary and is consequently not self-sustaining (SSA 2014). South Fork Sun River is a small fluvial population that resides in about ¼ mile of stream during the summer and is not considered self-sustaining (SSA 2014). The Elk Lake population is a genetic replicate of the Centennial Valley population, but no documented spawning has occurred to date (Jaeger 2014a, pers. comm.); thus this population is not currently considered self-sustaining. For these reasons, we primarily focus our analysis on the populations considered to have high conservation value; those populations that are self-sustaining, in natural habitats, and wild.

The 14 known remaining introduced, lake-dwelling (adfluvial) Arctic grayling populations within the upper Missouri River basin are likely the result of historical stocking (Table 1). In our 2010 finding, we considered and discussed the conservation value of these populations. Based on the information available at that time, we considered these introduced populations to not have conservation value for multiple reasons. Below, we list each of the reasons for this conclusion as provided in the 2010 finding, and provide an updated assessment and conclusion about the potential conservation value of these populations, based on new information obtained since 2010.

TABLE 1—GEOGRAPHIC DISTRIBUTION, GENETIC STATUS, AND SOURCE OF INTRODUCED ADFLUVIAL ARCTIC GRAYLING POPULATIONS IN THE UPPER MISSOURI RIVER BASIN

Population	Drainage	Genetic analysis completed?	Source [a]	Citation
Agnes Lake	Big Hole	No	Madison/Centennial	MFISH 2014a.
Odell Lake	Big Hole	Yes	Centennial	Peterson and Ardren 2009, p. 1766; Leary 2014, unpublished data.
Bobcat Lake	Big Hole	Yes	Centennial	Peterson and Ardren 2009, p. 1766; Leary 2014, unpublished data.
Schwinegar Lake	Big Hole	No	Madison/Centennial.[c]	
Pintlar Lake	Big Hole	Yes	Madison/Centennial	Leary 2014, unpublished data.
Deer Lake	Gallatin	Yes	Madison/Centennial	Leary 2014, unpublished data.
Emerald Lake	Gallatin	Yes	Madison/Centennial	Leary 2014, unpublished data.
Grayling Lake	Gallatin	Yes	Madison/Centennial	Leary 2014, unpublished data.
Hyalite Lake	Gallatin	Yes	Madison/Centennial	Leary 2014, unpublished data.
Diversion Lake	Sun	Yes [b]	Big Hole	Horton 2014a, pers. comm.; Magee 2014, pers. comm.
Gibson Reservoir	Sun	Yes [b]	Big Hole	Horton 2014a, pers. comm.; Magee 2014, pers. comm.
Lake Levale	Sun	Yes [b]	Big Hole	Horton 2014a, pers. comm.; Magee 2014, pers. comm.
Park Lake	Missouri	No	Madison/Centennial.[c]	
Grebe Lake	Madison	Yes	Centennial	Peterson and Ardren 2009, p. 1766; Varley 1981, p. 11.

[a] Origin of source stock was determined by genetic analysis and through analysis of historical stocking records and scientific literature, in some cases. Where multiple sources are cited, fish from each population were known to be stocked, although the genetic contribution of each donor population to the current population structure is unknown.

[b] These populations are the result of reintroductions using known sources of Montana origin.

[c] Schwinegar and Park Lakes Arctic grayling populations are likely from Montana-origin sources due to proximity to other lakes with known Montana origin; however, definitive evidence is lacking.

1. The Service interprets the Act to provide a statutory directive to conserve species in their native ecosystems (49 FR 33885, August 27, 1984) and to conserve genetic resources and biodiversity over a representative portion of a taxon's historical occurrence (61 FR 4722, February 7, 1996). Since most of the introduced populations of Arctic grayling were of unknown genetic origin and in lakes that were likely historically fishless,

these populations were considered in 2010 to be outside the species' native range, and we concluded that they did not appear to add conservation value to the DPS.

Since 2010, new genetic information from 7 of the 14 introduced populations indicates there are moderate to high levels of genetic diversity within and among these populations, and indicates these populations were derived from native sources within the upper Missouri River basin (Leary 2014, unpublished data; Table 1). In addition, stocking records show common stocking sources for introduced populations that were genotyped (as described previously) and the two populations that were not genotyped (the remaining 3 populations were reintroductions of known Montana origin sources; Table 1). Thus, it appears that all 14 introduced Arctic grayling populations contain moderate to high levels of genetic diversity of Arctic grayling in the upper Missouri River basin that was not captured within the DPS designation in the 2010 finding.

The Service's current interpretation of the Act is consistent with that in the 2010 finding; we believe it is important to conserve species in their native ecosystems and to conserve genetic resources and biodiversity over a representative portion of a taxon's historical occurrence. In light of the new genetics information gained since 2010 (Leary 2014, unpublished data), we also believe it is important to acknowledge the moderate to high levels of genetic diversity within the introduced populations in the upper Missouri River basin and the potential adaptive capabilities represented by this diversity. All Arctic grayling populations (introduced or not) currently within the upper Missouri River basin are derived from a common ancestor and have a distinct evolutionary trajectory relative to the historical founding populations in Canada and Alaska. Thus, Arctic grayling originating from and currently within the upper Missouri River basin represent the southernmost assemblage of the species, facing similar selection pressures and evolving independent of more northern populations.

The introduced Arctic grayling populations in the upper Missouri River basin occupy, for the most part, high-elevation habitats that are high-quality because of intact riparian areas and a consistent supply of cool water. Given the predicted effects of climate change in the West (see discussion under ''Climate Change'' in Factor A below), these types of habitats are the same habitats that the Service would explore for long-term conservation of Arctic grayling, if needed, because they may serve as thermal refugia as temperatures rise and provide greater redundancy in case of catastrophic events.

2. In 2010, the Service concluded there did not appear to be any formally recognized conservation value for the introduced populations of Arctic grayling in the upper Missouri River basin because they were not being used in conservation or restoration programs. This conclusion was based on an interpretation of a National Marine Fisheries Service final policy on the consideration of hatchery-origin fish in Endangered Species Act listing determinations for Pacific salmon and steelhead (anadromous *Oncorhynchus* spp.) (NMFS 2005, entire).

Until recently, the genetic structure and source of these introduced populations were unknown. Populations with a high likelihood of being Montana origin were used for conservation purposes (e.g., reintroductions) as a precautionary approach to Arctic grayling conservation. Now that the amount of genetic diversity within and among the introduced Arctic grayling populations and their source(s) are known, it is probable these introduced populations could be used in future conservation actions as source stock, if needed.

3. In 2010, the Service indicated there were concerns that introduced, lake-dwelling Arctic grayling populations could pose genetic risks to the native fluvial population (i.e., Big Hole Population) as cited in the Montana Fluvial Arctic Grayling Restoration Plan (''Restoration Plan,'' 1995, p. 15). In the Restoration Plan, Arctic grayling populations in Agnes, Schwinegar, Odell, Miner and Mussigbrod lakes were identified as potential threats to the genetic integrity of the Big Hole River population because of hydrologic connectivity between these lakes and the Big Hole River and the potential for genetic mixing.

Recently, genetic analyses have confirmed reproductive isolation among extant Arctic grayling populations in the upper Missouri River basin and within the Big Hole River watershed (Peterson and Ardren 2009, p. 1770; Leary 2014, unpublished data). In addition, multiple historical stockings have occurred in the Big Hole River from other sources within the upper Missouri River basin. Recent genetic analysis found no evidence of a significant genetic contribution from historical stocking on the current genetic structure of Arctic grayling in the Big Hole River (Peterson and Ardren 2009, p. 1768). Thus, we now conclude that the concern that lake-dwelling populations within the Big Hole River watershed could pose genetic risks to the Big Hole River fluvial population appears unfounded.

4. In 2010, the Service concluded that introduced populations of Arctic grayling in the upper Missouri River basin had no conservation value because these populations apparently had been isolated from their original source stock for decades without any supplementation from the wild and were established without any formal genetic consideration to selecting and mating broodstock.

It is now apparent from our review of historical stocking records that many of these introduced populations received multiple stockings from the same source or multiple stockings from several different sources over a wide range of years (MFISH 2014a, unpublished data). Additionally, most individual stockings involved a large number of eggs or fry (up to 1 million for some stockings). Cumulatively, this information suggests several points. First, stockings that used a large number of eggs or fry necessitate that gametes from multiple brood fish were used per stocking, given the physical constraints of number of eggs per unit body size of female Arctic grayling. Second, stockings in most of the introduced populations occurred over many years (up to 60 years in some cases). This indicates different cohorts of Arctic grayling had to be used, since the generation time of Arctic grayling is approximately 3.5 years in the upper Missouri River basin (references *in* Dehaan *et al.* 2014, p. 10). Lastly, the new genetic analyses from seven of the introduced Arctic grayling populations indicate moderate to high levels of genetic diversity within the populations. This result could likely only be obtained from the founding of these populations using large numbers of brood fish and gametes over multiple years. Mutation is unlikely to have accounted for these levels of genetic diversity over a relatively short time period of isolation (Freeman and Herron 2001, p. 143).

For perspective, Montana Fish, Wildlife, and Parks has developed guidelines for the establishment and maintenance of Arctic grayling broodstock. To adequately capture most of the genetic variation in a source population, the crossing of a minimum of 25 male and 25 female Arctic grayling is currently recommended (Leary 1991, p. 2151). It is likely that the historical stockings used to found the introduced Arctic grayling populations in the upper Missouri River basin equaled or exceeded this through stocking large

numbers of eggs or fry over multiple years.

5. In 2010, the Service concluded that the source populations used to found the introduced Arctic grayling populations in the upper Missouri River drainage were not well documented (Peterson and Ardren 2009, p. 1767), so we could not be certain of whether these Arctic grayling were of local origin.

Since 2010, new genetic information (Leary 2014, unpublished data) and review of historical stocking records (MFISH 2014a, unpublished data) indicate the founding populations used for stocking are local and believed representative of the Upper Missouri River DPS of Arctic grayling, and contain moderate to high levels of genetic diversity.

6. In 2010, the Service concluded the primary intent of culturing and introducing Arctic grayling populations within the upper Missouri River basin was to provide recreational fishing opportunities in high mountain lakes, and that, therefore, these introduced populations had no conservation value.

Since 2010, review of the historical literature indicates adfluvial Arctic grayling populations were presumably stocked both for recreational fishing and conservation purposes (Brown 1943, pp. 26–27; Nelson 1954, p. 341; Vincent 1962, p. 151). Following the drought in the 1930s, conservation stockings of Arctic grayling were advocated because most rivers and streams were dewatered, prompting fish managers to introduce Arctic grayling into habitats with a more consistent supply of cool water (e.g., high-elevation mountain lakes; Brown 1943, pp. 26–27; Nelson 1954, p. 341; Vincent 1962, p. 151).

In conclusion, introduced populations of Arctic grayling established within the upper Missouri River basin, whether they were originally established for recreational fishing or conservation purposes, captured moderate to high levels of genetic diversity of upper Missouri River basin Arctic grayling. The potential adaptive capabilities represented by this genetic diversity have conservation value, particularly in a changing climate. These populations reside in high-quality habitat, the same habitat the Service would look to for long-term conservation, if needed. Thus, the introduced populations of Arctic grayling within the upper Missouri River basin have conservation value, and, therefore, we include them in our analysis of a potential DPS of Arctic grayling.

Origins, Biogeography, and Genetics of Arctic Grayling in North America

North American Arctic grayling are most likely descended from Eurasian *Thymallus* that crossed the Bering land bridge during or before the Pleistocene glacial period (Stamford and Taylor 2004, pp. 1533, 1546). There were multiple opportunities for freshwater faunal exchange between North America and Asia during the Pleistocene, but genetic divergence between North American and Eurasian Arctic grayling suggests that the species could have colonized North America as early as the mid-late Pliocene (more than 3 million years ago) (Stamford and Taylor 2004, p. 1546). Genetic studies of Arctic grayling using mitochondrial DNA (mtDNA, maternally inherited DNA located in cellular organelles called mitochondria) and microsatellite DNA (repeating sequences of nuclear DNA) have shown that North American Arctic grayling consist of at least three major lineages that originated in distinct Pleistocene glacial refugia (Stamford and Taylor 2004, p. 1533). These three groups include a South Beringia lineage found in western Alaska to northern British Columbia, Canada; a North Beringia lineage found on the North Slope of Alaska, the lower Mackenzie River, and to eastern Saskatchewan; and a Nahanni lineage found in the lower Liard River and the upper Mackenzie River drainage in northeastern British Columbia and southeastern Yukon (Stamford and Taylor 2004, pp. 1533, 1540). Arctic grayling from the upper Missouri River basin were tentatively placed in the North Beringia lineage because a small sample (three individuals) of Montana Arctic grayling shared a mtDNA haplotype (form of the mtDNA) with populations in Saskatchewan and the lower Peace River, British Columbia (Stamford and Taylor 2004, p. 1538).

The existing mtDNA data suggest that Missouri River Arctic grayling share a common ancestry with the North Beringia lineage, but other genetic markers (e.g., allozymes, microsatellites) and biogeographic history indicate that Missouri River Arctic grayling have been physically and reproductively isolated from northern populations for millennia. Pre-glacial colonization of the Missouri River basin by Arctic grayling was possible because the river flowed to the north and drained into the Arctic-Hudson Bay prior to the last glacial cycle (Cross *et al.* 1986, pp. 374–375; Pielou 1991, pp. 194–195). Low mtDNA diversity observed in a small number of Montana Arctic grayling samples and a shared ancestry with Arctic grayling from the North Beringia lineage suggest a more recent, post-glacial colonization of the upper Missouri River basin. In contrast, microsatellite DNA show substantial divergence between Montana and Saskatchewan (i.e., same putative mtDNA lineage) (Peterson and Ardren 2009, entire). Differences in the frequency and size distribution of microsatellite alleles between Montana populations and two Saskatchewan populations indicate that Montana Arctic grayling have been isolated long enough for mutations (i.e., evolution) to be responsible for the observed genetic differences.

Additional comparison of 21 Arctic grayling populations from Alaska, Canada, and the Missouri River basin using 9 of the same microsatellite loci as Peterson and Ardren (2009, entire) further supports the distinction of Missouri River Arctic grayling relative to populations elsewhere in North America (USFWS, unpublished data). Analyses of these data using two different methods clearly separates sample fish from 21 populations into two clusters: One cluster representing populations from the upper Missouri River basin, and another cluster representing populations from Canada and Alaska (USFWS, unpublished data). These new data, although not yet peer reviewed, support the interpretation that the previous analyses of Stamford and Taylor (2004, entire) underestimated the distinctiveness of Missouri River Arctic grayling relative to other sample populations, likely because of the combined effect of small sample sizes and the lack of variation observed in the Missouri River for the markers used in that study (Stamford and Taylor 2004, pp. 1537–1538). Thus, these recent microsatellite DNA data suggest that Arctic grayling may have colonized the Missouri River before the onset of Wisconsin glaciation (more than 80,000 years ago).

Genetic relationships among native and introduced populations of Arctic grayling in Montana have recently been investigated (Peterson and Ardren 2009, entire). Introduced, lake-dwelling populations of Arctic grayling trace some of their original ancestry to the Centennial Valley (Peterson and Ardren 2009, p. 1767), and stocking of hatchery Arctic grayling did not have a large effect on the genetic composition of the extant native populations (Peterson and Ardren 2009, p. 1768). Differences between native populations of the two Arctic grayling ecotypes (adfluvial, fluvial) are not as large as differences resulting from geography (i.e., drainage of origin). For example, native adfluvial Arctic grayling populations from

different lakes are genetically different (Peterson and Ardren 2009, p. 1766).

Habitat

Arctic grayling generally require clear, cold water, and are characterized as belonging to a ''coldwater'' group of salmonids, which also includes bull trout (*Salvelinus confluentus*) and Arctic char (*Salvelinus alpinus*) (Selong *et al.* 2001, p. 1032). Arctic grayling optimal thermal habitat is between 7 to 17 °C (45 to 63 °F), but becomes unsuitable above 20 °C (68 °F) (Hubert *et al.* 1985, p. 24). Arctic grayling fry may be more tolerant of high water temperature than adults (LaPerriere and Carlson 1973, p. 30; Feldmeth and Eriksen 1978, p. 2041).

Having a broad, nearly circumpolar distribution, Arctic grayling occupy a variety of habitats including small streams, large rivers, lakes, and even bogs (Northcote 1995, pp. 152–153; Scott and Crossman 1998, p. 303). They may even enter brackish water (less than or equal to 4 parts per thousand salt content) when migrating between adjacent river systems (West *et al.* 1992, pp. 713–714). Native populations are found at elevations ranging from near sea level, such as in Bristol Bay, Alaska, to high-elevation montane valleys (more than 1,830 meters (m) or 6,000 feet (ft)), such as the Big Hole River and Centennial Valley in southwestern Montana. Despite this broad distribution, Arctic grayling have specific habitat requirements that can constrain their local distributions, especially water temperature and channel gradient. At the local scale, Arctic grayling prefer cold water and are often associated with spring-fed habitats in regions with warmer climates (Vincent 1962, p. 33). Arctic grayling are generally not found in swift, high-gradient streams, and Vincent (1962, pp. 36–37, 41–43) characterized typical Arctic grayling habitat in Montana (and Michigan) as low-to-moderate gradient (less than 4 percent) streams and rivers with low-to-moderate water velocities (less than 2 feet/sec (60 centimeters/sec)). Juvenile and adult Arctic grayling in streams and rivers spend much of their time in pool habitat (Kaya 1990 and references therein, p. 20; Lamothe and Magee 2003, pp. 13–14).

Breeding

Arctic grayling typically spawn in the spring or early summer, depending on latitude and elevation (Northcote 1995, p. 149). In Montana, Arctic grayling generally spawn from late April to mid-May by depositing adhesive eggs over gravel substrate without excavating a nest (Kaya 1990, p. 13; Northcote 1995, p. 151). In general, the reproductive ecology of Arctic grayling differs from other salmonid species (trout and salmon) in that Arctic grayling eggs tend to be comparatively small; thus, they have higher relative fecundity (females have more eggs per unit body size). Males establish and defend spawning territories rather than defending access to females (Northcote 1995, pp. 146, 150–151). The time required for development of eggs from embryo until they emerge from stream gravel and become swim-up fry depends on water temperature (Northcote 1995, p. 151). In the upper Missouri River basin, development from embryo to fry averages about 3 weeks (Kaya 1990, pp. 16–17). Small, weakly swimming fry (typically 1–1.5 centimeters (cm) (0.4–0.6 in.) at emergence) prefer low-velocity stream habitats (Armstrong 1986, p. 6; Kaya 1990, pp. 23–24; Northcote 1995, p. 151).

Arctic grayling of all ages feed primarily on aquatic and terrestrial invertebrates captured on or near the water surface, but also will feed opportunistically on fish and fish eggs (Northcote 1995, pp. 153–154; Behnke 2002, p. 328). Feeding locations for individual fish are typically established and maintained through size-mediated dominance hierarchies where larger individuals defend favorable feeding positions (Hughes 1992, p. 1996).

General Life History Diversity

Migratory behavior is a common life-history trait in salmonid fishes such as Arctic grayling (Armstrong 1986, pp. 7–8; Northcote 1995, pp. 156–158; 1997, pp. 1029, 1031–1032, 1034). In general, migratory behavior in Arctic grayling and other salmonids results in cyclic patterns of movement between refuge, rearing-feeding, and spawning habitats (Northcote 1997, p. 1029).

Arctic grayling may move to refuge habitat as part of a regular seasonal migration (e.g., in winter), or in response to episodic environmental stressors (e.g., high summer water temperatures). In Alaska, Arctic grayling in rivers typically migrate downstream in the fall, moving into larger streams or mainstem rivers that do not completely freeze (Armstrong 1986, p. 7). In Arctic rivers, fish often seek overwintering habitat influenced by groundwater (Armstrong 1986, p. 7). In some drainages, individual fish may migrate considerable distances (greater than 150 km or 90 mi) to overwintering habitats (Armstrong 1986, p. 7). In the Big Hole River, Montana, similar downstream and long-distance movement to overwintering habitat has been observed in Arctic grayling (Shepard and Oswald 1989, pp. 18–21, 27). In addition, Arctic grayling in the Big Hole River may move downstream in proximity to colder tributary streams in summer when thermal conditions in the mainstem river become stressful (Lamothe and Magee 2003, p. 17).

In spring, mature Arctic grayling leave overwintering areas and migrate to suitable spawning sites. In river systems, this typically involves an upstream migration to tributary streams or shallow riffles within the mainstem (Armstrong 1986, p. 8; Shepard and Oswald 1989; p. 18). Arctic grayling in lakes typically migrate to either the inlet or outlet to spawn (Armstrong 1986, p. 8; Kaya 1989, p. 474; Northcote 1995 p. 148). In some situations, Arctic grayling exhibit natal homing, whereby individuals spawn in or near the location where they were born (Northcote 1995 pp. 157–160; Boltz and Kaeding 2002, p. 22); however, it is unclear what factors may be influencing the extent of this phenomenon.

Fry from river populations typically seek feeding and rearing habitats in the vicinity of where they were spawned (Armstrong 1986, pp. 6–7; Kaya and Jeanes 1995, p. 455; Northcote 1995, p. 156), while those from lake populations migrate downstream (inlet spawners) or upstream (outlet spawners) to the adjacent lake. Following spawning, adults move to appropriate feeding areas if they are not adjacent to spawning habitat (Armstrong 1986, pp. 7–8; Shepard and Oswald 1989; p. 18). Juvenile Arctic grayling may undertake seasonal migrations between feeding and overwintering habitats until they reach maturity and add the spawning migration to this cycle (Northcote 1995, pp. 156–157).

Life History Diversity in Arctic Grayling in the Upper Missouri River Basin

Two general life-history forms or ecotypes of native Arctic grayling occur in the upper Missouri River Arctic: Fluvial and adfluvial. Fluvial fish use river or stream (lotic) habitat for all of their life cycles and may undergo extensive migrations within river habitat, up to 50 miles in the Big Hole River in Montana (Shepard and Oswald 1989, p. 18). Adfluvial fish live in lakes and migrate to tributary streams to spawn. These same life-history forms also are expressed by Arctic grayling elsewhere in North America (Northcote 1997, p. 1030). Historically, the fluvial life-history form predominated in the Missouri River basin above the Great Falls, perhaps because there were only a few lakes accessible to natural colonization of Arctic grayling that would permit expression of the

adfluvial ecotype (Kaya 1992, p. 47). The fluvial and adfluvial life-history forms of Arctic grayling in the upper Missouri River do not appear to represent distinct evolutionary lineages. Instead, they appear to represent an example of adaptive radiation (Schluter 2000, p. 1), whereby the forms differentiated from a common ancestor and developed traits that allowed them to exploit different habitats. The primary evidence for this conclusion is genetic data that indicate that within the Missouri River basin the two ecotypes are more closely related to each other than they are to the same ecotype elsewhere in North America (Redenbach and Taylor 1999, pp. 27–28; Stamford and Taylor 2004, p. 1538; Peterson and Ardren 2009, p. 1766). Historically, there may have been some genetic exchange between the two life-history forms as individuals strayed or dispersed into different populations (Peterson and Ardren 2009, p. 1770), but the genetic structure of current populations in the upper Missouri River basin is consistent with reproductive isolation.

The fluvial and adfluvial forms of Arctic grayling appear to differ in their genetic characteristics, but there appears to be some plasticity in behavior where individuals from a population can exhibit a range of behaviors. Arctic grayling fry in Montana can exhibit heritable, genetically-based differences in swimming behavior between fluvial and adfluvial ecotypes (Kaya 1991, pp. 53, 56–58; Kaya and Jeanes 1995, pp. 454, 456). Progeny of Arctic grayling from the fluvial ecotype exhibited a greater tendency to hold their position in flowing water relative to progeny from adfluvial ecotypes (Kaya 1991, pp. 53, 56–58; Kaya and Jeanes 1995, pp. 454, 456). Similarly, young Arctic grayling from inlet and outlet spawning adfluvial ecotypes exhibited an innate tendency to move downstream and upstream, respectively (Kaya 1989, pp. 478–480). All three studies (Kaya 1989, entire; 1991, entire; Kaya and Jeanes 1995, entire) demonstrate that the response of fry to flowing water depended strongly on the life-history form (ecotype) of the source population, and that this behavior has a genetic basis. However, behavioral responses also were mediated by environmental conditions (light—Kaya 1991, pp. 56–57; light and water temperature—Kaya 1989, pp. 477–479), and some progeny of each ecotype exhibited behavior characteristic of the other; for example some individuals from the fluvial ecotype moved downstream rather than holding position, and some individuals from an inlet-spawning adfluvial ecotype held position or moved upstream (Kaya 1991, p. 58). These observations indicate that some plasticity for behavior exists, at least for very young Arctic grayling.

The ability of the fluvial ecotype to give rise to a functional population of the adfluvial ecotype has been demonstrated. Most extant adfluvial Arctic grayling populations in the Upper Missouri River originated from fluvial-dominated sources (see Table 1; Kaya 1992, p. 53; Jeanes 1996, pp. 54). However, the ability of the adfluvial ecotype to give rise to a functional population of fluvial ecotype is less certain. Circumstantial support for reduced plasticity in adfluvial Arctic grayling comes from observations that adfluvial fish stocked in river habitats almost never establish populations (Kaya 1990, pp. 31–34). However, we note that adfluvial Arctic grayling retain some life-history flexibility—at least in lake environments—as naturalized populations derived from inlet-spawning stocks have established outlet-spawning demes (a deme is a local populations that shares a distinct gene pool) in Montana and in Yellowstone National Park (Kruse 1959, p. 318; Kaya 1989, p. 480). In addition, a small percentage of young adfluvial Arctic grayling exposed to flow exhibited fluvial-like characteristics (e.g., station-holding or upstream movement) in a laboratory experiment designed to assess movement tendencies of adfluvial and fluvial Arctic grayling in flowing water (Kaya 1991, p. 56). These results indicate some plasticity exists in adfluvial Arctic grayling that may allow some progeny of adfluvial individuals to express a fluvial life history. Nonetheless, the frequent failure of introductions of adfluvial Arctic grayling into fluvial habitats suggest a cautionary approach to the loss of particular life-history forms is warranted.

Age and Growth

Age at maturity and longevity in Arctic grayling varies regionally and is probably related to growth rate, with populations in colder, northern latitudes maturing at later ages and having a greater lifespan (Kruse 1959, pp. 340–341; Northcote 1995 and references therein, pp. 155–157). Arctic grayling in the upper Missouri River typically mature at age 2 (males) or age 3 (females), and individuals greater than age 6 are rare (Kaya 1990, p. 18; Magee and Lamothe 2003, pp. 16–17). The majority of the Arctic grayling spawning in two tributaries in the Centennial Valley, Montana, were age 3, and the oldest individuals aged from a larger sample were age 6 (Nelson 1954, pp. 333–334). Arctic grayling spawning in Red Rock Creek were mostly ages 2 to 5, but some individuals were age 7 (Mogen 1996, pp. 32–34).

Generally, growth rates of Arctic grayling are greatest during the first years of life then slow dramatically after maturity. Within that general pattern, there is substantial variation among populations from different regions. Arctic grayling populations in Montana (Big Hole River and Red Rock Lakes) have very high growth rates relative to those from British Columbia, Asia, and the interior and North Slope of Alaska (Carl *et al.* 1992, p. 240; Northcote 1995, pp. 155–157; Neyme 2005, p. 28).

Distinct Vertebrate Population Segment

Under the Service's Policy Regarding the Recognition of Distinct Vertebrate Population Segments Under the Endangered Species Act (61 FR 4722; February 7, 1996), three elements are considered in the decision concerning the establishment and classification of a possible DPS. These are applied similarly for additions to or removal from the Federal List of Endangered and Threatened Wildlife. These elements include:

(1) The discreteness of a population in relation to the remainder of the species to which it belongs;

(2) The significance of the population segment to the species to which it belongs; and

(3) The population segment's conservation status in relation to the Act's standards for listing, delisting, or reclassification (i.e., is the population segment endangered or threatened).

Discreteness

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

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

(2) It is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act.

Arctic grayling native to the upper Missouri River are isolated from all other populations of the species, which inhabit the Arctic Ocean, Hudson Bay, and north Pacific Ocean drainages in

Asia and North America. Arctic grayling native to the upper Missouri River occur as a disjunct group of populations approximately 800 km (500 mi) to the south of the next-nearest Arctic grayling population in central Alberta, Canada. Missouri River Arctic grayling have been isolated from other populations for at least 10,000 years based on historical reconstruction of river flows at or near the end of the Pleistocene (Cross *et al.* 1986, p. 375; Pileou 1991, pp. 10–11). Genetic data confirm Arctic grayling in the Missouri River basin have been reproductively isolated from populations to the north for millennia (Everett 1986, pp. 79–80; Redenbach and Taylor 1999, p. 23; Stamford and Taylor 2004, p. 1538; Peterson and Ardren 2009, pp. 1764–1766; USFWS, unpublished data). Consequently, we conclude that Arctic grayling native to the upper Missouri River are markedly separated from other native populations of the taxon as a result of physical factors (isolation), and therefore meet the first criterion of discreteness under the DPS policy. As a result, Arctic grayling native to the upper Missouri River are considered a discrete population according to the DPS policy. Because the entity meets the first criterion (markedly separated), an evaluation with respect to the second criterion (international boundaries) is not needed.

Significance

If a population segment is considered discrete under one or more of the conditions described in the Service's DPS policy, its biological and ecological significance will be considered in light of Congressional guidance that the authority to list DPSs be used ''sparingly'' while encouraging the conservation of genetic diversity. In making this determination, we consider available scientific evidence of the discrete population segment's importance to the taxon to which it belongs. Since precise circumstances are likely to vary considerably from case to case, the DPS policy does not describe all the classes of information that might be used in determining the biological and ecological importance of a discrete population. However, the DPS policy describes four possible classes of information that provide evidence of a population segment's biological and ecological importance to the taxon to which it belongs. As specified in the DPS policy (61 FR 4722), this consideration of the population segment's significance may include, but is not limited to, the following:

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

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

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

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

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

Unique Ecological Setting

Water temperature is a key factor influencing the ecology and physiology of ectothermic (body temperature regulated by ambient environmental conditions) salmonid fishes, and can dictate reproductive timing, growth and development, and life-history strategies. Groundwater temperatures can be related to air temperatures (Meisner 1990, p. 282), and thus reflect the regional climatic conditions. Warmer groundwater influences ecological factors such as food availability, the efficiency with which food is converted into energy for growth and reproduction, and ultimately growth rates of aquatic organisms (Allan 1995, pp. 73–79). Aquifer structure and groundwater temperature is important to salmonid fishes because groundwater can strongly influence stream temperature, and consequently egg incubation and fry growth rates, which are strongly temperature-dependent (Coutant 1999, pp. 32–52; Quinn 2005, pp. 143–150).

Missouri River Arctic grayling occur within the 4 to 7 °C (39 to 45 °F) ground water isotherm (see Heath 1983, p. 71; an isotherm is a line connecting bands of similar temperatures on the earth's surface), whereas most other North American Arctic grayling are found in isotherms less than 4 °C, and much of the species' range is found in areas with discontinuous or continuous permafrost (Meisner *et al.* 1988, p. 5; Table 2). Much of the historical range of Arctic grayling in the upper Missouri River is encompassed by mean annual air temperature isotherms of 5 to 10 °C (41 to 50 °F) (USGS 2009), with the colder areas being in the headwaters of the Madison River in Yellowstone National Park. In contrast, Arctic grayling in Canada, Alaska, and Asia are located in regions encompassed by air temperature isotherms 5 °C and colder (41 °F and colder), with much of the species distributed within the 0 to −10 °C isolines (32 to 14 °F). This difference is significant because Arctic grayling in the Missouri River basin have evolved in isolation for millennia in a generally warmer climate than other populations. The potential for thermal adaptations makes Missouri River Arctic grayling a significant biological resource for the species under expected climate change scenarios.

TABLE 2—DIFFERENCES BETWEEN THE ECOLOGICAL SETTING OF THE UPPER MISSOURI RIVER AND ELSEWHERE IN THE SPECIES' RANGE OF ARCTIC GRAYLING

Ecological setting variable	Missouri River	Rest of taxon
Bailey's Ecoregion	Dry Domain: Temperate Steppe.	Polar Domain: Tundra & Subarctic Humid Temperate: Marine, Prairie, Warm Continental Mountains.
Air temperature (isotherm)	5 to 10 °C (41 to 50 °F)	−15 to 5 °C (5 to 41 °F).
Groundwater temperature (isotherm).	4 to 7 °C (39 to 45 °F)	Less than 4 °C (Less than 39 °F).

Arctic grayling in the upper Missouri River basin occur in a temperate ecoregion distinct from all other Arctic grayling populations worldwide, which occur in Arctic or sub-Arctic ecoregions dominated by Arctic flora and fauna. An ecoregion is a continuous geographic area within which there are associations of interacting biotic and abiotic features (Bailey 2005, pp. S14, S23). These ecoregions delimit large areas within which local ecosystems recur more or less in a predictable fashion on similar sites (Bailey 2005, p. S14). Ecoregional classification is hierarchical, and based

on the study of spatial coincidences, patterning, and relationships of climate, vegetation, soil, and landform (Bailey 2005, p. S23). The largest ecoregion categories are domains, which represent subcontinental areas of similar climate (e.g., polar, humid temperate, dry, and humid tropical) (Bailey 1994; 2005, p. S17). Domains are divided into divisions that contain areas of similar vegetation and regional climates. Arctic grayling in the upper Missouri River basin are the only example of the species naturally occurring in a dry domain (temperate steppe division; Table 2). The vast majority of the species' range is found in the polar domain (all of Asia, most of North America), with small portions of the range occurring in the humid temperate domain (northern British Columbia and southeast Alaska). Occupancy of Missouri River Arctic grayling in a temperate ecoregion is significant for two primary reasons. First, an ecoregion represents a suite of factors (climate, vegetation, landform) influencing, or potentially influencing, the evolution of species within that ecoregion. Since Missouri River Arctic grayling have existed for thousands of years in an ecoregion quite different from the majority of the taxon, they have likely developed adaptations during these evolutionary timescales that distinguish them from the rest of the taxon, even if we have yet to conduct the proper studies to measure these adaptations. Second, the occurrence of Missouri River Arctic grayling in a unique ecoregion helps reduce the risk of species-level extinction, as the different regions may respond differently to environmental change.

Arctic grayling in the upper Missouri River basin have existed for at least 10,000 years in an ecological setting quite different from that experienced by Arctic grayling elsewhere in the species' range. The most salient aspects of this different setting relate to temperature and climate, which can strongly and directly influence the biology of ectothermic species (like Arctic grayling). Arctic grayling in the upper Missouri River have experienced warmer temperatures than most other populations. Physiological and life-history adaptation to local temperature regimes are regularly documented in salmonid fishes (Taylor 1991, pp. 191–193), but experimental evidence for adaptations to temperature, such as unusually high temperature tolerance or lower tolerance to colder temperatures, is lacking for Missouri River Arctic grayling because the appropriate studies have not been conducted. Lohr *et al.* (1996, p. 934) studied the upper thermal tolerances of Arctic grayling from the Big Hole River, but their research design did not include other populations from different thermal regimes, so it was not possible to make between-population contrasts under a common set of conditions. Arctic grayling from the upper Missouri River demonstrate very high growth rates relative to other populations (Northcote 1995, p. 157). Experimental evidence obtained by growing fish from populations under similar conditions would be needed to measure the relative influence of genetics (local adaptation) versus environment.

We conclude that the occurrence of Arctic grayling in the upper Missouri River is biogeographically important to the species, that grayling there have occupied a warmer and more temperate setting that is distinctly different from the ecological settings relative to the rest of the species (see Table 2, above), and that they have been on a different evolutionary trajectory for at least 10,000 years. We conclude that these differences are significant because they may provide the species with additional evolutionary resiliency in the future in light of the changing climate. Consequently, we believe that Arctic grayling in the upper Missouri River occupy a unique ecological setting for the species.

Gap in the Range

Arctic grayling in Montana (southern extent is approximately 44°36′23″ N latitude) represent the southern-most extant population of the species' distribution since the Pleistocene glaciation. The next-closest native Arctic grayling population outside the Missouri River basin is found in the Pembina River (approximately 52°55′6.77″ N latitude) in central Alberta, Canada, west of Edmonton (Blackburn and Johnson 2004, pp. ii, 17; ASRD 2005, p. 6). The Pembina River drains into Hudson Bay and is thus disconnected from the Missouri River basin. Loss of the native Arctic grayling of the upper Missouri River would shift the southern distribution of Arctic grayling by more than 8° latitude (about 500 miles). Such a dramatic range constriction would constitute a significant geographic gap in the species' range and would eliminate a genetically distinct group of Arctic grayling, which may limit the species' ability to cope with future environmental change.

Marginal populations, defined as those on the periphery of the species' range, are believed to have high conservation significance (Mitikka *et al.* 2008; Gibson *et al.* 2009, entire; Haak *et al.* 2010, entire; Osborne *et al.* 2012). Peripheral populations may occur in suboptimal habitats and thus be subjected to very strong selective pressures (Fraser 2000, p. 50). Consequently, individuals from these populations may contain adaptations that may be important to the taxon in the future. Lomolino and Channell (1998, p. 482) hypothesize that because peripheral populations should be adapted to a greater variety of environmental conditions, then they may be better suited to deal with anthropogenic (human-caused) disturbances than populations in the central part of a species' range. Arctic grayling in the upper Missouri River have, for millennia, existed in a climate warmer than that experienced by the rest of the taxon. If this selective pressure has resulted in adaptations to cope with increased water temperatures, then the population segment may contain genetic resources important to the taxon. For example, if northern populations of Arctic grayling are less suited to cope with increased water temperatures expected under climate warming, then Missouri River Arctic grayling might represent an important population for reintroduction in those northern regions. We believe that Arctic grayling's occurrence at the southernmost extreme of the range in the upper Missouri River contributes to the resilience of the overall taxon because these peripheral populations may possess increased adaptability relative to the rest of the taxon.

Only Surviving Natural Occurrence of the Taxon That May Be More Abundant Elsewhere as an Introduced Population Outside of Its Historical Range

This criterion does not directly apply to the Arctic grayling in the upper Missouri River because it is not the only surviving natural occurrence of the taxon; there are native Arctic grayling populations in Canada, Alaska, and Asia.

Differs Markedly in Its Genetic Characteristics

Differences in genetic characteristics can be measured at the molecular, genetic, or phenotypic level. Three different types of molecular markers (allozymes, mtDNA, and microsatellites) demonstrate that Arctic grayling from the upper Missouri River are genetically different from those in Canada, Alaska, and Asia (Everett 1986, pp. 79–80; Redenbach and Taylor 1999, p. 23; Stamford and Taylor 2004, p. 1538; Peterson and Ardren 2009, pp. 1764–1766; USFWS, unpublished data). These

data confirm the reproductive isolation among populations that establishes the discreteness of Missouri River Arctic grayling under the DPS policy. Here, we speak to whether these data also establish significance.

Allozymes

Using allozyme data, Everett (1986, entire) found marked genetic differences among Arctic grayling collected from the Chena River in Alaska; those descended from fish native to the Athabasca River drainage in the Northwest Territories, Canada; and native upper Missouri River drainage populations or populations descended from them (see Leary 2005, pp. 1–2). The Canadian population had a high frequency of two unique alleles (forms of a gene), which strongly differentiated them from all the other samples (Everett 1986, p. 44). With the exception of one introduced population in an irrigation canal (Sunnyslope canal) in Montana that is believed to have experienced extreme genetic bottlenecks, the Chena River (Alaskan) fish were highly divergent from all the other samples as they possessed an unusually low frequency of a specific allele (Everett 1986, p. 60; Leary 2005, p. 1), and contained a unique variant of another allele (Leary 2005, p. 1). Overall, each of the four native Missouri River populations examined (Big Hole, Miner, Mussigbrod, and Centennial Valley) exhibited statistically significant differences in allele frequencies relative to both the Chena River (Alaska) and Athabasca River (Canada) populations (Everett 1986, pp. 15, 67).

Combining the data of Everett (1986, entire), Hop and Gharrett (1989, entire), and Leary (1990, entire) provides information from 21 allozyme loci (genes) from five native upper Missouri River drainage populations, five native populations in the Yukon River drainage in Alaska, and the one population descended from the Athabasca River drainage in Canada (Leary 2005, pp. 1–2). Examination of the genetic variation in these samples indicated that most of the genetic divergence is due to differences among drainages (29 percent) and comparatively little (5 percent) results from differences among populations within a drainage (Leary 2005, p. 1).

Mitochondrial DNA

Analysis using mtDNA indicates that Arctic grayling in North America represent at least three evolutionary lineages that are associated with distinct glacial refugia (Redenbach and Taylor 1999, entire; Stamford and Taylor 2004, entire). Arctic grayling in the upper Missouri River basin belong to the so-called North Beringia lineage (Redenbach and Taylor 1999, pp. 27–28; Samford and Taylor 2004, pp. 1538–1540) because they possess a form of mtDNA that was generally absent from populations collected from other locations within the species' range in North America (Redenbach and Taylor 1999, pp. 27–28; Stamford and Taylor 2004, p. 1538). The notable exceptions were that some fish from the lower Peace River drainage in British Columbia, Canada, and all sampled individuals from the Saskatchewan River drainage Saskatchewan, Canada, also possessed this form of mtDNA (Stamford and Taylor 2004, p. 1538).

A form of mtDNA common in upper Missouri River Arctic grayling, which occurs at lower frequencies in other populations, indicates that Arctic grayling native to the upper Missouri River drainage probably originated from a glacial refuge in the drainage and subsequently migrated northwards when the Missouri River temporarily flowed into the Saskatchewan River and was linked to an Arctic drainage (Cross *et al.* 1986, pp. 374–375; Pielou 1991, p. 195). When the Missouri River began to flow southwards because of the advance of the Laurentide ice sheet (Cross *et al.* 1986, p. 375; Pileou 1991, p. 10), the Arctic grayling in the drainage became physically and reproductively isolated from the rest of the species' range (Leary 2005, p. 2; Campton 2004, p. 6), which would have included those populations in Saskatchewan. Alternatively, the Missouri River Arctic grayling could have potentially colonized Saskatchewan or the Lower Peace River (in British Columbia) or both post-glacially (Stamford 2001, p. 49) via a gap in the Cordilleran and Laurentide ice sheets (Pielou 1991, pp. 10–11), which also might explain the low frequency 'Missouri River'' mtDNA in Arctic grayling in the Lower Peace River and Upper Yukon River.

We do not interpret the observation that Arctic grayling in Montana and Saskatchewan, and to lesser extent those from the Lower Peace and Upper Yukon River systems, share a mtDNA haplotype to mean that these groups of fish are genetically identical. Rather, we interpret it to mean that these fish shared a common ancestor tens to hundreds of thousands of years ago.

Microsatellite DNA

Recent analysis of microsatellite DNA (highly variable portions of nuclear DNA) showed substantial divergence between Arctic grayling in Missouri River and Saskatchewan populations (Peterson and Ardren 2009, entire). This divergence between populations was measured in terms of allele frequencies, using a metric called F_{st} (Allendorf and Luikart 2007, pp. 52–54, 198–199). An analogous metric, named R_{st}, also measures genetic differentiation between populations based on microsatellite DNA, but differs from F_{st} in that it also considers the size differences between alleles (Hardy *et al.* 2003, p. 1468). An F_{st} or R_{st} of 0 indicates that populations are the same genetically, whereas a value of 1 indicates the populations share no genetic material at the markers being surveyed. F_{st} values range from 0.13 to 0.31 (average 0.18) between Missouri River and Saskatchewan populations (Peterson and Ardren 2009, pp. 1758, 1764–1765), whereas R_{st} values range from 0.47 to 0.71 (average 0.54) for the same comparisons (Peterson and Ardren 2009, pp. 1758, 1764–1765). These values indicate that the two populations differ significantly in allele frequency and also in the size of those alleles. This outcome indicates that the observed genetic differences are due to mutational differences, which suggests the groups may have been separated for millennia (Peterson and Ardren 2009, pp. 1767–1768).

Analysis of Arctic grayling populations from Alaska, Canada, and the Missouri River basin using nine of the same microsatellite loci as Peterson and Ardren (2009, entire) further supports the distinction of Missouri River Arctic grayling relative to populations elsewhere in North America (USFWS, unpublished data). This analysis clearly separated sample fish from 21 populations into two clusters: One cluster representing populations from the upper Missouri River basin, and another cluster representing populations from across Canada and Alaska (USFWS, unpublished data). Divergence in size among these alleles further supports the distinction between Missouri River Arctic grayling and those in Canada and Alaska (USFWS, unpublished data). The interpretation of these data is that the Missouri River populations and the Canada/Alaska populations are highly genetically distinct at the microsatellite loci considered.

Phenotypic Characteristics Influenced by Genetics—Meristics

Phenotypic variation can be evaluated by counts of body parts (i.e., meristic counts of the number of gill rakers, fin rays, and vertebrae characteristics of a population) that can vary within and among species. These meristic traits are influenced by both genetics and the environment (Allendorf and Luikart

2007, pp. 258–259). When the traits are controlled primarily by genetic factors, then meristic characteristics can indicate significant genetic differences among groups. Arctic grayling north of the Brooks Range in Alaska and in northern Canada had lower lateral line scale counts than those in southern Alaska and Canada (McCart and Pepper 1971, entire). These two scale-size phenotypes are thought to correspond to fish from the North and South Beringia glacial refuges, respectively (Stamford and Taylor 2004, p. 1545). Arctic grayling from the Centennial Valley had a phenotype intermediate to the large- and small-scale types (McCart and Pepper 1971, pp. 749, 754). Arctic grayling populations from the Missouri River (and one each from Canada and Alaska) could be correctly assigned to their group 60 percent of the time using a suite of seven meristic traits (Everett 1986, pp. 32–35). Those native Missouri River populations that had high genetic similarity also tended to have similar meristic characteristics (Everett 1986, pp. 80, 83).

Arctic grayling from the Big Hole River showed marked differences in meristic characteristics relative to two populations from Siberia, and were correctly assigned to their population of origin 100 percent of the time (Weiss *et al.* 2006, pp. 512, 515–516, 518). The populations that were significantly different in terms of their meristic characteristics also exhibited differences in molecular genetic markers (Weiss *et al.* 2006, p. 518).

Inference Concerning Genetic Differences in Arctic Grayling of the Missouri River Relative to Other Examples of the Taxon

We believe the differences between Arctic grayling in the Missouri River and sample populations from Alaska and Canada measured using allozymes (Everett 1986, entire; Leary 2005, entire), mitochondrial DNA (Redenbach and Taylor 1999, entire; Stamford and Taylor 2004, entire), and microsatellite DNA markers (Peterson and Ardren 2009, pp. 1764–1766; USFWS, unpublished data) represent ''marked genetic differences'' in terms of the extent of differentiation (e.g., F_{st}, R_{st}) and the importance of that genetic legacy to the rest of the taxon. The presence of morphological characteristics separating Missouri River Arctic grayling from other populations also likely indicates genetic differences, although this conclusion is based on a limited number of populations (Everett 1986, pp. 32–35; Weiss *et al.* 2006, entire), and we cannot entirely rule out the influence of environmental variation.

The intent of the DPS policy and the Act is to preserve important elements of biological and genetic diversity, not necessarily to preserve the occurrence of unique alleles in particular populations. In Arctic grayling of the Missouri River, the microsatellite DNA data indicate that the group is evolving independently from the rest of the species. The extirpation of this group would mean the loss of the genetic variation in one of the two most distinct groups identified in the microsatellite DNA analysis, and the loss of the future evolutionary potential that goes with it. Thus, the genetic data support the conclusion that Arctic grayling of the upper Missouri River represent a unique and irreplaceable biological resource of the type the Act was intended to preserve. Thus, we conclude that Missouri River Arctic grayling differ markedly in their genetic characteristics relative to the rest of the taxon.

Upper Missouri River Arctic grayling satisfy the significance criteria outlined in the Services' DPS policy because they occur in a unique ecological setting, are separated from other Arctic grayling populations by a large gap in their range, and differ markedly in their genetic characteristics relative to other Arctic grayling populations. Therefore, we consider the Arctic grayling in the upper Missouri River basin significant to the taxon to which it belongs under the Service's DPS policy.

Determination of Distinct Population Segment

We find that a population segment that includes all native ecotypes of Arctic grayling in the upper Missouri River basin satisfies the discreteness standard of the DPS policy. The segment is physically isolated, and genetic data indicate that Arctic grayling in the Missouri River basin have been separated from other populations for thousands of years. The population segment occurs in an isolated geographic area far south of all other Arctic grayling populations worldwide, and we find that loss of this population segment would create a significant gap in the species' range. Molecular genetic data clearly differentiate Missouri River Arctic grayling from other Arctic grayling populations, including those in Canada and Alaska.

Based on the best scientific and commercial information available, as described above, we find that, under the Service's DPS policy, upper Missouri River Arctic grayling are discrete and are significant to the taxon to which they belong. Because the upper Missouri River population of Arctic grayling is both discrete and significant, it qualifies as a DPS under the Act.

As we described above, we are including introduced Arctic grayling populations that occur in lakes in the upper Missouri River basin as part of the DPS. The Service has interpreted the Act to provide a statutory directive to conserve species in their native ecosystems (49 FR 33885; August 27, 1984) and to conserve genetic resources and biodiversity over a representative portion of a taxon's historical occurrence (61 FR 4722; February 7, 1996). The introduced Arctic grayling populations occur within the boundaries of the upper Missouri River basin and represent moderate to high levels of genetic diversity from within the basin. The future adaptive capabilities represented by this genetic diversity have conservation value, particularly given a changing climate.

We define the historical range of this population segment to include the major streams, lakes, and tributary streams of the upper Missouri River (mainstem Missouri, Smith, Sun, Beaverhead, Jefferson, Big Hole, and Madison Rivers, as well as their key tributaries, as well as a few small lakes where Arctic grayling are or were believed to be native (Elk Lake, Red Rock Lakes in the Centennial Valley, Miner Lake, and Mussigbrod Lake, all in Beaverhead County, Montana)). We define the current range of the DPS to consist of extant native populations in the Big Hole River, Miner Lake, Mussigbrod Lake, Madison River-Ennis Reservoir, and Centennial Valley, as well as all known introduced populations within the upper Missouri River basin. We refer to this entity as the Upper Missouri River DPS of Arctic grayling. The remainder of this finding will thus focus on the population status of and potential threats to this entity.

Population Status and Trends of Populations in the Upper Missouri River DPS

The Upper Missouri River DPS of Arctic grayling is comprised of 20 populations, including 2 fluvial populations and 16 adfluvial populations. Two other populations (Centennial Valley and Madison River/Ennis Reservoir) appear to exhibit both fluvial and adfluvial components (Table 3). Arctic grayling from the Centennial Valley (Long Creek) and Ennis Reservoir/Madison River (mainstem Madison River) have been documented well past the spawning period through autumn. These occurrences are more prevalent in Long Creek in the Centennial Valley than in the Madison

River population and do not appear to be linked to individual Arctic grayling seeking thermal refugia during summer (Montana Arctic Grayling Workgroup (AGW) 1995; p. 1; Cayer 2014a, pers. comm.; MFISH 2014b, unpublished data). These occurrences include multiple age classes (Age-1 to Age-3) of Arctic grayling in both Long Creek and the Madison River and are located in stream reaches that are considerable distances (up to 15 miles in the Madison River) from adfluvial habitats (Cayer 2014a, pers. comm.; MFISH 2014b, unpublished data). Eighteen of the 20 populations occur solely on Federal or majority Federal land; the remaining two (Big Hole River and Ennis Reservoir/Madison River) occur on primarily private land.

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Table 3. Characteristics of populations within the Upper Missouri River DPS of Arctic grayling. Rows highlighted in gray indicate populations occurring in native habitat. For ecotype, F = fluvial, A = adfluvial, and F/A = both fluvial and adfluvial characteristics present.

Population	Drainage	Ownership	Extent[a] **Stream miles** / lake hectares	Ecotype	N_e (95% CI)[b]	N_b (95% CI or **range**)[c]	Annual census population size[d]	Qualitative Descriptor[e]	Biological date of population data[f]	Population trend[g]
Big Hole River (+11 tributaries)	Big Hole	Private	**181**	F	371 (243-636)	500-900**	1,595-5,305	-	2006-2009 (N_e) 2012 (N_b)	Increasing
Ennis Reservoir / Madison River	Madison	Private	**15** / 1469	F/A	162 (76 - ∞)	-	697 – 2,317	-	1991-1993	Decreasing
Centennial Valley	Red Rock	Federal	**78** / 3756	F/A	166 (106 – 272)	458 (253 – 1802)	714 – 2,374	-	2007-2009 (both N_e and N_b)	Increasing
Mussigbrod Lake	Big Hole	Federal	42	A	1497 (262 - ∞)	-	6,437 – 21,407	-	2001-2003	Stable
Miner Lake	Big Hole	Federal	27	A	286 (143 – 4,692)	-	1,230 – 4,090	-	2001-2003	Stable
Ruby River	Ruby	Federal	**40**	F	12.5	42	54-179	-	2012 (both N_e and N_b)	Increasing
Agnes Lake	Big Hole	Federal	44	A	-	-	~24,000	-	1972	Stable
Odell Lake	Big Hole	Federal	13	A	577 (222 - ∞)	-	2,481 - 8251	-	2001-2003	Stable
Bobcat Lake	Big Hole	Federal	2	A	252 (114 - ∞)	-	1084 - 3604	-	2001-2003	Stable
Schwinegar Lake	Big Hole	Federal	2	A	-	-	-	Common	-	Stable
Pintlar Lake	Big Hole	Federal	16	A	-	-	-	Common	-	Stable
Deer Lake	Gallatin	Federal	5	A	-	-	800 – 1,100	-	1989-2002	Stable
Emerald Lake	Gallatin	Federal	6	A	-	-	-	Abundant	-	Stable
Grayling Lake	Gallatin	Federal	1	A	-	-	-	Rare	-	Stable
Hyalite Lake	Gallatin	Federal	64	A	-	499*** (**5-1341**)	-	-	1998-2012	Stable
Diversion Lake	Sun	Federal	30	A	-	-	-	-	-	-
Gibson Reservoir	Sun	Federal	521	A	-	-	-	Rare	-	-
Lake Levale	Sun	Federal	5	A	-	-	-	Abundant	-	Stable
Park Lake	Missouri	Federal	13	A	-	-	-	Common	-	Stable
Grebe Lake	Madison	Federal	59	A	Infinite*	-	~27,000	-	1999-2003 (N_e) 1954 (census)	Stable

[a]Habitat extent is the amount of habitat currently being used by Arctic grayling for some portion of their life history. It does not mean the amount specified is occupied continuously.
[b]N_e denotes effective population size; a theoretical size of a population that would result in the same level of inbreeding or genetic drift as that of the population under study. For more information, see discussion of effective population size below in Factor E.
[c]N_b denotes the number of breeding adults that contributed genetics to a sample of offspring from a given population.
[d]Population size of reproductively mature individuals (not to be confused with total annual census population size which includes adults and juveniles)estimated from N_e assuming N_e / N = .07 (minimum estimate) and .23 (maximum estimate). These two values represent the range of median N_e / N ratios for salmonids cited in Palstra and Fraser 2012.
[e]Qualitative descriptors are from Montana Fish, Wildlife, and Parks MFISH database and are based on biomass estimates where available, or biologist observationsand professional biological judgment.
[f]Approximate date to which the N_e, N_b, or annual census population size refers. Biological dates for N_e or N_b estimates refer to the generation of breeders that produced the sample of offspring that were genotyped.
[g]Population trends are derived from genetic data or population monitoring data or a combination of these two data types, if present.
*Point estimate for Grebe Lake N_e was negative, indicating no evidence for any disequilibrium caused by genetic drift due to finite number of parents (Perterson and Arden 2009, p. 1767).
**The N_b estimate for the Big Hole River in 2012 is reported as a range because of uncertainty in the frequency rate of rare alleles in the analysis.
***The N_b estimate for Hyalite Lake is reported as the mean number (and range) of adult spawning individuals observed in the spawning run in Hyalite Creek from 1998-2012.

Estimated abundance of reproductively mature individuals in the two fluvial populations varies from about one hundred to several thousand

Arctic grayling (Table 3). Where quantitative data are available, estimated abundance of mature individuals in adfluvial populations (including the two populations exhibiting both life histories) varies from a few hundred to around 25,000 Arctic grayling. Most populations are currently stable or increasing in abundance, with the exception of the Ennis Reservoir/Madison River population (Table 3).

Distinct Population Segment Five-Factor Analysis

Since the Arctic grayling in the upper Missouri River basin qualifies as a DPS, we will now evaluate its status with regard to its potential for listing as endangered or threatened based on the five factors enumerated in section 4(a) of the Act. Our evaluation of the Upper Missouri River DPS of Arctic grayling follows.

Summary of Information Pertaining to the Five Factors

Section 4 of the Act (16 U.S.C. 1533) and implementing regulations (50 CFR 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants. Under section 4(a)(1) of the Act, a species may be determined to be endangered or threatened based on any of the following five factors:

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

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

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

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

In making this finding, information pertaining to the Upper Missouri River DPS of Arctic grayling in relation to the five factors provided in section 4(a)(1) of the Act is discussed below. In considering what factors might constitute threats, we must look beyond the mere exposure of the species to the factor to determine whether the species responds to the factor in a way that causes actual impacts to the species. If there is exposure to a factor, but no response, or only a positive response, that factor is not a threat. If there is exposure and the species responds negatively, the factor may be a threat and we then attempt to determine how significant a threat it is. If the threat is significant, it may drive or contribute to the risk of extinction of the species such that the species warrants listing as endangered or threatened as those terms are defined by the Act. This does not necessarily require empirical proof of a threat. The combination of exposure and some corroborating evidence of how the species is likely impacted could suffice. The mere identification of factors that could impact a species negatively is not sufficient to compel a finding that listing is appropriate; we require evidence that these factors are operative threats that act on the species to the point that the species meets the definition of an endangered or threatened species under the Act.

In making our revised 12-month finding on the petition, we consider and evaluate the best available scientific and commercial information. This evaluation includes all factors we previously considered in the 2010 finding and, at the end of this analysis, explains how the Services' conclusions differ now.

Factor A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Curtailment of Range and Distribution

The range and distribution of fluvial Arctic grayling in the upper Missouri River basin was reduced over the past 100 years (Kaya 1992, p. 51), primarily due to historical habitat fragmentation by dams and irrigation diversions and by habitat degradation or modification from unregulated land use (Vincent 1962, pp. 97–121). Fluvial Arctic grayling typically need large expanses of connected habitat to fulfill their life-history stages (Armstrong 1986, p. 8). For example, fluvial Arctic grayling in the Big Hole River have been documented migrating over 60 miles (97 km) between overwintering, spawning, and foraging habitats (Shepard and Oswald 1989, pp. 18–21, 27). These past reductions in range and distribution reproductively isolated fluvial Arctic grayling populations within the basin (Peterson and Ardren 2009, p. 1770).

Although the range and distribution of fluvial Arctic grayling has contracted from historical levels, expression of the fluvial life history is represented, at least in part, in four Arctic grayling populations within the Upper Missouri River DPS. Whether strictly fluvial (e.g., Big Hole and Ruby River) or partially fluvial (e.g., Centennial Valley (Long Creek) and Ennis Reservoir/Madison River (mainstem Madison River)), these populations occur in four watersheds where large reaches of connected habitat remain and still permit the expression of the fluvial life history, despite the presence of mainstem dams in three of four watersheds (Kaya 1992, entire; see Figure 1). Thus, despite historical curtailment of range, the amount of connected habitat in some systems is adequate to permit the expression of the fluvial life history.

Of the four Arctic grayling populations still expressing a fluvial life history, three of four populations (Big Hole River, Centennial Valley, and Ruby River) are currently increasing in abundance (see Table 3). In each of these populations, as abundance increases, there is a corresponding increase in distribution. Natural reproduction is occurring in all three of these populations. In the Big Hole River and the Centennial Valley, remote site incubators (RSIs) have been used as a conservation tool to help facilitate increased abundance and distribution of Arctic grayling. Thus, observed increases in abundance and distribution may be partially attributable to the use of RSIs (for more in-depth discussion on RSI use, see ''Native Arctic Grayling Genetic Reserves and Translocation,'' below). Given the above information, it appears that three of four fluvial, or partly fluvial, populations are viable and have the necessary configuration and amount of habitat to fulfill their life-history needs. Thus, effects of past range curtailment on the fluvial component of Arctic grayling in the upper Missouri River basin are present, but there appears to be sufficient adequate habitat remaining to support expression of the fluvial life history.

Adfluvial Arctic grayling populations in the upper Missouri River basin are present in all lakes originally thought to have had native populations historically (Miner, Mussigbrod, Upper Red Rock, and Elk Lakes (present but not included in Table 3, above, because of uncertain viability)). Thus, there has been no contraction of the range of adfluvial populations. Given the above information, curtailment of range and distribution is not precluding the expression of either fluvial or adfluvial life history. Although curtailment of range and distribution occurred historically, Arctic grayling populations are still present in 7 of 10 historically occupied watersheds in the upper Missouri River basin (see ''Drainage'' column in Table 3). Accordingly, we have no evidence that curtailment of range and distribution is a current threat to the DPS. In addition, we have no information suggesting curtailment of range and distribution will be a threat in the future.

Dams on Mainstem Rivers

Much of the historical range of the Upper Missouri River DPS of Arctic

grayling has been altered by the construction of dams and reservoirs (Kaya 1990, pp. 51–52; Kaya 1992, p. 57). The construction of large dams on mainstem river habitats throughout the upper Missouri River system fragmented river corridors necessary for the expression of Arctic grayling migratory life histories in some systems. Construction of dams that obstructed fish passage on the mainstem Missouri River (Hauser, Holter, Canyon Ferry, and Toston dams), Madison River (Madison-Ennis, Hebgen dams), Beaverhead River and its tributary Red Rock River (Clark Canyon, Lima dams), Ruby River (Ruby dam), and Sun River (Gibson dam) all likely contributed to the historical decline of fluvial Arctic grayling in the DPS (Vincent 1962, pp. 127–128; Kaya 1992, p. 57). Lack of fish passage at these dams contributed to the extirpation of fluvial Arctic grayling from some waters by blocking migratory corridors (Vincent 1962, p. 128), curtailing access to important spawning and rearing habitats, and impounding water over former spawning locations (Vincent 1962, p. 128). Most dams within the upper Missouri River basin were constructed between 1905 and 1960 (Kaya 1990, entire).

Despite the construction of multiple dams throughout the historical range of Arctic grayling, multiple populations, or portions of populations, of the fluvial ecotype are still represented in the DPS. These populations reside in areas where sufficient quantity and quality of habitat exist and permit the expression of this life history. In some cases, dams may be providing a benefit, because currently many of the dams that historically affected fluvial Arctic grayling populations are now precluding invasion by nonnative fish from downstream sources. For example, Lima Dam in the Centennial Valley is currently precluding brown trout invasion from downstream sources (Mogen 2014, pers. comm). Currently, there are five Arctic grayling populations within the DPS that occur above mainstem dams (Centennial Valley, Ruby River, Hyalite Lake, Diversion Lake, and Gibson Reservoir) with at least one nonnative fish species occurring downstream of these dams (MFISH 2014d, unpublished data).

Some reservoirs created by dams are currently being used by Arctic grayling as overwintering, rearing and foraging areas. Both adult and juvenile Arctic grayling use Ennis Reservoir for overwintering, rearing, and foraging (Byorth and Shepard 1990, entire). In the Centennial Valley, Arctic grayling have recently been detected in Lima Reservoir (MFISH 2014e, unpublished data). The movements of Arctic grayling within and out of Lima Reservoir are unknown; however, Lima Reservoir is a large reservoir and, as such, is likely used for overwintering purposes.

Arctic grayling have been documented in stream and river reaches below some dams, most likely indicating downstream passage of fish over or through dams. These fish are essentially ''lost'' to the population residing above the dam, because none of the mainstem river dams in the upper Missouri River basin provides upstream fish passage. Substantial losses from a population resulting from downstream entrainment of fish through dams could cause declines in reproductive potential and abundance in the reservoir population above the dam (Kimmerer 2008, entire). However, it is unknown what entrainment rates currently are in populations residing near dams. Rate of entrainment is likely dependent on a number of factors, including dam operations, season, water conditions in the reservoir, initial population size above the dam, etc. Recent monitoring data and angler reports of Arctic grayling observed downstream of reservoirs supporting Arctic grayling populations are sporadic (Horton 2014c, pers. comm.; SSA 2014); thus it appears the threat of mainstem dams is likely affecting some individuals, but not affecting populations or the DPS as a whole.

Historically, operational practices at Madison Dam have likely affected the Arctic grayling population in Ennis Reservoir/Madison River. A population decline in Arctic grayling appeared to coincide with a reservoir drawdown in the winter of 1982–1983 (Byorth and Shepard 1990, pp. 52–53). This drawdown likely affected the forage base, rearing habitat, and spawning cycle of Arctic grayling in the reservoir. However, under a new licensing agreement dated September 27, 2000, between the Federal Energy Regulatory Commission and Ennis Dam operators, such substantial drawdowns in elevation of Ennis Reservoir are no longer permitted (Clancey 2014, pers. comm.).

Given the above information, mainstem dams were a historical threat to Arctic grayling populations in the upper Missouri River basin. Dams still impact individuals, because some Arctic grayling are currently being entrained and lost from their source population. In Ennis Reservoir, the new licensing agreement is expected to reduce the effects of dam operations on the Arctic grayling population. Most Arctic grayling populations residing above dams are stable or increasing; thus, it does not appear this impact is acting at the population or DPS level. We have no information to conclude that mainstem dams will be a threat in the future at the population or DPS level.

Water Management in the Upper Missouri River Basin

The predominant use of private lands in the upper Missouri River basin is irrigated agriculture and ranching. These activities have historically had significant effects on aquatic habitats, primarily changes in water availability and alteration of the structure and function of aquatic habitats. Changes in water availability can affect Arctic grayling reproduction, survival, and movements among habitat types (Kaya 1990, entire).

In contrast to most of the Arctic grayling populations in the Upper Missouri River DPS that occur on Federal land, the fluvial population of Arctic grayling in the Big Hole River occurs on primarily (~90 percent) private land. Thus, any conservation efforts conducted in the Big Hole River Valley need support from involved agencies and private landowners. In 2006, a candidate conservation agreement with assurances (CCAA; Montana Fish, Wildlife, and Parks *et al.* 2006, entire) was developed for Arctic grayling in the Big Hole River. The conservation goal of this CCAA is to secure and enhance the fluvial population of Arctic grayling in the upper Big Hole River drainage. Conservation projects conducted under the CCAA are prioritized and guided by the Big Hole Arctic Grayling Strategic Habitat Conservation Plan (SHCP) (for more specific information, see ''Conservation Efforts to Reduce Habitat Destruction, Modification, or Curtailment of Its Range,'' below).

Since 2006, many conservation and restoration projects have been completed in the upper Big Hole River under the direction of the CCAA and SHCP (Table 4). Below, we describe and evaluate the implementation and effectiveness of these projects relative to the potential stressors analyzed under Factor A for the Big Hole River population. We also analyze the effects of potential stressors under Factor A for the other Arctic grayling populations in the DPS.

TABLE 4—CONSERVATION PROJECTS AND RESULTS, AND ARCTIC GRAYLING RESPONSE IN THE BIG HOLE RIVER SINCE IMPLEMENTATION OF THE BIG HOLE CCAA IN 2006

[All information on conservation projects and conservation results cited from the Big Hole Arctic Grayling Strategic Habitat Conservation Plan]

Threat factor	Stressor	Conservation projects [a]	Conservation result	Arctic grayling response
A	Dams/habitat fragmentation.	Fish ladders: 41 Bridges: 7 Grade control structures: 2.	Stream miles (%) accessible to grayling [b]: • Tier I- 82(98%; pre-CCAA=87%).. • Tier II- 61(67%; pre-CCAA=27%).. • Tier III- 32(20%: pre-CCAA=6%)..	• Number of breeding adults has increased from ~100 (2007–2011) to 500–900 [c] (2013) (Leary 2014, unpublished data).
	Dewatering/Thermal stress.	PODs: 343 of 504 with signed SSPs. Irrigation improvements: 88. Water measuring devices: 67. Stock water systems: 63. Stream restoration: 26 miles. Rock Creek restoration	• Achievement of instream flow goals increased from 50% (pre-CCAA) to 78% (post-CCAA). • Landowner contributions to streamflow increasing as # of PODs with signed SSPs increase [landowner contribution to instream flows in Big Hole River (pre-2006 = 0 cfs; 2013 = 250 cfs)]. • Temperature reductions in tributaries (see Rock Creek example below). *Pre-restoration (2007):* • 36 days max. temp >70 °F • 16 days max. temp >77 °F *Post-restoration (2013):* • 0 days max temp. >70 °F	• Arctic grayling abundance [d] (catch per unit effort) increased from 0.2 fish/mile (2008) to 1.4 fish/mile (2012) in the CCAA monitoring reaches of the mainstem Big Hole River (MFWP 2013a, unpublished data). • Arctic grayling abundance [d] (catch per unit effort) increased from 2.9 fish/mile (2008) to 7.4 fish/mile (2012) in the CCAA monitoring tributaries (MFWP 2013a, unpublished data). • Arctic grayling distribution has increased 4 miles in Rock Creek (young-of-year and Age 1+) and 2 miles in Big Lake Creek (Age 1+) since 2006 (SHCP 2013, p. 12).
Entrainment	Fish screens: 2 Prioritized monitoring protocol.	• No entrainment documented since 2010. • Observed low entrainment rates in unscreened ditches (73 Arctic grayling/138 ditch miles).		
Riparian habitat loss.	Stream restoration: 26 miles. Riparian fencing: 108 miles. Stock water systems: 63. Grazing mgmt. plans: 21 landowners (85,000 ac.). Noxious weed management. Willow planting (72,200 planted).	• 110 miles (65%) of riparian habitat on enrolled lands improving. • 15% increase in sustainable riparian areas from 32% (2006) to 47% (2013). • Adaptive management in place to address non-improving areas.		

[a] PODs = Points of Diversion, SSPs = Site-specific plans; [b] Tier I is core spawning, rearing and adult habitat that is currently occupied by Arctic grayling, Tier II is periphery habitat intermittently used by Arctic grayling, Tier III is suitable, but currently unoccupied historical habitat; [c] The estimate of number of breeding adults in the Big Hole River in 2013 is reported as a range because of uncertainty in the frequency rate of rare alleles in the analysis; [d] Abundance estimates from 2013 were lower than those reported for 2012 likely due to unusually high flows (3X normal) concurrent with fall sampling that likely decreased capture efficiency, resulting in lower abundance estimates in 2013.

Habitat Fragmentation/Smaller Seasonal Barriers

Big Hole River: Smaller dams or diversions associated with irrigation structures historically posed a threat to Arctic grayling migratory behavior, especially in the Big Hole River drainage. In the Big Hole River, numerous diversion structures have been identified as putative fish migration barriers (Petersen and Lamothe 2006, pp. 8, 12–13, 29) that may limit the ability of Arctic grayling to migrate to spawning, rearing, or sheltering habitats under certain conditions. As with the larger dams, these smaller fish passage barriers can reduce reproduction (access to spawning habitat is blocked), reduce growth (access to feeding habitat is blocked), and increase mortality (access to refuge habitat is blocked). Historically, these types of barriers were numerous and widespread across the Big Hole River drainage.

Currently, habitat fragmentation due to irrigation diversion structures in the Big Hole is being systematically reduced under the CCAA for Fluvial Arctic Grayling in the upper Big Hole River (hereafter, Big Hole CCAA or CCAA; for more specific information, see ''Conservation Efforts to Reduce Habitat Destruction, Modification, or Curtailment of Its Range'') and Big Hole Arctic Grayling SHCP. Since 2006, 41 fish ladders have been installed in the mainstem Big Hole River and tributaries (Table 4). Multiple culverts have been replaced with bridges and several grade control structures have been installed (Table 4). As a result, no fish barriers now exist in the mainstem upper Big Hole River. Almost all (98 percent) of tier I habitat and the majority (68 percent) of tier II habitat is connected and accessible to Arctic grayling (Table 4): 67 miles of stream have been reconnected in the Big Hole River system since 2006 (MFWP 2014a, unpublished data).

Other populations: Smaller fish passage barriers also have been noted to affect Arctic grayling in the Centennial Valley (Unthank 1989, p. 9). Historically, spawning Arctic grayling migrated from the Jefferson River system, through the Beaverhead River and Red Rock River through the Red Rock Lakes and into the upper drainage, and then returned downstream after spawning (Henshall 1907, p. 5). The construction of a water control structure (sill) at the outlet of Lower Red Rock Lake in 1930 (and reconstruction in 1957 (USFWS 2009, p. 74)) created an upstream migration barrier that blocked these migrations (Unthank 1989, p. 10; Gillin 2001, p. 4–4). However, recent changes in water management at the Red Rock Lakes National Wildlife Refuge (NWR) have resulted in year-round fish passage through the control structure at the outlet of Lower Red Rock Lake (West 2013, pers. comm.).

In Mussigbrod Lake, Arctic grayling occasionally pass downstream over a diversion structure at the lake outlet, and become trapped in an isolated pool (Olsen 2014, pers. comm.). During high-snowpack years, Arctic grayling likely can swim back up to the lake from the pool, but in low snowpack years, some Arctic grayling perish when the isolated pool dries up (Olsen 2014, pers. comm.). However, this phenomenon has occurred periodically in recent history and has had no discernible impacts on Arctic grayling abundance in Mussigbrod Lake (Olsen 2014, pers. comm.).

All 16 adfluvial Arctic grayling populations in the upper Missouri River basin occur on Federal land (U.S. Forest Service) and are not influenced by irrigation structures because none are present. The effect of a barrier at the outlet of Mussigbrod Lake is likely impacting individuals, but not the population because of the robust population size in Mussigbrod Lake and historical stability of that population since the outlet structure was created. Based on this information, we conclude that the threats from habitat fragmentation have been sufficiently mitigated or minimized and are no longer are acting as a stressor at the population or DPS level.

Degradation of Riparian Habitat

Riparian corridors are important for maintaining habitat for Arctic grayling in the upper Missouri River basin, and in general are critical for the ecological function of aquatic systems (Gregory *et al.* 1991, entire). Riparian zones are important for Arctic grayling because of their effect on water quality and water temperature, and their role in maintaining natural ecological process responsible for creating and maintaining necessary physical habitat features (i.e., pools, riffles, and scour areas) used by the species to meet its life-history requirements.

Big Hole: Arctic grayling abundance in the upper Big Hole River is positively related to the presence of overhanging vegetation, primarily willows (*Salix* spp.), that is associated with pool habitat (Lamothe and Magee 2004, pp. 21–22). Removal of willows and riparian clearing concurrent with livestock and water management along the upper Big Hole River has led to a shift in channel form (i.e., braided channels becoming a single wide channel), increased erosion rates, reduced cover, increased water temperatures, and reduced recruitment of large wood debris into the active stream channel (Confluence Consulting *et al.* 2003, pp. 24–26). These factors combine to reduce the suitability of the habitat for species like Arctic grayling (Hubert 1985, entire).

Currently, restoration of riparian areas in the upper Big Hole River system is a priority under the CCAA (for more specific information, see ''Conservation Efforts to Reduce Habitat Destruction, Modification, or Curtailment of Its Range,'' below). Since 2006, efforts to restore and conserve riparian habitats have been numerous and multi-faceted (see Table 4). About 170 miles (274 km) of riparian habitat are currently enrolled in the Big Hole CCAA, out of a total of about 340 miles (547 km) of total riparian habitat in the CCAA Management Area. Of the enrolled riparian habitat, 65 percent (110 miles (177 km)) is improving in condition, as rated by a standardized riparian protocol (NRCS 2004, entire). Further, 47 percent of enrolled riparian habitat (80 miles (129 km)) is functioning at a sustainable level, which is a 15 percent increase in 5 years (MTFWP *et al.* 2006, p. 92; see Table 4). A sustainable rating indicates that the stream can access its flood plain, transport its sediment load, build banks, store water, and dissipate flood energy in conjunction with a healthy riparian zone (NRCS 2004, p. 7). Riparian habitats are reassessed every 5 years and are scored on 10 stability and sustainability metrics (for example, stream incisement), with any reach scoring at 80 percent or above rated as sustainable (NRCS 2004, entire). In addition, adaptive management within the CCAA framework will allow for reevaluation of conservation measures being implemented in non-improving habitat.

Other populations: In the Centennial Valley, historical livestock grazing both within the Red Rock Lakes NWR and on adjacent private lands negatively affected the condition of riparian habitats on tributaries to the Red Rock Lakes (Mogen 1996, pp. 75–77; Gillin 2001, pp. 3–12, 3–14). In general, degraded riparian habitat limits the creation and maintenance of aquatic habitats, especially pools, which are preferred habitats for adult Arctic grayling (Lamothe and Magee 2004, pp. 21–22; Hughes 1992, entire), although many spawning adult Arctic grayling in Red Rock Creek outmigrate soon after spawning and likely do not use available pool habitat (Jordan 2014, pers. comm.). Loss of riparian vegetation

increases bank erosion, which can lead to siltation of spawning gravels, which may in turn harm Arctic grayling by reducing the extent of suitable spawning habitat and reducing survival of Arctic grayling embryos already present in the stream gravels.

Recently, the Red Rock Lakes NWR acquired land on Red Rock Creek, upstream of the refuge boundary (West 2014a, pers. comm.). Much of this parcel was riparian habitat that was historically heavily grazed; thus, the refuge implemented a rest-rotation grazing system where more durable lands are grazed while more sensitive lands (e.g., riparian areas) are rested for up to 4 years. On average, grazing intensities on the refuge have decreased from 20,000 Animal Unit Months (AUMs, number of cow/calf pairs multiplied by the number of months grazed) to about 5,000 AUMs. As a result of these changes, riparian habitat within the refuge has dramatically improved (West 2014b, pers. comm.) and is expected to continue improving under the new grazing regime. Concurrent with riparian improvement within Red Rock Lakes NWR, the number of adult Arctic grayling migrating up Red Rock Creek to spawn has increased from fewer than 500 to more than 2,000 (Patterson 2014, unpublished data). Given the riparian improvements within Red Rock Lakes NWR, and that the refuge represents the vast majority of current Arctic grayling habitat in the Centennial Valley, the effects of degraded riparian habitat do not appear to be acting on the core of the Centennial Valley population at the individual or population level.

Most of the riparian habitat surrounding high-elevation lakes on Federal land where the remaining populations are found is intact and of high quality (MFISH 2014a, unpublished data; MFWP 2014e, unpublished data; USFS 2014, p. 2), because these habitats are in remote locations or wilderness areas with little anthropogenic disturbance. Given that riparian degradation is being systematically addressed in the Big Hole River and Centennial Valley on the National Refuge land where the majority of Arctic grayling reside, we conclude that riparian degradation is not a current threat to the DPS. Riparian habitat is expected to remain intact on Federal land because of existing regulatory mechanisms (see in Factor D discussion, below). Riparian habitat in the Big Hole River is expected to continue improving because of the proven track record of conservation evidenced by the current upward trend in riparian habitat quality. As more site-specific plans are signed under the Big Hole CCAA, more riparian improvement is expected because conservation measures will be similar between currently implemented and future site-specific plans. Given that riparian habitat is intact or improving for populations of Arctic grayling occurring on Federal land and the Big Hole population, and these populations account for 19 of 20 populations in the DPS, we conclude riparian habitat degradation is not a current rangewide threat and is not expected to become a threat in the future.

Dewatering From Irrigation and Consequent Increased Water Temperatures

Demand for irrigation water in the semi-arid upper Missouri River basin historically dewatered many rivers formerly or currently occupied by Arctic grayling. The primary effects of this dewatering were: (1) Increased water temperatures, and (2) reduced habitat capacity. In ectothermic species like salmonid fishes, water temperature sets basic constraints on species' distribution and physiological performance, such as activity and growth (Coutant 1999, pp. 32–52). Increased water temperatures can reduce the growth and survival of Arctic grayling (physiological stressor). Reduced habitat capacity can concentrate fishes and thereby increase competition and predation (ecological stressor). Below we discuss the potential effects of increased water temperature on the Upper Missouri River DPS of Arctic grayling. For discussion of the potential effects of reduced habitat capacity, see *Cumulative Effects from Factors A through E,* below.

Big Hole: In the Big Hole River system, surface-water (flood) irrigation has altered the natural hydrologic function of the river (Shepard and Oswald 1989, p. 29; Byorth 1993, p. 14; 1995, pp. 8–10; Magee *et al.* 2005, pp. 13–15). An inverse relationship between flow volume and water temperature (i.e., lower flows can lead to higher water temperatures) is apparent in the Big Hole River (Flynn *et al.* 2008, pp. 44, 46, but see Sladek 2013, p. 31). Summer water temperatures exceeding 21 °C (70 °F) are considered to be physiologically stressful for cold-water fish species, such as Arctic grayling (Hubert *et al.* 1985, pp. 7, 9). Summer water temperatures consistently exceed 21 °C (70 °F) in the mainstem of Big Hole River (Cayer and McCullough 2012, p. 7; (Cayer and McCullough 2013, p. 6) and have exceeded the upper incipient lethal temperature (UILT; the temperature that is survivable for periods longer than 1 week by 50 percent of a ''test population'' in an experimental setting) for Arctic grayling (e.g., 25 °C or 77 °F) (Lohr *et al.* 1996). As a result, thermal fish kills have been documented in the Big Hole River (Lohr *et al.* 1996, p. 934) in the past. The most recent fish kill in the Big Hole River that we are aware of occurred in 1994, and included eight fish species, including Arctic grayling (Lohr *et al.* 1996, p. 934).

Arctic grayling in the Big Hole River use tributaries as a thermal refuge when summer water temperatures in the mainstem become stressful (Vatland *et al.* 2009, p. 11). Summer water temperatures within most tributaries are cooler than those observed in some reaches of the mainstem Big Hole River (Vatland *et al.* 2009, entire; MFWP 2014b, unpublished data).

Since 2006, water conservation and restoration projects associated with the Big Hole Arctic grayling CCAA (for more specific information, see ''Conservation Efforts to Reduce Habitat Destruction, Modification, or Curtailment of Its Range,'' below) have been implemented to increase instream flows and reduce water temperatures in the Big Hole River and tributaries. Varying flow targets for different management segments of the Big Hole River were outlined in the CCAA, based on the wetted perimeter method, a biologically based method for determining instream flow requirements to provide necessary resources for all life stages of Arctic grayling. Over 300 irrigation diversions are operated under flow agreements within finalized site-specific plans (Table 4). The 10 remaining site-specific plans representing the remainder of points of diversion are expected to be signed in August 2014. Although we are aware of the future potential of more points of diversion being managed under signed site plans to contribute to Arctic grayling conservation, we do not consider these anticipated future efforts to contribute to Arctic grayling conservation currently, and have not considered them as part of this status review or our listing determination for this DPS. Multiple other projects designed to decrease dewatering and thermal stress have been implemented since 2006 (Table 4). The collective result of these efforts are increasing streamflows, increased access to cold-water refugia via fish ladders, and marked temperature reductions, particularly in some tributaries (Table 4).

Specific flow targets were developed for the different Management Segments in the CCAA Management Area (see MFWP *et al.* 2006, pp. 7, 9, 13, for more information on CCAA Management

Segments). The goal for increasing instream flow was to achieve flow targets 75 percent of days in each Management Segment during years of average or greater snowpack. This goal was based on a comparison between minimum flow targets and historical streamflows recorded in Management Segments C and D. Achieving flow targets 75 percent of days in each Management Segment was intended to be a general goal because many other factors influence instream flows in the Big Hole River that are outside the control of landowners (e.g., snowpack, precipitation). Before implementation of the CCAA (2000–2005), average flow targets were met among all Management Segments 50 percent of the time, and since implementation of the CCAA (2006–2012), they have been met 78 percent of the time (SHCP 2013, p. 12). Thus, the targets are being met.

Consistently since 2006, one management area, known as Management Segment C, has exhibited the lowest instream flows among all Management Segments. In part, instream flows in Management Segment C are influenced by several large diversions immediately upstream of the flow measuring device at the downstream boundary of Management Segment C (Robert 2014, pers. comm.). Some of this diverted water is returned to the Big Hole River downstream of the flow measuring device (Robert 2014, pers. comm.). As such, instream flows in Management Segment C represent the ''worst case'' scenario among all Management Segments. The Montana Department of Natural Resources and Conservation conducted an analysis of this ''worst case'' scenario, to explore how instream flows in Management Segment C have changed since the inception of the Big Hole CCAA. Given that natural factors such as summer precipitation and annual snowpack influence instream flows in the Big Hole River, the analysis of instream flows in Management Segment C included comparisons among several years of similar (but below average) snow pack and similar summer precipitation, both before and after CCAA implementation (Table 5).

TABLE 5—COMPARISON OF NUMBER OF DAYS VARYING FLOW TARGETS WERE ACHIEVED AMONG SIMILAR YEARS OF BELOW AVERAGE SNOWPACK IN THE BIG HOLE RIVER CCAA MANAGEMENT SEGMENT C, PRE- AND POST CCAA. ALL INFORMATION IN THIS TABLE CITED FROM ROBERTS 2014, UNPUBLISHED DATA

	Pre-CCAA		Post-CCAA	
	1988	2003	2012	2013
Peak snowpack (percent of average)	[a]73	108	81	[a]75
May–Aug. precipitation (in.)	4.14	3.85	4.74	5.14
July–Aug. temps (degrees F; departure from normal)	−1.3	8.0	1.4	1.9
Signed SSPs	0	0	12	15
Landowner contributions (cfs)	0	0	252	260
Days <160 [b] cfs	50	8	11	40
Days <60 [b] cfs	123	123	87	69
Days <20 cfs	79	68	0	28
Days <10 cfs	65	7	0	1
Mean discharge (cfs; July–Sept.)	8.4	19.7	45	39
Mean discharge (cfs; Aug.)	1.1	14.2	33.7	21
Total Days <Streamflow target	173	131	98	109

[a] Normalized to base period 1971–2000; [b] 160 cfs = flow target for Spring (April–June), 60 cfs = flow target for Summer and Fall (July–October) in CCAA Management Area C; Cfs = cubic feet per second.

In pre- and post-CCAA years, flows in Management Segment C were less than the Spring flow target of 160 cfs (14.5 cubic meters/second (m^3/s)) for similar numbers of days (Table 5). However, number of days where flows were less than the Summer/Fall flow target of 60 cfs (1.7m^3/s) decreased 37 percent pre- to post-CCAA (average of 123 days (pre-CCAA) to 78 days (post-CCAA)). Number of days instream flows were below 20 and 10 cfs (0.6 and 0.3 m^3/s, respectively) (these flows represent common, historical low water levels in Management Segment C) were reduced 81 percent, and 99 percent, respectively, from pre- to post-CCAA implementation (Table 5). In brief, there has been an observed 300 percent increase in average discharge from July through September (from 14 to 42 cfs (0.4 and 1.2 m^3/s, respectively)) as a result of achieving flow targets in Management Area C for a higher percentage of days post-CCAA, relative to pre-CCAA (Roberts 2014, unpublished data). Landowner contributions to instream flow from reducing irrigation withdrawals appears to be the primary factor increasing instream flows in the Big Hole River in late summer (Table 5), a critical thermal period for Arctic grayling.

Despite Management Segment C exhibiting the lowest rate of instream flow achievement relative to the other Management Segments, we note that the proportion of Tier I habitat encompassed by Management Segment C is 12 percent; the remainder of Tier I habitat (88 percent) is located in Management Segments D and E (MFWP 2014c, unpublished data). Since the initiation of the Big Hole Arctic grayling CCAA in 2006, average achievement rate of instream flow goals in Management Segments D and E during the spring is 96 percent and 99 percent, respectively. Average achievement rate of instream flow goals in Management Segments D and E during the summer/fall is 84 percent and 76 percent, respectively. Thus, flow targets are being met. We conclude the Big Hole CCAA has ameliorated dewatering as a stressor in the Big Hole River.

Other populations: Increased water temperatures also are present in the Madison River and Centennial Valley. Mean and maximum summer water temperatures can exceed 21 °C (70 °F) in the Madison River below Ennis Reservoir (U.S. Geological Survey (USGS) 2010), and have exceeded 22 °C (72 °F) in the reservoir, and 24 °C (75 °F) in the reservoir inlet (Clancey and Lohrenz 2005, p. 34). However, Arctic grayling in these systems appear to be able to cope with these temperatures by using cooler tributaries and spring sources as thermal refugia (Jaeger 2014b, pers. comm.). For example, the presence of Arctic grayling in the lower 100 m (328 ft) of East Shambow Creek in 1994 was attributed to fish seeking refuge

from high water temperatures in the lake (Mogen 1996, p. 44). The Centennial Valley, in particular, appears to have many cool spring-fed tributaries that are accessible to Arctic grayling and are used intermittently (Mogen 1996, p. 44). Mean summer water temperatures in Red Rock Creek can occasionally exceed 20 °C (68 °F) during drought conditions (Mogen 1996, pp. 19, 45); however, on average, these are much cooler than summer water temperatures observed in the Big Hole River.

Increased water temperatures do not appear to be prevalent in most other adfluvial populations, likely due to the high elevation of these habitats and the intact nature of riparian areas bordering inlet tributaries. Given the presence of cooler tributaries and spring sources used by Arctic grayling in the Centennial Valley and Ennis Reservoir/Madison River, it does not appear thermal stress is a current threat to these populations. Although water temperatures will likely increase with climate change in the future, the spring-fed sources of cool water will likely remain intact and within a temperature range suitable for Arctic grayling occupancy. Thus, thermal stress is not expected to be a future threat.

Entrainment

Entrainment can permanently remove individual fish from a natural population and strand them in a habitat that lacks the required characteristics for reproduction and survival. Irrigation ditches may dry completely when irrigation headgates are closed, resulting in mortality of entrained Arctic grayling.

Big Hole: Entrainment of individual Arctic grayling in irrigation ditches historically occurred and currently occurs in the Big Hole River (Skarr 1989, p. 19; Streu 1990, pp. 24–25; MFWP *et al.* 2006, p. 49; Lamothe 2008, p. 22; MFWP 2013b, unpublished data). Over 1,000 unscreened diversion structures occur in the upper Big Hole River watershed, and more than 300 of these are located in or near occupied Arctic grayling habitat (MFWP *et al.* 2006, pp. 48–49).

However, recent entrainment surveys in irrigation ditches along the mainstem Big Hole River and tributaries indicate low levels of Arctic grayling entrainment. Since 2006, 138 ditch miles have been sampled using electrofishing to estimate entrainment, resulting in the capture of 73 Arctic grayling, most of which were young-of-year (MFWP 2013b, unpublished data). This number is very low relative to the size of the population. All documented entrainment has occurred in 4 irrigation ditches, one of which recently had a fish screen installed (MFWP 2013b, unpublished data). No entrainment of Arctic grayling has been documented in any irrigation ditch since 2010 (including the 4 previously mentioned where entrainment of Arctic grayling had occurred), despite intensive sampling by Montana Fish, Wildlife, and Parks (Cayer 2014b, pers. comm.). We do note that sampling typically does not occur during the larval stage for Arctic grayling. Larval losses into irrigation ditches could be substantial and go undetected under the current sampling protocol. However, observations of young of year Arctic grayling in the Big Hole River indicate that many, but not likely all, newly emerged fry stay relatively close to the area where they were born (Skaar 1989, p. 51; Streu 1990, p. 28; McMichael 1990, p. 38), thus reducing the risk of entrainment because of minimal instream movements during their first summer.

Irrigation ditches are prioritized and systematically monitored based on the ditch location relative to known Arctic grayling distribution, additive maximum flow rate, and distance from the mainstem Big Hole River (MFWP *et al.* 2006, p. 116). In addition, electrofishing efficiency in simple habitats (such as irrigation ditches) is high (Kruse *et al.* 1998, pp. 942–943); thus, we have high confidence that these surveys have been accurate and that entrainment in the Big Hole River system is currently low and likely not a threat at the population level.

Other populations: Entrainment was likely a historical threat for Arctic grayling at some locations within the Centennial Valley (Unthank 1989, p. 10; Gillin 2001, pp. 2–4, 3–18, 3–25), particularly outside of the Red Rock Lakes NWR (Boltz 2010, pers. comm.). Currently, one irrigation ditch is present near the core of the Centennial Valley population within the Red Rock Lakes NWR. This ditch conveys water from Red Rock Creek to a waterfowl slough for a portion of the year; however, it is not operated by the Refuge when Arctic grayling fry are expected to be in Red Rock Creek (Bill West 2014a, pers. comm.). Other irrigation ditches are present upstream and downstream of the NWR boundary; however, Arctic grayling densities in these areas are low, and any mortality associated with entrainment in these areas is expected to be negligible at the population level.

Entrainment of Arctic grayling does not appear to be a threat in the Big Hole River and Centennial Valley populations. Habitats occupied by all 16 adfluvial Arctic grayling populations in the upper Missouri River basin are not subjected to irrigation withdrawals; thus entrainment is not a threat to these populations. We expect irrigation withdrawal volume to remain similar to current levels, particularly in the Big Hole River, in the future as more flow agreements are signed under the CCAA. Thus, we conclude entrainment will likely not be a future threat.

Sedimentation

Sedimentation has been proposed as a mechanism behind the decline of Arctic grayling and its habitat in the Centennial Valley (Unthank 1989, p. 10; Mogen 1996, p. 76), which includes Upper and Lower Red Rock Lakes. Historically, livestock grazing upstream likely led to accelerated sediment transport in tributary streams, and deposition of silt in both stream and lakes, thus modifying and reducing fish habitat by filling in pools, covering spawning gravels, and reducing water depth in Odell and Red Rock Creeks, where Arctic grayling spawn (MFWP 1981, p. 105; Mogen 1996, pp. 73–76). Sedimentation in the Upper and Lower Red Rock Lakes is believed to affect Arctic grayling in winter by reducing habitat volume (e.g., lakes freezing to the bottom) and promoting hypoxia (low oxygen), which generally concentrates fish in specific locations, thus increasing the probability of competition and predation. In summer, reduced habitat volume could contribute to increased warming.

Dissolved oxygen levels in Upper Red Rock Lake during winter can drop below levels typically considered lethal for Arctic grayling (Gangloff 1996, pp. 41–42, 72). As a result, winter kill of invertebrates and fishes (e.g., suckers (*Catostomus* spp.)) has been recorded in Upper Red Rock Lake (Gangloff 1996, pp. 39–40); however, no Arctic grayling kills have been documented. Gangloff (1996, pp. 71, 79) hypothesized that Arctic grayling in Upper Red Rock Lake exhibit behavioral mechanisms or physiological adaptations that permit them to survive otherwise lethally low oxygen levels. Arctic grayling under winter ice seek areas of higher oxygen concentration (oxygen refugia) within the lake or near inlet streams of Upper Red Rock Lake (Gangloff 1996, pp. 78–79).

It has been reported that depths in the Red Rock Lakes have decreased significantly, with a decline in maximum depth from 7.6 to 5.0 m (25 to 16.4 ft) to less than 2 m (6.5 ft) noted in Upper Red Rock Lake over the past century (Mogen 1996, p. 76). This conclusion is prevalent among historical accounts of the Centennial Valley. However, a more recent analysis of

sedimentation entering Upper Red Rock Lake indicated modest rates of sediment accumulation in Upper Red Rock Lake over the last century and that the rate of infilling in Upper Red Rock Lake has been relatively constant, based on lead and cesium analysis in lake bottom cores (Allison 1996, unpublished data). Thus, it appears historical accounts of rapid infilling of Upper Red Rock Lake were invalid and that sedimentation in Upper Red Rock Lake is not a stressor.

Sedimentation in tributary streams due to unregulated land use may have contributed to historical Arctic grayling declines in the Centennial Valley (Vincent 1962, p. 114). Now, land use is regulated, particularly on Federal land, which comprises the majority of ownership in the Centennial Valley. However, some of the tributary streams in the Centennial Valley are still affected by sediment, even some spring source streams. The effect of these levels of sediment on Arctic grayling in the Centennial Valley is unclear. However, spawning conditions in Red Rock Creek are currently supporting 40-year highs in hybrid cutthroat and Arctic grayling abundance (MFWP 2013c, unpublished data).

The effects of erosion and sedimentation on spawning gravels in Red Rock Creek and reduction of habitat volume in Upper and Lower Red Rock Lakes do not appear to be current threats because improved grazing practices appear to be reducing erosion rates upstream of Red Rock Lakes NWR (USFWS 2009, pp. 75–76; Korb 2010, pers. comm.; West 2014; pers. comm.). Natural infilling of Upper Red Rock Lake is occurring (Allison 1996, unpublished data), but is not occurring at a rate or scale that constitutes a threat to Arctic grayling.

Climate Change

Our analyses under the Endangered Species Act include consideration of ongoing and projected changes in climate. The terms ''climate'' and ''climate change'' are defined by the Intergovernmental Panel on Climate Change (IPCC). ''Climate'' refers to the mean and variability of different types of weather conditions over time, with 30 years being a typical period for such measurements, although shorter or longer periods also may be used (IPCC 2007, p. 78). The term ''climate change'' thus refers to a change in the mean or variability of one or more measures of climate (e.g., temperature or precipitation) that persists for an extended period, typically decades or longer, whether the change is due to natural variability, human activity, or both (IPCC 2007, p. 78). Various types of changes in climate can have direct or indirect effects on species. These effects may be positive, neutral, or negative and they may change over time, depending on the species and other relevant considerations, such as the effects of interactions of climate with other variables (e.g., habitat fragmentation) (IPCC 2007, pp. 8–14, 18–19). In our analyses, we use our expert judgment to weigh relevant information, including uncertainty, in our consideration of various aspects of climate change.

Water temperature and hydrology (stream flow) are sensitive to climate change, and influence many of the basic physical and biological processes in aquatic systems. For ectothermic organisms like fish, temperature sets basic constraints on species' distribution and physiological performance, such as activity and growth (Coutant 1999, pp. 32–52). Stream hydrology not only affects the structure of aquatic systems across space and time, but influences the life history and phenology (timing of life-cycle events) of aquatic organisms such as fishes. For example, the timing of snowmelt runoff can be an environmental cue that triggers spawning migrations in salmonid fishes (Brenkman *et al.* 2001, pp. 981, 984), and the timing of floods relative to spawning and emergence can strongly affect population establishment and persistence (Fausch *et al.* 2001, pp. 1438, 1450). Significant trends in water temperature and stream flow have been observed in the western United States (Kaushal *et al.* 2010, entire; Isaak et al. 2012, entire; Null et al. 2013, entire, and climatic forcing (the energy difference between incoming solar radiation and outgoing radiation from Earth) caused by increased air temperatures and changes in precipitation are partially responsible.

Observations on flow timing in the Big Hole River, upper Madison River, and Red Rock Creek in the Centennial Valley indicate a tendency toward earlier snowmelt runoff (Wenger *et al.* 2011, entire; Towler *et al.* 2013, entire; De Haan *et al.* 2014, p. 41). These hydrologic alterations may be biologically significant for Arctic grayling in the Missouri River basin because they typically spawn prior to the peak of snowmelt runoff (Shepard and Oswald 1989, p. 7; Mogen 1996, pp. 22–23; Rens and Magee 2007, pp. 6–7). A trend toward earlier snowmelt runoff has resulted in earlier spawning in European grayling in Switzerland (Wedekind and Kung 2010, pp. 1419–1420). The effects of altered timing of spawn on Arctic grayling demographics are unknown. However, it has been hypothesized that the timing of fry emergence in salmonids is synchronized with when food resources are available (Crozier *et al.* 2008). Given that many ecological processes in aquatic environments are water temperature dependent (Durance and Ormerod 2007, entire), it is likely that any alterations in timing of salmonid fry emergence would be synchronous with alterations in the timing of emergence and availability of prey species.

Recent climate analyses in the Big Hole River Valley and Centennial Valley indicate rising air temperatures (1.8–3.2 °F (1.0–1.8 °C)/decade) from the 1980s to mid-2000s (De Haan *et al.* 2014, p. 29). During this time, number of breeding Arctic grayling in the Big Hole River declined while the number of breeding Arctic grayling in the Centennial Valley increased (DeHaan *et al.* 2014, p. 17), despite a coherent climate signal between both drainages. This may be partially attributable to cool-water springs helping ameliorate increasing air temperatures in the Centennial Valley. Since the late 2000s, the number of breeding Arctic grayling has increased in the Big Hole River (Leary 2014, unpublished data), and the number of Arctic grayling in the Red Rock Creek spawning run has increased in the Centennial Valley (Patterson 2014, unpublished data). Thus, we have no information to conclude that increasing air temperatures have had a significant effect on number of breeding Arctic grayling in these systems in recent years.

The effect of warming water from increased air temperatures would be similar to that described for increased temperatures associated with stream dewatering (see discussion under Factor A), namely there has been an increased frequency of high water temperatures that have the potential to affect survival or optimal growth for Arctic grayling, which is considered a cold-water (stenothermic) species (Selong *et al.* 2001, p. 1032). However, the transfer of heat from air to water (i.e., convection) is a relatively small proportion of the energy exchange that occurs (Johnson 2003, p. 497). The more important factor influencing water temperature is likely to be solar radiation input (Johnson 2003, p. 497; Cassie 2006, p. 1393). Thus, the changes in ambient air temperature predicted to occur as the climate changes are not likely to have as large an effect on water temperatures as solar radiation. Changes in channel morphology (reducing width-to-depth ratios) and riparian vegetation (shading) resulting from the conservation actions being implemented for Arctic grayling are expected to reduce water

temperatures by blocking some solar radiation and reducing surface area that solar radiation can interact with. In the Big Hole River, where riparian areas are improving and braided channels are being restored, substantial reductions in water temperature have been observed (see Table 4, Rock Creek restoration for example). We expect the restoration of riparian areas and concomitant channel morphology changes that have occurred to help mitigate the effects of climate change. In the Centennial Valley, intact riparian areas are expected to mitigate the effects of climate change, through similar processes as in the Big Hole River.

Warming patterns in the western United States are not limited to streams. In California and Nevada, lake water surface temperatures have increased by an average of 0.11 °C (0.2 °F) per year since 1992, and at a rate twice that of the average minimum air surface temperature (Schneider *et al.* 2009, p. L22402). This suggests lake habitats are not immune to the predicted effects of climate change. Shallow lakes with a large surface area, such as Upper Red Rock Lake and Ennis Reservoir, would be expected to warm faster than deeper lakes. However, all 16 strictly adfluvial Arctic grayling populations in the upper Missouri River drainage occur in lake habitats that are expected to have thermal regimes well below upper thermal tolerances for Arctic grayling because of high elevation, bathymetry (underwater topography), and cool inputs from shaded inlet streams.

The land area of the upper Missouri River basin is predicted to warm through the end of the century (Ray *et al.* 2010, p. 23), although currently occupied Arctic grayling habitat tends to be in colder areas of moderate-to-high elevation. Most of the Arctic grayling populations are at approximately 1,775 to 2,125 m (5,860 to 9,000 ft) elevation (Peterson and Ardren 2009, p. 1761; MFISH 2014a, unpublished data). Alterations to instream flow and timing of runoff are already documented. However, Arctic grayling are likely to persist in the upper Missouri River drainage because of what appears to be an inherent ability possessed by Arctic grayling to adjust spawn timing with changing water temperature regimes (Wedekind and Kung 2010, pp. 1419–1420). In addition, it has been demonstrated in the Big Hole River and Centennial Valley that Arctic grayling are capable of increasing in abundance and distribution, despite a warming climate (Dehaan *et al.* 2014, p. 17; Leary 2014, unpublished data). It appears Arctic grayling within the upper Missouri River basin are responding favorably to increasing quality of habitat based on increasing abundance and distribution in systems with large-scale, ongoing habitat improvements (Big Hole River and Centennial Valley). Riparian restoration, particularly in the Big Hole River and Centennial Valley, is expected to minimize the effects of increasing water temperatures due to climate change. Sixteen other adfluvial populations are currently in habitats that will likely not be affected significantly by climate change due to their high elevation, intact riparian areas, and cool inputs of tributary water. Thus, we do not consider climate change to be a current threat to Arctic grayling in the upper Missouri River. Further, observed water temperature reductions from riparian restoration projects indicate that intact riparian areas can mitigate for many of the anticipated effects of climate change in the future. Therefore, we conclude climate change is not a future threat to the Upper Missouri River DPS of Arctic grayling.

Conservation Efforts To Reduce Habitat Destruction, Modification, or Curtailment of Its Range

Big Hole River CCAA

In 2006, a CCAA was developed for Arctic grayling in the Big Hole River. The conservation goal of this CCAA is to secure and enhance the fluvial population of Arctic grayling in the upper Big Hole River drainage. The CCAA Management Area encompasses about 382,000 acres and is divided into five management segments to make the conservation guidelines more spatially meaningful to property owners enrolled in the CCAA and to allow the involved agencies to track the progress of the conservation measures both temporally and spatially.

Site-specific plans are developed with each enrolled landowner; these plans identify conservation actions needed (or already completed) to meet the conservation goals of the CCAA. The conservation guidelines of the CCAA are met by implementing conservation measures that:

(1) Remove barriers to Arctic grayling migration;

(2) Improve streamflows;

(3) Identify and reduce or eliminate entrainment threats for Arctic grayling; and

(4) Improve and protect the function of riparian habitats.

Currently, 31 landowners have enrolled 158,000 acres (~52 percent total enrollable land) in the Big Hole CCAA Management Area. Of the 31 landowners, 21 have signed (finalized) site-specific plans. The remaining 10 landowners have site-specific plans in various stages of completion. All of these unfinished site plans are scheduled to be finalized by August 2014, and will include measures identified previously in the CCAA that have a successful track record; however, we have not considered future anticipated conservation actions outlined in unsigned site plans as part of this status review or our listing determination for this DPS.

Restoration and conservation efforts outlined in site-specific plans are guided by the Big Hole SHCP, a science-based framework for making management decisions and prioritizing where and how to deliver conservation efficiently to achieve specific biological outcomes for Arctic grayling. The SHCP delineates four spatial ''tiers'' that help prioritize where conservation will most benefit Arctic grayling:

(1) Tier I is 84 miles of core spawning, rearing and adult habitat that is currently occupied by Arctic grayling;

(2) Tier II is 91 miles of periphery habitat intermittently used by Arctic grayling;

(3) Tier III is 161 miles of suitable, but currently unoccupied, historical habitat; and

(4) Tier IV is 33 miles of potentially suitable habitat with unknown historical occupancy.

For reference, lands currently enrolled in the CCAA include 86 percent of tier I, 73 percent of tier II, 42 percent of tier III, and 24 percent of tier IV habitats. Given that the conservation measures outlined in the CCAA directly address known threats to Arctic grayling and their habitat in the Big Hole River, and that all conservation actions are strategically prioritized through the SHCP, the Service is encouraged by the positive habitat and Arctic grayling response to the conservation actions in the Big Hole River.

Conservation Efforts by Landowners Not Enrolled in the CCAA

Since 2006, twelve landowners in the Big Hole Valley who are not enrolled in the Big Hole CCAA have implemented voluntary conservation measures to benefit Arctic grayling. These conservation measures are similar to the conservation measures outlined in the SSP's of landowners enrolled in the CCAA, including irrigation withdrawal reductions, installation of fish passage ladders, riparian fencing, stream restoration, and installation of stockwater tanks (MFWP 2014f, unpublished data). In addition, several of these landowners have informal flow agreements where the landowners have

agreed to not utilize water returned to the stream by upstream enrollees in the Big Hole CCAA (MFWP 2014f, unpublished data). Although the majority of conservation projects in the Big Hole are completed through the CCAA, the Service is very encouraged by the participation of non-enrolled landowners to further grayling conservation in the Big Hole River and its tributaries.

Big Hole River Drought Management Plan

The purpose of the Drought Management Plan (DMP) is to mitigate the effects of low stream flows and lethal water temperatures for fisheries (particularly fluvial Arctic grayling) through a voluntary effort among participants including agriculture, municipalities, business, conservation groups, anglers, and affected government agencies (Big Hole Watershed Committee 2014, p.1). The DMP outlines flow triggers that, when met, initiate specific voluntary actions to conserve water. The flow triggers in the DMP are the same as the flow targets outlined in the Big Hole CCAA. The DMP has been in effect since 1999.

One key difference between the DMP and the CCAA is that the DMP is in effect for the entire Big Hole River, not just the upper Big Hole River like the CCAA. Arctic grayling occur outside of the CCAA Management Area; thus, any conservation efforts occurring in these areas still likely benefit Arctic grayling, although Arctic grayling densities outside the CCAA Management Area are low and represent a small fraction of the total population inside the CCAA Management Area (MFWP 2013d, unpublished data). Another key difference is that the DMP is structured to disseminate flow and water temperature information to all users of the Big Hole River, not just private landowners in the CCAA. This structuring allows for near real-time information sharing that helps inform users when voluntary conservation actions are needed. Such actions include reductions in irrigation withdrawal (for downstream users not in the CCAA); reductions in municipal, industrial, and personal water use; and reductions in recreation (e.g., angling).

The extent and magnitude of beneficial effects to Arctic grayling from the voluntary conservation measures recommended in the DMP are unclear. However, the DMP appears to have broad-based support. Most participants reduce irrigation withdrawals in response to observed low flows on nearby USGS gauges, before phone calls are made to request irrigation reductions (Downing 2014, pers. comm.). Increases in instream flow attributable to efforts under the DMP have been observed as ''bumps'' in the hydrograph in the middle and lower reaches of the Big Hole River (Downing 2014, pers. comm.). Although difficult to quantify, these ''bumps'' typically result in instream flows rising above low flow triggers (Downing 2014, pers. comm.). In addition, the inherent value of information sharing among diverse stakeholder groups about the potential effects of dewatering and thermal stress on the Big Hole fishery is likely significant. An increased understanding of conservation efforts needed to benefit Arctic grayling, and aquatic habitat in general, has been demonstrated to be a necessary precursor for more formalized conservation actions, such as the creation and implementation of the Big Hole CCAA.

Native Arctic Grayling Genetic Reserves and Translocation

Given concern over the status of native Arctic grayling, the Montana Arctic Grayling Recovery Program (AGRP) was formed in 1987, to address conservation concerns for primarily the fluvial ecotype inhabiting the Big Hole River, and to a lesser extent the native adfluvial population in the Centennial Valley (Memorandum of Understanding (MOU) 2007, p. 2). The Arctic Grayling Workgroup (AGW) was established as an ad hoc technical workgroup of the AGRP. In 1995, the AGW finalized a restoration plan that outlined an agenda of restoration tasks and research, including management actions to secure the Big Hole River population, brood stock development, and a program to re-establish four additional fluvial populations (Montana AGW 1995, pp. 7–17).

Consequently, Montana Fish, Wildlife and Parks established genetic reserves of Big Hole River and Centennial Valley Arctic grayling (Leary 1991, entire). Currently, brood (genetic) reserves of Big Hole River Arctic grayling are held in two closed-basin lakes in south-central Montana (Rens and Magee 2007, p. 22). These fish are manually spawned to provide gametes for translocation efforts in Montana (e.g., Ruby River population) (Rens and Magee 2007, p. 22). A brood reserve of Centennial Valley Arctic grayling has recently been established in Elk Lake; however, no natural reproduction has been documented since the brood reserve was established. Instream flows in the sole spawning tributary (Narrows Creek) to Elk Lake have been low in recent years, likely as a result of low snowpack in some years and seismic activity that altered the hydrology of Narrows Creek (Jaeger 2014c, pers. comm.). Future conservation actions on Narrows Creek include securing a more consistent water supply during the Arctic grayling spawning season through a water rights exchange; however, at this time, these conservation actions and the future viability of the Elk Lake population are too uncertain to warrant consideration in this finding.

A reintroduction effort in the upper Ruby River, where Arctic grayling were previously extirpated, using Big Hole River genetic reserves recently concluded. Arctic grayling eggs from the Big Hole River reserves were hatched on-site in incubators, and fry were allowed to drift into the reintroduction area. Supplementation of the Ruby River population concluded in 2008. For the last 5 years since then, natural reproduction has been documented in the upper Ruby River (Cayer and McCullough 2013, p. 21). Recent genetic analyses of the Ruby River population indicate high levels of genetic heterozygosity and allelic richness, albeit low estimate of effective number of breeders (Leary 2014, unpublished data). It has been hypothesized that the population is likely still expanding. Encouragingly, the number of breeding adults has trended upward over the past 3 years (Leary 2014, unpublished data). Most experts participating in the SSA workshop indicated that the Ruby River population was viable, given the evidence of natural reproduction occurring over the last 5 years at rates sufficient to increase the number of breeding adults over the past 3 years. Thus, we conclude the Ruby River population is viable.

Another recent conservation effort using Big Hole River genetic reserves involves an assisted recolonization effort of Arctic grayling in Rock Creek, a historically occupied tributary of the upper Big Hole River. Since 2010, incubators placed directly on location have been used to reintroduce young-of-year Arctic grayling into Rock Creek. Recolonization efforts are scheduled to be implemented in Rock Creek through 2015. Encouragingly, young-of-year and older Arctic grayling have been documented in 4 miles of Rock Creek over the past several years. This increase of Arctic grayling abundance and distribution in Rock Creek is likely due, at least in part, to the introduction of thousands of fry via the onsite incubators. Habitat improvement projects on Rock Creek have occurred simultaneously with fry reintroduction, so it is difficult to distinguish the relative effects of fry reintroduction and habitat improvement on the resulting

increase in distribution and abundance of young Arctic grayling. Likely, both factors have played a role in reestablishing Arctic grayling in Rock Creek. Regardless, both conservation actions are having their intended effect: Increasing Arctic grayling abundance and distribution in historically occupied habitat.

In 2013, an increase in the number of breeding Arctic grayling was observed in the Big Hole River (Leary 2014, unpublished data). Given that fry were being reintroduced into the Big Hole River (and Rock Creek) beginning in 2010, there was initial uncertainty about the relative contribution of RSI-produced fish to the observed increase in breeding adults. Genetic analysis of a sample of young Arctic grayling obtained in 2013 indicated a low level of relatedness (<10 percent of sample were half- or full siblings) among individuals within the sample (Leary 2014, unpublished data). These results indicate that RSI-produced fish in 2010 contributed very little to the increase in breeding adults in 2013, as we would have expected a high degree of relatedness within the 2013 sample due to a small number of grayling spawned to produce eggs for the RSI reintroduction effort. Thus, these data suggest that factors other than the influence of RSIs were responsible for increasing abundance of adult spawners in the Big Hole River in 2013.

Similar reintroductions to the Rock Creek effort are also underway in several other tributaries and lakes within the upper Big Hole drainage and elsewhere, including the Wise River, Trail Creek, Twin Lakes and the Madison River. This suite of reintroductions is scheduled to occur for 5 years and conclude in 2018. However, the effectiveness of these reintroductions has not yet been assessed.

In the Centennial Valley, RSIs have been used fairly extensively to try to establish spawning runs of adult Arctic grayling in multiple tributaries to Upper Red Rock Lake (Boltz and Kaeding 2002, entire; Jaeger 2014d, pers. comm.). Thus far, these attempts have failed, although it is possible that fry produced by these efforts spawned in Red Rock Creek, instead of returning to the stream in which they were hatched (Mogen 2014, pers. comm). Recently, RSIs were used in Red Rock Creek in 2010, as part of a mitigation strategy to offset the removal of thousands of Arctic grayling eggs being taken to develop a brood reserve in Elk Lake. Similar to the Rock Creek example in the Big Hole, there was initial uncertainty whether recent increases in spawner abundance of Arctic grayling in Red Rock Creek were a direct result of the introduction of thousands of fry directly into Red Rock Creek via RSIs. However, fry produced in 2010 would not have contributed to the increases in spawning adult Arctic grayling observed in Red Rock Creek in 2010. Additionally, lengths of all adult Arctic grayling handled during the 2012 spawning run showed minimal overlap (<5 percent) with the length range of 2-year-old Arctic grayling from Upper Red Rock Lake, indicating fry produced in 2010 had little potential to contribute to the observed increase in adult spawners in Red Rock Creek in 2012 (Patterson 2014, unpublished data). The effect of RSI-produced Arctic grayling fry on abundance of spawners in Red Rock Creek after 2012 is unknown. The Service hopes that using RSIs as a conservation tool will result in RSI-produced fish recruiting to the Centennial Valley population.

Another Arctic grayling reintroduction project is currently being planned in Grayling Creek within Yellowstone National Park. Approximately 30 miles of historically occupied habitat are proposed for the reintroduction. Recently, a fish barrier was installed at the downstream extent of this habitat, and removal of all fish currently above the barrier commenced. Another round of fish removal is scheduled for the summer of 2014, to ensure complete removal of all existing nonnative fishes. Arctic grayling are scheduled to be reintroduced as early as 2015. Although the Service is encouraged by the potential for the reintroduction in 30 miles of historical habitat in Grayling Creek, it is unclear at this time if funding will be available to complete the project. Thus, although we are aware of the future potential of this project to contribute to Arctic grayling conservation, we do not consider this project to contribute to Arctic grayling conservation currently, and have not considered it as part of this status review or our listing determination for this DPS.

Summary of Factor A

Based on the best available information, we find that the historical range of the Missouri River DPS of Arctic grayling has been reduced particularly by large-scale habitat fragmentation by dams. However, despite fragmentation, sufficient habitat remains intact and is currently supporting multiple, viable, fluvial and adfluvial Arctic grayling populations. Historical threats to habitat quantity and quality in the Big Hole River are systematically being eliminated or minimized by the CCAA and SHCP through conservation projects designed to expressly address the four conservation criteria outlined in the CCAA. Large-scale habitat improvements are occurring; quality of riparian areas has improved in both the Big Hole River and Centennial Valley through riparian restoration projects, and these projects are expected to minimize effects of climate change through blocking of some solar radiation and channel morphology changes. In addition, Arctic grayling populations are responding favorably to habitat improvements in both the Big Hole River and Centennial Valley. In the future, we do not expect habitat to decline in the Big Hole River because of the proven track record of CCAA projects. In the Centennial Valley, protections provided by the NWR have sufficiently minimized past threats to habitat. These protections are expected to persist into the future and maintain the integrity of the habitat. Most of the other adfluvial populations of Arctic grayling reside in high-quality habitats on Federal land where mechanisms exist to conserve that habitat. Thus, we have no evidence that past threats under Factor A are acting currently on the Upper Missouri River DPS of Arctic grayling at the population or DPS level and no expectation that those impacts will pose a threat to the DPS in the future.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Arctic grayling of the upper Missouri River are handled for recreational angling and for scientific, population monitoring, and restoration purposes.

Recreational Angling

Arctic grayling are highly susceptible to capture by angling (ASRD 2005, pp. 19–20), and intense angling pressure can reduce densities and influence the demography of exploited populations (Northcote 1995, pp. 171–172). Historically, overfishing likely contributed to the rangewide decline of the DPS in the upper Missouri River system (Vincent 1962, pp. 49–52, 55; Kaya 1992, pp. 54–55). In 1994, concern over the effects of angling on fluvial Arctic grayling led the State of Montana to implement catch-and-release regulations for Arctic grayling captured in streams and rivers within its native range, and those regulations remain in effect today (MFWP 2014d, p. 51). Catch-and-release regulations also are in effect for Ennis Reservoir on the Madison River (MFWP 2014d, p. 59). Angling is not permitted in either of the Red Rock Lakes in the Centennial Valley

to protect breeding waterfowl and trumpeter swans (*Cygnus buccinator*) (USFWS 2009, p. 147), and catch-and-release regulations remain in effect for any Arctic grayling captured in streams (e.g., Odell Creek or Red Rock Creek) in the Centennial Valley (MFWP 2014d, p. 67). Additionally, angling is closed in Red Rock Creek during the Arctic grayling spawning period (May 15 to June 14; MFWP 2014d, p. 67). However, we do note that Red Rock Creek is open to angling for other species (e.g., hybrid cutthroat trout) the remainder of the year and that Arctic grayling are caught during this time, particularly before the May 15 closure.

In all other populations, anglers can keep up to 5 Arctic grayling per day and have up to 10 in possession, in accordance with standard daily and possession limits for that angling management district (MFWP 2014d, p. 51). The population trends of Arctic grayling in many of the lakes (see Table 3, above) suggest that present angling exploitation rates are not a threat to those populations, even though harvest is allowed on most of these populations. Limited data preclude population estimates and trend inferences for some adfluvial populations (see Table 3).

Repeated catch-and-release angling may harm individual fish, causing physiological stress and injury (i.e., hooking wounds). Catch-and-release angling also can result in mortality at a rate dependent on hooking location, hooking duration, fish size, water quality, and water temperature (Faragher *et al.* 2004, entire; Bartholomew and Bohnsack 2005, p. 140; Boyd *et al.* 2010). Repeated hooking (up to five times) of Arctic grayling in Alaska did not result in significant additional mortality (rates 0 to 1.4 percent; Clark 1991, pp. 1, 25–26). In Michigan, hooking mortality of Arctic grayling in lakes averaged 1.7 percent per capture event, based on 355 individuals captured with artificial flies and lures (Nuhfer 1992, pp. 11, 29). Higher mortality rates (5 percent) have been reported for Arctic grayling populations in the Great Slave Lake area, Canada (Falk and Gillman 1975, cited in Casselman 2005, p. 23). Comparatively high catch rates for Arctic grayling have been observed in the Big Hole River, Montana (Byorth 1993, pp. 26–27, 36), and average hooking wound rates ranged from 15 to 30 percent among study sections (Byorth 1993, p. 28). However, overall hooking mortality from single capture events was low (1.4 percent), which led Byorth to conclude that the Big Hole River population was not limited by angling (Byorth 1994b, entire).

Compared to the average catch-and-release mortality rates of 4.2 to 4.5 percent in salmonids as reported by Schill and Scarpella (1997, p. 873), and the mean and median catch-and-release mortality rates of 18 percent and 11 percent from a meta-analysis of 274 studies (Bartholomew and Bohnsack 2005, pp. 136–137), the catch-and-release mortality rates for Arctic grayling are comparatively low (Clark 1991, pp. 1, 25–26; Nuhfer 1992, pp. 11, 29; Byorth 1994b, entire). We are uncertain whether these lower observed rates reflect an innate resistance to effects of catch-and-release angling in Arctic grayling or whether they reflect differences among particular populations or study designs used to estimate mortality. Even if catch-and-release angling mortality is low (e.g., 1.4 percent as reported in Byorth 1994b, entire), the high catchability of Arctic grayling (ASRD 2005, pp. 19–20) raises some concern about the cumulative mortality of repeated catch-and-release captures. For example, based on the Arctic grayling catch rates and angler pressure reported by Byorth (1993, pp. 25–26) and the population estimate for the Big Hole River reported in Byorth (1994a, p. ii), a simple calculation suggests that age 1 and older Arctic grayling susceptible to recreational angling may be captured and released 3 to 6 times per year.

In conclusion, angling harvest may have significantly reduced the abundance and distribution of the Upper Missouri River DPS of Arctic grayling during the past 50 to 100 years, but current catch-and-release fishing regulations (or angling closures) in most waters occupied by extant populations have likely ameliorated the past threat of overharvest. Although we do note the potential for cumulative mortality caused by repeated catch-and-release of individual Arctic grayling in the Big Hole River, we have no evidence indicating that repeated capture of Arctic grayling under catch-and-release regulations is currently limiting that population or the DPS. Moreover, fishing is restricted in the Big Hole River, an important recreational fishing destination in southwestern Montana, when streamflow and temperature conditions are likely to increase stress to captured Arctic grayling. Anglers can still capture and keep Arctic grayling in most lake populations in accordance with State fishing regulations, but we have no evidence that current levels of angling are affecting these populations. Thus, the best available evidence does not indicate that recreational angling represents a current threat to the DPS. We have no information at this time to indicate that future fishing regulations are likely to change in a way that would be detrimental to Arctic grayling. Thus, we do not believe that recreational angling will represent a threat in the future.

Monitoring and Scientific Study

Montana Fish, Wildlife and Parks consistently monitors the Arctic grayling population in the Big Hole River and its tributaries, and to a lesser extent those populations in the Madison River and Centennial Valley (Cayer and McCullough 2013, entire). Electrofishing (use of electrical current to temporarily and non-lethally immobilize a fish for capture) is a primary sampling method to monitor Arctic grayling in these populations (Rens and Magee 2007, pp. 13, 17, 20). A number of studies have investigated the effects of electrofishing on various life stages of Arctic grayling. Dwyer and White (1997, p. 174) found that electrofishing reduced the growth of juvenile Arctic grayling and concluded that long-term, sublethal effects of electrofishing were possible. Hughes (1998, pp. 1072, 1074–1075) found evidence that electrofishing and tagging affected the growth rate and movement behavior of Arctic grayling in the Chena River, Alaska. Roach (1999, p. 923) studied the effects of electrofishing on fertilized Arctic grayling eggs and found that while electrofishing could result in egg mortality, the population-level effects of such mortality were not likely to be significant. Lamothe and Magee (2003, pp. 16, 18–19) noted mortality of Arctic grayling in the Big Hole River during a radio-telemetry study, and concluded that handling stress or predation were possible causes of mortality. However, population monitoring activities in the Big Hole River are curtailed when environmental conditions become unsuitable (Big Hole Watershed Committee 1997, entire), and recent monitoring reports (Cayer and McCullough 2012, 2013, entire) provide no evidence that electrofishing is harming the Arctic grayling population in the Big Hole River.

Traps, electrofishing, and radio telemetry have been used to monitor and study Arctic grayling in the Centennial Valley (Gangloff 1996, pp. 13–14; Mogen 1996, pp. 10–13, 15; Kaeding and Boltz 1999, p. 4; Rens and Magee 2007, p. 17); however, there are no data to indicate these monitoring activities reduce the growth and survival of individual Arctic grayling or otherwise constitute a current or future threat to the population.

The Arctic grayling population in the Madison River–Ennis Reservoir is not

monitored as intensively as the Big Hole River population (Rens and Magee 2007, pp. 20–21). When electrofishing surveys targeting Arctic grayling in the Madison River occur, they are conducted during the spawning run for that population (Clancey 1996, p. 6). Capture and handling during spawning migrations or during actual spawning could affect the reproductive success of individual Arctic grayling. However, under recent monitoring frequencies, any population-level effect of these activities is likely negligible, and we have no data to indicate these monitoring activities reduce the growth and survival of individual Arctic grayling or otherwise constitute a current or future threat to the Madison River population.

Most of the adfluvial populations of Arctic grayling are infrequently monitored (MFISH 2014a, unpublished data). Because monitoring of these populations has been minimal, we do not believe that monitoring or scientific study constitutes a current or future threat to these particular populations.

The intensity of monitoring and scientific investigation varies among the different populations in the DPS, but we have no evidence suggesting that monitoring or scientific study has influenced the decline of Arctic grayling in the Missouri River basin. We also have no evidence indicating these activities constitute a current threat to the DPS that would result in measurable, population-level effects. We expect similar levels of population monitoring and scientific study in the future, and we conclude that these activities will not represent a threat in the future.

Reintroduction Efforts

Attempts to restore or re-establish native populations of both fluvial and adfluvial Arctic grayling may result in the mortality of some embryos and young fish. Currently, gametes (eggs and sperm) used to re-establish the fluvial ecotype come from captive brood reserves of Big Hole River Arctic grayling maintained in Axolotl and Green Hollow II Lakes (Rens and Magee 2007, pp. 22–24). Removal of gametes from the wild Big Hole River population was necessary to establish this brood reserve (Leary 1991, entire) and will likely continue intermittently in the future to ensure the genetic representation of the brood reserve. The previous removal of gametes for conservation purposes could have hypothetically reduced temporarily the abundance of the wild population if the population was unable to compensate for this effective mortality by increased survival of remaining individuals. However, the establishment of a brood reserve provides a conservation benefit from the standpoint that gametes from the reserve can be harvested to use for translocation efforts to benefit the species. Ultimately, we conclude that past gamete collection from the Big Hole River population has not harmed the wild population or that collection in the future will harm the population. Consequently, we conclude that gamete collection from the Big Hole River Arctic grayling population does not constitute a current or future threat to the population.

Efforts to re-establish native, genetically representative populations of adfluvial Arctic grayling in the Centennial Valley and to maintain a brood reserve for that population have resulted in the direct collection of eggs from Arctic grayling spawning runs in Red Rock Creek. During 2000–2002, an estimated 315,000 Arctic grayling eggs were collected from females captured in Red Rock Creek (Boltz and Kaeding 2002, pp. v, 8). The Service placed over 180,000 of these eggs in remote site incubators in streams within the Red Rock Lakes NWR that historically supported Arctic grayling spawning runs (Boltz and Kaeding 2002, pp. v, 10).

Montana Fish, Wildlife and Parks and the Service are currently collaborating on an effort to re-establish an Arctic grayling spawning run in Elk Springs Creek and a replicate of the Centennial population in Elk Lake (West 2014a, pers. comm., Jaeger 2014e, pers. comm.). These actions required the collection of gametes (approximately 370,000 eggs) from Arctic grayling captured in Red Rock Creek (Jaeger 2014f, pers. comm.). Approximately 10 percent of these eggs were returned to Red Rock Creek and incubated in that stream (using a method resulting in high survivorship of embryos) (Kaeding and Boltz 2004, entire) to mitigate for collection of gametes from the wild spawning population. We infer that past gamete collection in Red Rock Creek has not significantly influenced recruitment in Red Rock Creek, as abundance of returning spawners to Red Rock Creek was robust in 2013 and 2014.

Overall, we conclude that collection of gametes from the wild populations in the Big Hole River and Centennial Valley systems has not contributed to population-level declines in those populations, or that the previous collections represent overexploitation. Future plans to collect gametes from Arctic grayling in the Big Hole River should be evaluated in light of the status of those populations at the anticipated time of the collections. We encourage the agencies involved to coordinate their efforts and develop a strategy for broodstock development and conservation efforts that minimizes any potential impacts to wild native populations. However, at present, we do not have any data indicating collection of gametes for conservation purposes represents a current threat to the Big Hole River and Centennial Valley populations. We have no evidence to indicate that gamete collection will increase in the future, so we conclude that this does not represent a future threat.

Conservation Efforts To Reduce Recreational Overutilization

The MFWP closes recreational angling in specific reaches of the Big Hole River when environmental conditions are considered stressful. Specific streamflow and temperature thresholds initiate mandatory closure of the fishery (Big Hole Watershed Committee 1997, entire). Such closures have been implemented as recently as 2013; however, changes to closure types and criteria in past years preclude any meaningful comparisons between different time periods (Horton 2014b, pers. comm.).

Summary of Factor B

Based on the best information available, we conclude that overexploitation by angling may have contributed to the historical decline of the Upper Missouri River DPS of Arctic grayling, but we have no evidence to indicate that current or future levels of recreational angling, population monitoring, scientific study, or conservation actions constitute overexploitation; therefore, we do not consider them a threat. We expect similar or decreased levels of these activities to continue in the future, and we do not believe they are likely to become a threat in the future.

Factor C. Disease or Predation

Disease

Arctic grayling are resistant to whirling disease, which is responsible for population-level declines of other stream salmonids (Hedrick *et al.* 1999, pp. 330, 333). However, Arctic grayling are susceptible to bacterial kidney disease (BKD), a bacterial disease causing reduced immune response and mortality in some fish species (Meyers *et al.* 1993, p. 181). Some wild populations in pristine habitats test positive for BKD (Meyers *et al.* 1993, pp. 186–187), but clinical effects of the disease are more likely to be evident in captive populations (Meyers *et al.* 1993,

entire; Peterson 1997, entire). To preclude transmission of BKD between Arctic grayling during brood reserve, hatchery, and wild Arctic grayling translocation efforts, MFWP tests kidney tissue and ovarian fluid for the causative agent for BKD as well as other pathogens in brood populations (Rens and Magee 2007, pp. 22–24).

Information on the prevalence of BKD or other diseases in native Arctic grayling populations in Montana is generally lacking. One reason for this lack of information is that some disease assays are invasive or require the sacrifice of individual fish (e.g., removal of kidney tissue to test for BKD pathogen), so they are not done often on native populations. Arctic grayling in captive brood reserves (e.g., Axolotl Lake, Green Hollow Lake) have all recently tested negative for infectious hematopoietic necrosis virus (IHNV), infectious pancreatic necrosis virus (IPNV), *Myxobolus cerebralis* (the pathogen that causes whirling disease), *Renibacterium salmoninarum* (the pathogen that causes BKD), and *Aeromonas salmonicida* (the pathogen that causes furunculosis) (USFWS 2010b). Consequently, the best available evidence at this time does not indicate that disease threatens native Arctic grayling of the upper Missouri River. We have no basis to conclude that disease will become a future threat, so we conclude that disease does not constitute a threat in the future.

Predation By and Competition With Nonnative Trout

Brook trout (*Salvelinus fontinalis*), brown trout (*Salmo trutta*), and rainbow trout are widely distributed and abundant in the western United States, including the upper Missouri River system (Schade and Bonar 2005, p. 1386; Table 6). One or more of these nonnative trout species co-occur with 11 of the 20 Arctic grayling population in the basin. The remaining nine Arctic grayling populations occur with other native species or no other fish species (Table 6).

Table 6. Nonnative species composition for each Arctic grayling population within the upper Missouri River DPS. Rows highlighted in gray indicate populations occurring in native habitat. For ecotype, F = fluvial, A = adfluvial, and F/A = both fluvial and adfluvial characteristics present. All data presented in this table are from MFISH 2014c, unpublished data.

Population	Ecotype	Nonnative species present*
Big Hole River (+11 tributaries)	F	Rainbow, Brook, Brown
Ennis Reservoir / Madison River	F/A	Rainbow, Brown, Utah chub
Centennial Valley	F/A	Brook, Yellowstone cutthroat hybrid
Mussigbrod Lake	A	Brook
Miner Lake	A	Rainbow, Brook
Ruby River	F	Rainbow hybrid, Brook, Brown
Agnes Lake	A	None
Odell Lake	A	None
Bobcat Lake	A	None
Schwinegar Lake	A	None
Pintlar Lake	A	Rainbow, Brook
Deer Lake	A	None
Emerald Lake	A	None
Grayling Lake	A	None
Hyalite Lake	A	Brook, Yellowstone cutthroat
Diversion Lake	A	Rainbow, Brook
Gibson Reservoir	A	Rainbow, Brook
Lake Levale	A	None
Park Lake	A	Yellowstone cutthroat
Grebe Lake	A	None

*All listed nonnative fish species are trout species, unless otherwise noted.

Ecological interactions (predation and competition) with the brook trout, brown trout, and rainbow trout are among the long-standing hypotheses to explain the historical decline of Arctic grayling in the upper Missouri River system and the extirpation of some populations from specific waters (Nelson 1954, p. 327; Vincent 1962, pp. 81–96; Kaya 1992, pp. 55–56). Strength of competition and predation can be very difficult to measure in wild trout populations (Fausch 1988, pp. 2238, 2243; 1998, pp. 220, 227). Predation on Arctic grayling eggs and fry by brook trout has been observed in both the Big Hole River and the Centennial Valley (Nelson 1954, entire; Streu 1990, p. 17; Katzman 1998, pp. 35, 47, 114), but such observations have not been definitively linked to population declines of Arctic grayling. To our knowledge, no studies have investigated or attempted to measure predation by brown trout or rainbow trout on Arctic grayling in Montana. Brook trout do not appear to negatively affect habitat use or growth of juvenile, hatchery-reared Arctic grayling (Byorth and Magee 1998, p. 921), but further studies are necessary to determine whether competition or predation occur at other life stages or with brown or rainbow trout (Byorth and Magee 1998, p. 929). Predation represents direct mortality that can limit populations, and young-of-year Arctic grayling may be particularly susceptible to predation by other fishes because

they are smaller and weaker swimmers than trout fry (Kaya 1990, pp. 52–53).

The evidence for predation and competition by nonnative trout on Arctic grayling in the upper Missouri River basin is largely circumstantial, and inferred from the reduced historical abundance and distribution of Arctic grayling following encroachment by nonnative trout (Kaya 1990, pp. 52–54; Kaya 1992, p. 56; Magee and Byorth 1995, p. 54). In addition, the historical difficulty in establishing Arctic grayling populations in waters already occupied by nonnative trout, especially brown trout (Kaya 2000, pp. 14–15) may suggest competition and predation play a role. However, the often-cited case histories where nonnative trout were implicated in the decline of Arctic grayling also involved prior or concurrent habitat modification or degradation, thus confounding the two factors (Kaya 1990, pp. 52–54; Kaya 1992, p. 56; Magee and Byorth 1995, p. 54) and making it difficult to pinpoint the cause of the decline. Where past habitat degradation has not been a factor (e.g., many of the high-elevation adfluvial populations), successful coexistence between brook trout and rainbow trout and Arctic grayling has occurred over long durations, greater than 100 years in some populations (Jaeger 2014, unpublished data; MFISH 2014a, unpublished data). Despite past habitat degradation in the Big Hole River, Arctic grayling have coexisted with brook, rainbow and brown trout for at least 60 years (Liknes 1981, p. 34).

In the Big Hole River, brook trout, rainbow trout, and brown trout are more abundant than Arctic grayling (Rens and Magee 2007, p. 42). In general, brook trout is the most abundant nonnative trout species in the Big Hole River upstream from Wisdom, Montana (Rens and Magee 2007, pp. 7, 42; Lamothe *et al.* 2007, pp. 35–38), whereas rainbow trout and brown trout are comparatively more abundant in the downstream reaches (Kaya 1992, p. 56; Oswald 2005, pp. 22–29; Lamothe *et al.* 2007, pp. 35–38; Rens and Magee 2007, p. 10). Recently, brown trout abundance has increased in the upper Big Hole River upstream of Wisdom (MFWP 2013e, unpublished data). In the reach of the upper Big Hole River where Arctic grayling densities are highest, nonnative trout abundances are lower than upstream or downstream reaches, and appear to have been stable since at least 2006 (Cayer 2013, unpublished data).

The potential effects of nonnative trout species (rainbow, brown, brook, and Yellowstone cutthroat trout) on Arctic grayling recruitment are largely unknown. Arctic grayling experts from Montana convened to explore such effects predicted a less than 12 percent reduction in Arctic grayling recruitment when nonnative trout densities for any species were 500 fish/mile or fewer, on average (SSA 2014, p. 2). Predicted reduction in Arctic grayling recruitment when any of the nonnative species were present at 1,000 fish/mile was higher and similar among species (20 to 25 percent; SSA 2014, p. 2). These estimates were derived with the assumption that habitat was not a limiting factor.

Currently, densities of nonnative trout (brook, brown, rainbow) are fewer than 20 fish/mile (per species) in the mainstem Big Hole River where Arctic grayling densities are highest (Cayer 2013, unpublished data). Densities of brown and rainbow trout are fewer than 20 fish/mile in Big Hole River tributaries, while brook trout density in tributaries is higher (~80 fish/mile). Brook trout density estimates only include fish greater than 10 inches, thus it is unknown how many total brook trout reside in these areas. At current densities of rainbow and brown trout, effects on Arctic grayling recruitment would be expected to be small, based on the predictions of recruitment reduction from nonnatives from the expert meeting.

In the Madison River in and near Ennis Reservoir, brown trout and rainbow trout are abundant and are the foundation of an important recreational fishery (e.g., Byorth and Shepard 1990, p. 1). Nonnative rainbow trout and brown trout densities in the Madison River near Ennis Reservoir are about 3,500 to 4,000 fish per mile (both species included). These densities are substantially higher than those observed in other systems occupied by Arctic grayling, and are higher than those asked of the Arctic grayling experts to predict effects of on Arctic grayling recruitment. Arctic grayling abundance in the Ennis Reservoir/Madison River population appears to be suppressed and declining (MFWP 2013f, unpublished data). The relationship between the higher densities of nonnative trout and the low and declining abundance of Arctic grayling in this population is unclear. However, the densities of nonnative trout observed in the Madison River are not representative of densities of nonnatives in any of the other 19 populations of Arctic grayling in the DPS. Thus, the effect of nonnatives on Arctic grayling recruitment is a concern in the Madison River, but not in the rest of the DPS.

In the Centennial Valley, brook trout and hybrid cutthroat trout (Yellowstone cutthroat trout (*Oncorhynchus clarkii bouvieri*) crossed with rainbow trout; Mogen 1996, p. 42) have well-established populations and dominate the abundance and biomass of the salmonid community (Katzman 1998, pp. 2–3; Boltz 2010, pers. comm.). In Upper Red Rock Lake, hybrid cutthroat trout and Arctic grayling exhibit some dietary overlap (Cutting 2012, unpublished data), although food may not be a limiting factor in this system, given the eutrophic, highly productive nature of Upper Red Rock Lake (Jaeger 2014g, pers. comm.). In addition, hybrid Yellowstone cutthroat trout in Upper Red Rock Lake may occupy a similar ecological niche once occupied by native westslope cutthroat trout, a species with which Arctic grayling co-evolved. Thus, the adaptations Arctic grayling developed over thousands of years to coexist with westslope cutthroat trout may be equally advantageous when coexisting with hybrid Yellowstone cutthroat trout.

Predation of Arctic grayling by brook trout and hybrid cutthroat trout occurs in Upper Red Rock Lake (Nelson 1954, entire; Katzman 1998, pp. 35, 47, 114). In 2013, the Service initiated a removal effort to suppress hybrid cutthroat trout in Red Rock Creek and Upper Red Rock Lake. This effort will occur for 5 years, during and after which the biological response of Arctic grayling will be documented. Currently, the relationship between hybrid cutthroat trout and Arctic grayling abundance in the Centennial Valley is unclear. However, a recent peak in hybrid cutthroat trout abundance was paralleled by a peak in Arctic grayling abundance, indicating predation by hybrid cutthroat trout is likely not a threat to Arctic grayling in the Centennial Valley. It is plausible that extensive macrophyte beds present in Upper Red Rock Lake (Katzman 1998, p. 81) provide complex hiding and rearing cover for juvenile Arctic grayling and minimize interactions between young Arctic grayling and nonnative fishes (Almany 2004, entire).

In the upper Missouri River basin, it appears that the extent and magnitude of competition and predation between nonnative trout and Arctic grayling likely depends on environmental context (e.g., habitat type and quality, environmental conditions such as temperature, etc.) in most populations. High-quality habitats likely provide more food resources and complexity (rearing areas) than lower quality habitats (MacArthur and Levins 1967, entire). These features of high-quality habitats probably lessen competition (MacArthur and Levins 1967, entire) and reduce predation (Almany 2004, p. 107) by providing complex rearing areas

for the vulnerable young life stages of Arctic grayling. For these reasons historically, when many of the fluvial habitats were degraded, competition and predation likely had a larger effect of Arctic grayling populations than they currently do. Certainly, competition and predation are still occurring in habitats occupied by both nonnatives and Arctic grayling. However, the increase in habitat quality observed in recent years, particularly in the Big Hole River and Centennial Valley, appear to have minimized effects of competition and predation on respective Arctic grayling populations. The primary evidence of this is recent trends showing increasing numbers of both nonnatives and Arctic grayling in systems with high-quality habitat, including increasing brown trout and Arctic grayling in the Big Hole River. Other adfluvial populations of Arctic grayling have coexisted with brook, rainbow, and Yellowstone cutthroat trout for extended periods of time (>60 years) with no observed declines in abundance.

Predation by Birds and Mammals

In general, the incidence and effect of predation by birds and mammals on Arctic grayling is not well understood because few detailed studies have been completed (Northcote 1995, p. 163). Black bear (*Ursus americanus*), mink (*Neovison vison*), and river otter (*Lontra canadensis*) are present in southwestern Montana, but direct evidence of predatory activity by these species is often lacking (Kruse 1959, p. 348). Osprey (*Pandion haliaetus*) can capture Arctic grayling during the summer (Kruse 1959, p. 348). In the Big Hole River, Byorth and Magee (1998, p. 926) attributed the loss of Arctic grayling from artificial enclosures used in a competition experiment to predation by minks, belted kingfisher (*Ceryle alcyon*), osprey, and great blue heron (*Ardea herodia*). In addition, American white pelican (*Pelecanus erythrorhynchos*) are seasonally present in the Big Hole River, and they also may feed on Arctic grayling. The aforementioned mammals and birds can be effective fish predators; however, Arctic grayling evolved with these native predator species and have developed life-history and reproductive strategies to mitigate for predation losses. We have no data demonstrating any of these species historically or currently consume Arctic grayling at levels sufficient to exert a measureable, population-level impact on native Arctic grayling in the upper Missouri River system. We expect the current situation to continue, so we conclude that predation by birds and mammals does not constitute a threat to Missouri River Arctic grayling now or in the future.

Summary of Factor C

Based on the information available at this time, we conclude disease does not represent a past or current threat to the Upper Missouri River DPS of Arctic grayling. We have no basis for concluding that disease may become a future threat.

Predation and competition can influence the distribution, abundance, and diversity of species in ecological communities. Predation by and competition with nonnative species can negatively affect native species, particularly those that are stressed or occurring at low densities due to unfavorable environmental conditions. Historically, the impact of predation and competition from nonnatives was likely greater because many of the habitats used by Arctic grayling were degraded. Thus, predation and competition likely played a role historically in decreasing the abundance and distribution of Arctic grayling. Currently, habitat conditions have improved markedly for those Arctic grayling populations on Federal land (18 of 20 populations) and for the Big Hole River population on primarily private land. Predation and competition with nonnative species are still occurring in these systems, although the extent and magnitude of these effects appears to be mediated by habitat quality. Abundance of Arctic grayling and nonnative brown trout are increasing in the Big Hole River. Before suppression efforts began, Yellowstone cutthroat hybrids and Arctic grayling spawners were both at 40 year highs in Red Rock Creek in the Centennial Valley. We acknowledge nonnative trout densities are high in the Madison River and may be contributing to the decline of that Arctic grayling population; however, most other adfluvial populations appear to have stable abundance of Arctic grayling and nonnatives. Thus, based on our review we have no information that predation or competition represents a threat at the DPS level on the Upper Missouri River DPS of Arctic grayling. Further, Arctic grayling experts project only a small effect of predicted nonnative trout densities on Arctic grayling recruitment in the future. Thus, we have no information that predation or competition from nonnative trout represents a future threat at the population or species level.

Little is known about the effect of predation on Arctic grayling by birds and mammals. Such predation likely does occur, but we are not aware of any situation where an increase in fish-eating birds or mammals has coincided with the decline of Arctic grayling. Consequently, the available information does not support a conclusion that predation by birds or mammals represents a substantial past, present, or future threat to native Arctic grayling in the upper Missouri River.

Factor D. The Inadequacy of Existing Regulatory Mechanisms

Section 4(b)(1)(A) of the Act requires the Service to take into account ''those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species . . .'' We consider relevant Federal, State, and Tribal laws, and regulations when evaluating the status of the species. Regulatory mechanisms, if they exist, may preclude the need for listing if we determine that such mechanisms adequately address the threats to the species such that listing is not warranted. Only existing ordinances, regulations, and laws, that have a direct connection to a law, are enforceable and permitted are discussed in this section. All other measures are discussed under the specific relevant factor.

U.S. Federal Laws and Regulations

No Federal laws in the United States specifically address the Arctic grayling, but several, in their implementation, may affect the species' habitat.

National Environmental Policy Act

All Federal agencies are required to adhere to the National Environmental Policy Act (NEPA) of 1970 (42 U.S.C. 4321 *et seq.*) for projects they fund, authorize, or carry out. The Council on Environmental Quality's regulations for implementing NEPA (40 CFR parts 1500–1518) state that, when preparing environmental impact statements, agencies shall include a discussion on the environmental impacts of the various project alternatives, any adverse environmental effects which cannot be avoided, and any irreversible or irretrievable commitments of resources involved (40 CFR part 1502). The NEPA itself is a disclosure law, and does not require subsequent minimization or mitigation measures by the Federal agency involved. Although Federal agencies may include conservation measures for Arctic grayling as a result of the NEPA process, any such measures are typically voluntary in nature and are not required by NEPA.

Federal Land Policy and Management Act

The Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. 1701 *et seq.*), as amended, states that the public lands shall be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values. This statute protects lands within the range of the Arctic grayling managed by the Bureau of Land Management (BLM).

The BLM considers the fluvial Arctic grayling a sensitive species requiring special management consideration for planning and environmental analysis (BLM 2009a, entire, BLM 2009b, entire). The BLM has recently developed a resource management plan (RMP) for the Dillon Field Office Area that provides guidance for the management of over 900,000 acres of public land administered by BLM in southwest Montana (BLM 2006a, p. 2). The Dillon RMP area thus includes the geographic area that contains the Big Hole, Miner, Mussigbrod, Madison River, and Centennial Valley populations of Arctic grayling. A RMP planning area encompasses all private, State, and Federal lands within a designated geographic area (BLM 2006a, p. 2), but the actual implementation of the RMP focuses on lands administered by the BLM that typically represent only a fraction of the total land area within that planning area (BLM 2006b, entire). Restoring Arctic grayling habitat and ensuring the long-term persistence of both fluvial and adfluvial ecotypes are among the RMP's goals (BLM 2006a, pp. 30–31). However, there is little actual overlap between the specific parcels of BLM land managed by the Dillon RMP and the current distribution of Arctic grayling (BLM 2006b, entire).

The BLM also has a RMP for the Butte Field Office Area, which includes more than 300,000 acres in south-central Montana (BLM 2008, entire), including portions of the Big Hole River in Deerlodge and Silver Bow counties (BLM 2008, p. 8; 2009c, entire). The Butte RMP considers conservation and management strategies and agreements for Arctic grayling in its planning process and includes a goal to opportunistically enhance or restore habitat for Arctic grayling (BLM 2008, pp. 10, 30, 36). However, the Butte RMP does not mandate specific actions to improve habitat for Arctic grayling in the Big Hole River and little overlap exists between BLM-managed lands and Arctic grayling occupancy in this planning area.

National Forest Management Act

Under the U.S. Forest Service (USFS) National Forest Management Act (NFMA) of 1976, as amended (16 U.S.C. 1600 *et seq.*), the USFS strives to provide for a diversity of plant and animal communities when managing national forest lands. Individual national forests may identify species of concern that are significant to each forest's biodiversity. The USFS considers fluvial Arctic grayling a sensitive species (USFS 2004, entire) for which population viability is a concern. However, this designation provides no special regulatory protections.

Most of the upper Missouri River grayling populations occur on National Forest land; all 16 adfluvial populations and the fluvial Ruby River population (majority on National Forest) occur on USFS-managed lands. These populations occur across four different National Forests; consequently the riparian habitats surrounding the lakes and tributaries are managed according to the standards and guidelines outlined in each National Forest Plan. All Forest Plans do not contain the same standards and guidelines; however, each Plan has standards and guidelines for protecting riparian areas around perennial water sources. In the Beaverhead-Deerlodge and Helena National Forest Plans, the Inland Native Fish Strategy (INFS) standards and guidelines have been incorporated. The INFS, in part, defines widths of riparian buffer zones adequate to protect streams and lakes from non-channelized sediment inputs and contribute to other riparian functions, such as stream shading and bank stability. These protections have been incorporated into the Beaverhead-Deerlodge and Helena National Forest Plans through amendments and are currently preserving intact riparian areas around most, if not all, adfluvial Arctic grayling habitats. Exceptions to the riparian protections outlined in INFS are occasionally granted; however, these exceptions require an analysis of potential effects and review by a USFS fish biologist.

On the Gallatin National Forest, standards and guidelines in the Forest Plan include using ''best management practices (BMPs)'' to protect water sources and riparian areas. Similar to INFS, BMPs outline buffer strips along watercourses where disturbance and activity is minimized to protect riparian areas and water quality. On the Lewis and Clark National Forest, standards and guidelines are in place to leave timbered buffer strips adjacent to waterbodies to protect riparian areas. Grayling habitat on the Gallatin and Lewis and Clark National Forests consists of seven high-elevation mountain lakes.

The NFMA and INFS are adequately protecting riparian habitat on National Forest land, given the intact nature of most riparian areas surrounding the high-elevation lake populations and the Ruby River.

National Park Service (NPS) Organic Act

The NPS Organic Act of 1916 (16 U.S.C. 1 *et seq.*), as amended, states that the NPS ''shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations . . . to conserve the scenery and the national and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.'' Arctic grayling are native to the western part of Yellowstone National Park and habitats are managed accordingly for the species under the Native Species Management Plan (NPS 2010, entire). One adfluvial Arctic grayling population, Grebe Lake, currently occurs in Yellowstone National Park. The Grebe Lake population is one of the larger adfluvial populations (see Table 3, above) in the DPS. The habitat in Grebe Lake and the tributaries is managed for conservation (NPS 2010, p. 44). Further, it is expected that these habitats will be managed for conservation in the future, based on provisions in the Organic Act and guidance outlined in the Native Species Management Plan.

National Wildlife Refuge System Improvement Act of 1997

The National Wildlife Refuge Systems Improvement Act (NWRSIA) of 1997 (Pub. L. 105–57) amends the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd *et seq.*). The NWRSIA directs the Service to manage the Refuge System's lands and waters for conservation. The NWRSIA also requires monitoring of the status and trends of refuge fish, wildlife, and plants. The NWRSIA requires development of a comprehensive conservation plan (CCP) for each refuge and management of each refuge consistent with its plan.

The Service has developed a final CCP to provide a foundation for the management and use of Red Rock Lakes NWR (USFWS 2009, entire) in the Centennial Valley. Since the development of the CCP, Refuge staff have conducted numerous habitat conservation/restoration projects to benefit Arctic grayling, including:

Removal of an earthen dam whose reservoir inundated several hundred meters of historical Arctic grayling spawning habitat in Elk Springs Creek, and subsequent reintroductions and tracking of young-of-year Arctic grayling in Elk Springs Creek (West 2014a, pers. comm.). However to date, the reintroductions in Elk Springs Creek have not established a spawning run. Other conservation projects conducted on the Refuge include the acquisition of new land and decreases in grazing intensities from 20,000 AUMs to about 5,000 AUMs. The Refuge has implemented a rest-rotation grazing system where more durable lands are grazed while more sensitive lands (e.g., riparian areas) are rested for up to 4 years (West 2014a, pers. comm.). Some active riparian restoration has also occurred, including a project to reconnect Red Rock Creek to a historical channel and replacement of four culverts to allow for natural tributary migration across alluvial fans (West 2014a, pers. comm.). The Refuge is also actively engaged in supporting ongoing graduate research efforts to explore potential limiting factors for Arctic grayling in the Centennial Valley.

Other conservation projects under the CCP have been focused on potential nonnative species effects on Arctic grayling, namely a 5-year project removing hybrid cutthroat trout captured during their upstream spawning run and a study of dietary overlap between Arctic grayling and Yellowstone cutthroat trout (West 2014a, pers. comm.). The Refuge also operates a sill dam (previous upstream fish barrier) to provide upstream fish passage and operates one irrigation ditch only when snowpack is average or above and timing is such that young Arctic grayling are not present near the diversion (West 2014a, pers. comm.).

The NWRSIA is adequately protecting habitat for Arctic grayling on the Refuge because riparian habitats are improving and the Centennial Valley population is increasing in both abundance and distribution. The proven track record of completed conservation projects on the refuge and currently expanding Arctic grayling population indicate that the continued implementation of the CCP during the next 15 years (which is the life of the CCP) will continue to improve habitat conditions on the refuge.

Federal Power Act (FPA)

The Federal Power Act of 1920 (*16 U.S.C. 791 et seq.,* as amended) provides the legal authority for the Federal Energy Regulatory Commission (FERC), as an independent agency, to regulate hydropower projects. In deciding whether to issue a license, FERC is required to give equal consideration to mitigation of damage to, and enhancement of, fish and wildlife (16 U.S.C. 797(e)). A number of FERC-licensed dams exist in the Missouri River basin in current (i.e., Ennis Dam on the Madison River) and historical Arctic grayling habitat (e.g., Hebgen Dam on the Madison River; Hauser, Holter, and Toston dams on the mainstem Missouri River; and Clark Canyon Dam on the Beaverhead River). The FERC license expiration dates for these dams range from 2024 (Toston) to 2059 (Clark Canyon) (FERC 2010, entire). None of these structures provides upstream passage of fish, and such dams are believed to be one of the primary factors that led to the historical decline of Arctic grayling in the Missouri River basin (see discussion under Factor A, above). However, recent monitoring data indicate multiple stable Arctic grayling populations occurring above mainstem dams, with the exception of the Ennis Reservoir/Madison River population. The drawdowns in reservoir water level believed to have historically affected the Ennis Reservoir/Madison River Arctic grayling population are not permitted under a new licensing agreement between the Federal Energy Regulatory Commission and Madison Dam operators, as we described previously in this finding (Clancey 2014, pers. comm.). This change in water management in Ennis Reservoir will ensure adequate rearing and foraging habitat for this population. The fluvial ecotype is still represented in the DPS and both strictly fluvial Arctic grayling populations appear to be stable or increasing. Thus, we conclude the Federal Power Act is currently adequate to protect the Upper Missouri River DPS of Arctic grayling at the population and DPS level.

Clean Water Act

The Clean Water Act (CWA) of 1972 (33 U.S.C. 1251 *et seq.*) establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. The CWA's general goal is to ''restore and maintain the chemical, physical, and biological integrity of the Nation's waters'' (33 U.S.C. 1251(a)). The CWA requires States to adopt standards for the protection of surface water quality and establishment of total maximum daily load (TMDL) guidelines for rivers. The Big Hole River has approved TMDL plans for its various reaches (MDEQ 2009a, entire; 2009b, entire); thus, complete implementation of this plan should improve water quality (by reducing water temperatures, and reducing sediment and nutrient inputs) in the Big Hole River in the future. As of September 2013, there was no significant TMDL plan development activity in the Madison River or Red Rock watershed in the Centennial Valley (see MDEQ 2014). Currently, TMDL documents have been approved for the Ruby River. All planning areas containing other adfluvial Arctic grayling populations in the upper Missouri River basin have approved TMDLs, including the Gallatin, Lake Helena, and Sun watersheds (see MDEQ 2014).

Currently, water temperatures in the Big Hole River exceed levels outlined in the TMDL. However, reductions in water temperature within tributaries have been demonstrated (see discussion under Factor A and Table 4). Given that most Arctic grayling populations within the upper Missouri River basin are stable or increasing and habitats are largely being managed in a manner that benefits the species, we have no evidence that the CWA is inadequately protecting Arctic grayling at the population or DPS level.

State Laws

Montana Environmental Policy Act

The legislature of Montana enacted the Montana Environmental Policy Act (MEPA) as a policy statement to encourage productive and enjoyable harmony between humans and their environment, to protect the right to use and enjoy private property free of undue government regulation, to promote efforts that will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of humans, to enrich the understanding of the ecological systems and natural resources important to the State, and to establish an environmental quality council (MCA 75–1–102). Part 1 of the MEPA establishes and declares Montana's environmental policy. Part 1 has no legal requirements, but the policy and purpose provide guidance in interpreting and applying statutes. Part 2 requires State agencies to carry out the policies in Part 1 through the use of systematic, interdisciplinary analysis of State actions that have an impact on the human environment. This is accomplished through the use of a deliberative, written environmental review. In practice, MEPA provides a basis for the adequate review of State actions in order to ensure that environmental concerns are fully considered (MCA 75–1–102). Similar to NEPA, the MEPA is largely a disclosure

law and a decision-making tool that does not specifically require subsequent minimization or mitigation measures.

Laws Affecting Physical Aquatic Habitats

A number of Montana State laws have a permitting process applicable to projects that may affect stream beds, river banks, or floodplains. These include the Montana Stream Protection Act (SPA), the Streamside Management Zone Law (SMZL), and the Montana Natural Streambed and Land Preservation Act (Montana Department of Natural Resources (MDNRC) 2001, pp. 7.1–7.2). The SPA requires that a permit be obtained for any project that may affect the natural and existing shape and form of any stream or its banks or tributaries (MDNRC 2001, p. 7.1). The Montana Natural Streambed and Land Preservation Act (i.e., MNSLPA or 310 permit) requires private, nongovernmental entities to obtain a permit for any activity that physically alters or modifies the bed or banks of a perennially flowing stream (MDNRC 2001, p. 7.1). The SPA and MNSLPA laws do not mandate any special recognition for species of concern, but in practice, biologists that review projects permitted under these laws usually stipulate restrictions to avoid harming such species (Horton 2010, pers. comm.). The SMZL regulates forest practices near streams (MDNRC 2001, p. 7.2). The Montana Pollutant Discharge Elimination System (MPDES) Stormwater Permit applies to all discharges to surface water or groundwater, including those related to construction, dewatering, suction dredges, and placer mining, as well as to construction that will disturb more than 1 acre within 100 ft (30.5 m) of streams, rivers, or lakes (MDNRC 2001, p. 7.2).

Review of applications by MFWP, MTDEQ, or MDNRC is required prior to issuance of permits under the above regulatory mechanisms (MDNRC 2001, pp. 7.1–7.2). These regulatory mechanisms are expected to limit impacts to aquatic habitats in general. Given that most Arctic grayling populations are stable or increasing in abundance in the presence of these regulatory mechanisms, we have no basis for concluding that these regulatory mechanisms are inadequate to protect the Arctic grayling and their habitat now or in the future.

Montana Water Use Act

The purpose of the Montana Water Use Act (Title 85: Chapter 2, Montana Codes Annotated) is to provide water for existing and future beneficial use and to maintain minimum flows and water quality in Montana's streams. The Missouri River system is generally believed to be overappropriated, and water for additional consumptive uses is only available for a few months during very wet years (MDNRC 1997, p. 12). However, the upper Missouri River basin and Madison River basin have been closed to new water appropriations because of water availability problems, overappropriation, and a concern for protecting existing water rights (MDNRC 2009, p. 45). In addition, recent compacts (a legal agreement between Montana, a Federal agency, or an Indian tribe determining the quantification of federally or tribally claimed water rights) have been signed that close appropriations in specific waters in or adjacent to Arctic grayling habitats. For example, the USFWS–Red Rock Lakes–Montana Compact includes a closure of appropriations for consumptive use in the drainage basins upstream of the most downstream point on the Red Rock Lakes NWR and the Red Rock Lakes Wilderness Area (MDNRC 2009, pp. 18, 47). The NPS–Montana Compact specifies that certain waters will be closed to new appropriations when the total appropriations reach a specified level, and it applies to Big Hole National Battlefield and adjacent waters (North Fork of the Big Hole River and its tributaries including Ruby and Trail Creeks), and the portion of Yellowstone National Park that is in Montana (MDNRC 2009, p. 48).

The State of Montana is currently engaged in a Statewide effort to adjudicate (finalize) water rights claimed before July 1, 1973. The final product of adjudication in a river basin is a final decree. To reach completion, a decree progresses through several stages: (1) Examination, (2) temporary preliminary decree, (3) preliminary decree, (4) public notice, (5) hearings, and (6) final decree (MDNRC 2009, pp. 9–14). As of February 2014, the Centennial Valley has a preliminary decree, and the Big Hole and Madison Rivers have preliminary temporary decrees (MDNRC 2014, entire). We anticipate the final adjudication of all the river basins in Montana that currently contain native Arctic grayling will be completed in the next 5 years, but we do not know if this process will eliminate the overallocation of water rights. We note that the overallocation of water in some systems within the upper Missouri river basin is of general concern to Arctic grayling because of the species' need for adequate quantity and quality of water for all life stages. However, we have no information indicating that overallocation of water in the upper Missouri River basin is a current threat at the individual or DPS level because most populations are stable or increasing at this time. Therefore, we conclude that the Montana Water Use Act is adequate to protect the Arctic grayling and its habitat.

Angling Regulations

Arctic grayling is considered a game fish (MFWP 2010, p. 16), but is subject to special catch-and-release regulations in streams and rivers within its native range, as was described under Factor B, above (MFWP 2014d, p. 51). Catch-and-release regulations also are in effect for Ennis Reservoir on the Madison River and Red Rock Creek in the Centennial Valley (MFWP 2014d, p. 63). Arctic grayling in other adfluvial populations are subject to more liberal regulations; anglers can keep up to 5 per day and have up to 10 in possession in accordance with standard daily and possession limits for that angling management district (MFWP 2014d, p. 51). We have no evidence to indicate that current fishing regulations are inadequate to protect native Arctic grayling in the Missouri River basin (see discussion under Factor B, above).

Summary of Factor D

Current Federal and State regulatory mechanisms are adequate to protect Arctic grayling of the upper Missouri River. We conclude this because the majority of populations are on Federal land where regulatory mechanisms are in place to preserve intact habitats and are expected to remain in place. In the Big Hole River, fluvial Arctic grayling generally occupy waters adjacent to private lands (MFWP *et al.* 2006, p. 13; Lamothe *et al.* 2007, p. 4), so Federal regulations may have limited ability to protect that population. However, some Federal regulations (e.g., CWA, FPA, NMFA, NWRSIA, NPS Organic Act) in concert with other existing conservation efforts (e.g., Big Hole CCAA) are adequate to sustain and improve habitat conditions for Arctic grayling. Arctic grayling in the Big Hole River appear to be responding positively to these improvements. In addition, we did not identify other threats to the DPS that would require regulatory protections.

For the reasons described above, we conclude that existing regulatory mechanisms are adequate to protect the Upper Missouri River DPS of Arctic grayling. We do not anticipate any changes to the existing regulatory mechanisms; thus we conclude that existing regulatory mechanisms will remain adequate in the future.

Factor E. Other Natural or Manmade Factors Affecting Its Continued Existence

Drought

Drought is a natural occurrence in the interior western United States (see National Drought Mitigation Center 2010). The duration and severity of drought in Montana appears to have increased during the last 50 years, and precipitation has tended to be lower than average in the last 20 years (National Climatic Data Center 2010). Drought can affect fish populations by reducing stream flow volumes. This leads to dewatering and high temperatures that can limit connectivity among spawning, rearing, and sheltering habitats. Drought can also reduce the volume of thermally suitable habitat and increase the frequency of water temperatures above the physiological limits for optimum growth and survival in Arctic grayling. In addition, drought can interact with human-caused stressors (e.g., irrigation withdrawals, riparian habitat degradation) to further reduce stream flows and increase water temperatures.

Reduced stream flows and elevated water temperatures during drought have been most apparent in the Big Hole River system (Magee and Lamothe 2003, pp. 10–14; Magee *et al.* 2005, pp. 23–25; Rens and Magee 2007, pp. 11–12, 14). In the Big Hole River, evidence for the detrimental effects of drought on Arctic grayling populations is primarily inferential; observed declines in fluvial Arctic grayling and nonnative trout abundances in the Big Hole River coincide with periods of drought (Magee and Lamothe 2003, pp. 22–23, 28) and fish kills (Byorth 1995, pp. 10–11, 31).

Although the response of stream and river habitats to drought is expected to be most pronounced because of the strong seasonality of flows in those habitats, effects in lake environments can occur. For example, both the Upper and Lower Red Rock Lakes are very shallow (Mogen 1996, p. 7). Increased frequency or duration of drought could lead to increased warming in shallower lakes, such as Upper Red Rock Lake. However, the Centennial Valley has many springs sources that could, at least in part, mitigate for increases in water temperature due to increased drought frequency and magnitude. Other potential effects from drought could include a reduction in overall lake depth, which could in turn affect summer or overwintering habitat. Adfluvial populations in high mountain lakes would likely not be affected significantly by drought because air (and thus water) temperatures in these habitats are relatively cool due to the greater distance from sea level at high elevations (~ a 3.6 °F (6.5 °C) decrease in air temperature for every 3,200 ft. (1 kilometer) above sea level; Physics 2014). In addition, most of these habitats are relatively large bodies of water volumetrically, thus are resistant to warming, given the high specific heat of water (USGS 2014). Further, intact riparian areas in these habitats buffer against water temperature increases in tributaries by blocking incoming solar radiation (Sridhar *et al.* 2004, entire; Cassie 2006, p. 1393).

Given the climate of the intermountain West, we conclude that drought has been and will continue to be a natural occurrence. We assume that negative effects of drought on Arctic grayling populations, such as reduced connectivity among habitats or increased water temperatures at or above physiological thresholds for growth and survival, are more frequent in stream and river environments and in very shallow lakes relative to larger, deeper lakes. As discussed under Factor A, the implementation of the Big Hole Arctic grayling CCAA is likely to minimize some of the effects of drought in the Big Hole River, by reducing the likelihood that human-influenced actions or outcomes (irrigation withdrawals, destruction of riparian habitats, and fish passage barriers) will interact with the natural effects of drought (reduced stream flows and increased water temperatures). We expect the impact of drought may act at the individual level, but not at the population or DPS level because most grayling populations reside in drought-resistant habitats in high mountain lakes. Some populations will likely be affected by drought, but implemented conservation measures (Big Hole River population) and natural spring sources (Centennial Valley) are expected to minimize the impact. Overall, we conclude that drought has been a past threat when many historical habitats were degraded, but is not a current threat because of the intact nature of most habitats occupied by Arctic grayling in the upper Missouri River basin. Drought is expected to increase in both duration and severity in the future; however, resiliency currently being incorporated into riparian and aquatic habitats through conservation projects will likely buffer the effects of drought. Thus, drought is not expected to pose a threat to the DPS in the future.

Stochastic (Random) Threats, Genetic Diversity and Small Population Size

A principle of conservation biology is that the presence of larger and more productive (resilient) populations can reduce overall extinction risk. To minimize extinction risk due to stochastic (random) threats, life-history diversity should be maintained, populations should not all share common catastrophic risks, and both widespread and spatially close populations are needed (Fausch *et al.* 2006, p. 23; Allendorf *et al.* 1997, entire).

The Upper Missouri River DPS of Arctic grayling exists largely as a collection of isolated populations (Peterson and Ardren 2009, entire), with little to no gene flow among populations. While the inability of fish to move between populations limits genetic exchange and demographic support (Hilderbrand 2003, p. 257), large population sizes coupled with adequate number of breeding individuals minimize the effects of isolation. For example, Grebe Lake, a large population, receives no genetic infusion from any other population in the upper Missouri River basin, yet has a very large estimated effective population size (see Table 3, above). Loss of genetic diversity from genetic drift is not a concern for this population, despite it being reproductively isolated.

Abundance among the 20 Arctic grayling populations varies widely (see Table 3, above). Individually, small populations like Ruby River need to maintain enough adults to minimize loss of variability through genetic drift and inbreeding (Rieman and McIntyre 1993, pp. 10–11). The point estimates of the effective number of breeders observed in all populations (where data are available) are above the level at which inbreeding is an immediate concern (Leary 2014, pers. comm.). The Ruby River population exhibits a low effective number of breeders, but contains the second highest genetic diversity among all populations (Leary 2014, unpublished data). Thus, inbreeding depression is probably not a concern for this population in the near future (Leary 2014, pers. comm.).

Effective population size estimates for other Arctic grayling populations vary from 162 to 1,497 (see Table 3, above). There has been considerable debate about what effective population size is adequate to conserve genetic diversity and long-term adaptive potential (see Jamieson and Allendorf 2012 for review, p. 579). However, loss of genetic diversity is typically not an immediate threat even in isolated populations with an N_e >100 (Palstra and Ruzzante 2008, p. 3441), but rather is a symptom of deterministic processes acting on the population (Jamieson and Allendorf

2012, p. 580). In other words, loss of genetic diversity due to small effective population size typically does not drive species to extinction (Jamieson and Allendorf 2012, entire); other processes, such as habitat degradation, have a more immediate and greater impact on species persistence (Jamieson and Allendorf 2012). We acknowledge that loss of genetic diversity can occur in small populations; however, in this case, it appears that there are adequate numbers of breeding adults to minimize loss of genetic diversity. Thus, we conclude that loss of genetic diversity is not a threat at the DPS level.

Conservation of life-history diversity is important to the persistence of species confronted by habitat change and environmental perturbations (Beechie *et al.* 2006, entire). Therefore, the reintroductions of fluvial Arctic grayling into the upper Ruby River that have occurred provide redundancy of the fluvial ecotype. The number of breeding individuals in the Ruby River population has increased over the last 3 years (Leary 2014, unpublished data). Thus, there is now a viable replicate of the fluvial ecotype.

Populations of Arctic grayling in the Upper Missouri River DPS are for the most part widely separated from one another, occupying 7 of 10 historically occupied watersheds (see Table 3, above). Thus, risk of extirpation by a rare, high-magnitude environmental disturbance (i.e., catastrophe) is relatively low. In addition, multiple spawning locations exist for 11 of the 20 populations in the Upper Missouri River DPS. The 11 populations with access to multiple spawning tributaries include all the largest populations in terms of abundance, except Mussigbrod Lake (see Table 3). Abundance and number of breeding individuals is adequate in most populations to sustain moderate to high levels of genetic diversity currently observed. Based on this information, we conclude that stochastic processes are not a threat to the Upper Missouri River DPS of Arctic grayling and are not expected to be in the future.

Summary of Factor E

Overall, we conclude that the Upper Missouri River DPS of Arctic grayling has faced historical threats from drought, loss of genetic diversity, and small population size. However, the DPS currently exists as multiple, isolated populations across a representative portion of its historical range. While reproductive isolation can lead to detrimental genetic effects, the current size of most Arctic grayling populations, trends in effective population size, and number of breeders suggest these effects will be minimal. Redundancies within and among populations are present: Multiple spawning tributaries, geographic separation, life-history replication. Given this information, we conclude the redundant nature of multiple resilient populations across a representative portion of the species' historical range minimizes the impacts of drought, low abundance, reduced genetic diversity, and lack of a fluvial ecotype replicate. Thus, these are not current threats, and are not expected to be threats in the future.

Cumulative Effects From Factors A Through E

We limit our discussion of cumulative effects from Factors A through E to interactions involving climate change. Our rationale for this is that climate change has the highest level of uncertainty among other factors considered, and likely has the most potential to affect Arctic grayling populations when interacting with other factors.

Climate Change and Nonnative Species Interactions

Changes in water temperature due to climate change may influence the distribution of nonnative trout species (Rahel and Olden 2008, p. 524) and the outcome of competitive interactions between those species and Arctic grayling. Brown trout are generally considered to be more tolerant of warm water than many salmonid species common in western North America (Coutant 1999, pp. 52–53; Selong *et al.* 2001, p. 1032), and higher water temperatures may favor brown trout where they compete against salmonids with lower thermal tolerances (Rahel and Olden 2008, p. 524). Recently, observed increases in the abundance and distribution of brown trout in the upper reaches of the Big Hole River (MFWP 2013, unpublished data) may be consistent with the hypothesis that stream warming is facilitating encroachment. However, the effect of increased abundance and distribution of brown trout on Arctic grayling in the Big Hole River is unknown.

Currently, brown trout are at relatively low densities (<20 fish/mile) in the upper Big Hole River, where Arctic grayling densities are highest (MFWP 2013e, unpublished data). At densities of 100 brown trout per mile (a plausible future scenario), Arctic grayling experts predicted a 5 percent reduction in Arctic grayling recruitment in the Big Hole River, due to competition and predation (SSA 2014, p. 2). Given that natural mortality of salmonid fry is typically high (≤90 percent) (Kruse 1959, pp. 329, 333; Bradford 1995, p. 1330), the predicted reductions in Arctic grayling recruitment by current and future densities of brown trout in the Big Hole River will likely not impact Arctic grayling at the population level. Thus, the potential cumulative effect of climate change and nonnative species interactions is not a current or future threat for the Upper Missouri River DPS of Arctic grayling.

Climate Change and Dewatering

Synergistic interactions are possible between effects of climate change and effects of other potential stressors such as dewatering. Increases in temperature and changes in precipitation are likely to affect the availability of water in the West. However, it is difficult to project how climate change will affect water availability because increased air and water temperatures may be accompanied and tempered by more frequent precipitation events. Uncertainty about how different temperature and precipitation scenarios could affect water availability make projecting possible synergistic effects of climate change on the Arctic grayling too speculative at this time.

Summary

Recent genetic analyses have concluded that many of the introduced populations of Arctic grayling in the upper Missouri River basin contain moderate to high levels of genetic diversity and that these populations were created from local sources within the basin. These introduced populations currently occur within the confines of the upper Missouri River basin and occupy high quality habitats on Federal land, the same places the Service would look to for long-term conservation of the species, if needed. As such, these populations and their future adaptive potential have conservation value and are included in the Upper Missouri River DPS of Arctic grayling.

Currently, we recognize 20 populations of Arctic grayling in the Upper Missouri River DPS, 18 of which occur on Federal land. Adequate regulatory mechanisms exist to ensure the conservation of habitat on Federal land for these populations. Historical habitat degradation on private land has affected the Big Hole River population; however, habitat conditions have been improving since the implementation of the Big Hole CCAA in 2006. Conservation actions associated with the Big Hole CCAA and SHCP have reduced water temperatures in tributaries, increased instream flows in

tributaries and the mainstem Big Hole River, connected almost all core habitat for Arctic grayling, and improved riparian health. Arctic grayling have responded favorably to these improvements because abundance and distribution have increased throughout the upper Big Hole River, and number of breeding adults has increased by a factor of at least 5 since 2006. The Service is encouraged by the successful track record of conservation actions implemented under the Big Hole CCAA and SHCP over the past 7 years.

Riparian restoration efforts in the Big Hole River and Centennial Valley are ongoing and will continue to be key in mitigating the anticipated effects of drought and climate change. Increased shading of tributaries and decreased width-to-depth ratios in stream channels can effectively minimize effects from increasing air temperatures and drought. In addition, these changes to habitat can alter predation and competition potential where both nonnative species and Arctic grayling coexist, as they have for over 100 years in some populations.

We acknowledge the uncertainty regarding the current status of the Ennis Reservoir/Madison River population and probable declining trend in abundance. The factors influencing the current demographics of this population are unclear. However, we are encouraged by the recent FERC relicensing agreement precluding reservoir drawdowns that likely affected this population and its habitat in the past.

In conclusion, we find viable populations of both ecotypes present in the DPS, the majority of which occur on Federal land and are protected by Federal land management measures. Numbers of breeding adults are currently increasing in both strictly fluvial populations and in the Centennial Valley. High-quality habitat is present for most populations or is improving where it is not optimal (e.g., Big Hole River). Health of riparian areas is trending upward and will be key to minimizing effects of climate change and drought. All Arctic grayling populations are genetically diverse, are of Montana-origin, and occur in 7 of 10 historically occupied watersheds.

In 2010, we identified multiple threats as acting on the Upper Missouri River DPS of Arctic grayling. At that time, we determined that habitat-related threats included habitat fragmentation, dewatering, thermal stress, entrainment, riparian habitat loss, and effects from climate change. Since 2010, we have 4 additional years of monitoring data and have gained new insight. It is now apparent that these threats are being effectively mitigated on private land (Big Hole River) by conservation actions under the Big Hole CCAA and do not appear to be present or acting at a level to warrant concern on most of the adfluvial populations. Almost all (98 percent) of Arctic grayling core habitat in the Big Hole River is now connected. Recent riparian restoration activities have appreciably reduced water temperatures and improved riparian habitat in tributaries to the Big Hole River and are expected to buffer the effects of climate change. Entrainment of Arctic grayling into irrigation canals in the Big Hole system is low, with no documented entrainment occurring since 2010. Habitats on Federal land are largely intact and these populations are not subject to many of the stressors historically identified for other populations because no irrigation diversions are present, habitats are primarily high-elevation lakes that have cool water temperatures, and riparian areas are largely intact.

In 2010, another threat identified as acting on the Upper Missouri River DPS of Arctic grayling was the presence of nonnative trout. We considered nonnative trout a threat at that time because we were aware of several instances where Arctic grayling declines had occurred following nonnative trout introductions. Currently, we have a better understanding of the interactions between nonnative trout and Arctic grayling. Our review of these interactions and case histories suggests that habitat degradation, concurrent with nonnative trout introductions, likely contributed to historical declines in Arctic grayling in those instances. Further, it appears the effect of nonnative trout on Arctic grayling are likely habitat-mediated; nonnative trout affect Arctic grayling disproportionately when habitat conditions are degraded, but both Arctic grayling and nonnatives can coexist at viable levels when habitat conditions are improved. The primary evidence supporting this assertion is the increasing abundance and distribution of both Arctic grayling and nonnatives in the Big Hole River (brown trout) and Centennial Valley (Yellowstone cutthroat trout before suppression began). Another line of evidence to support this assertion is observed spatial segregation between nonnatives and Arctic grayling in the core Arctic grayling areas in the Big Hole River, especially spawning and rearing areas (SSA 2014). In addition, Arctic grayling in adfluvial habitats have maintained stable or increasing population levels in the presence of brook, rainbow, and Yellowstone cutthroat trout for over 100 years in many instances in the upper Missouri River basin, where habitat degradation has not occurred or been extensive.

In 2010, we stated that existing regulatory mechanisms were inadequate to protect the Upper Missouri River DPS of Arctic grayling. The primary reason for this assertion was that Arctic grayling populations were reported as declining; thus existing regulatory mechanisms were believed to be inadequate because they had failed to halt or reverse this decline. Currently, we have updated information indicating that 19 of 20 populations of Arctic grayling are either stable or increasing. Existing regulatory mechanisms have precluded riparian habitat destruction on Federal lands or mandated restoration of impaired areas and are expected to provide similar protections in the future. Given the updated information, we now believe these regulatory mechanisms are adequate.

In 2010, we identified reduced genetic diversity, low abundance, random events, drought, and lack of a fluvial replicate as threats to the Upper Missouri River DPS of Arctic grayling. Updated genetic information that was not available in 2010 indicates moderate to high levels of genetic diversity within most Arctic grayling populations in the DPS. Further, abundance estimates derived from this updated genetic information indicate higher Arctic grayling abundances than previously thought. Adequate redundancy exists within the DPS to minimize the effects of random events and drought; lake habitats occupied by most Arctic grayling populations are drought-resistant. Lastly, a viable fluvial replicate now exists (Ruby River), with 5 years of natural reproduction documented and an increasing number of breeding adults.

Finding

As required by the Act, we considered the five factors in assessing whether the Upper Missouri River DPS of Arctic grayling is endangered or threatened throughout all of its range. We examined the best scientific and commercial information available regarding the present and future threats faced by the Upper Missouri River DPS of Arctic grayling. We reviewed the petition, information available in our files and other available published and unpublished information, including information submitted by the public, and we consulted with recognized Arctic grayling experts and other Federal and State agencies. Habitat-related threats previously identified,

including habitat fragmentation, dewatering, thermal stress, entrainment, riparian habitat loss, and effects from climate change, have been sufficiently ameliorated and the information indicates that 19 of 20 populations of Arctic grayling are either stable or increasing. On the basis of the best scientific and commercial information available and the analysis provided above, we find that the magnitude and imminence of threats do not indicate that the Upper Missouri River DPS of Arctic grayling is in danger of extinction (endangered), or likely to become endangered within the foreseeable future (threatened), throughout its range. Therefore, we find that listing the Upper Missouri River DPS throughout its range as a threatened or an endangered species is not warranted at this time.

Significant Portion of the Range

Under the Act and our implementing regulations, a species may warrant listing if it is an endangered or a threatened species throughout all or a significant portion of its range. The Act defines ''endangered species'' as any species which is ''in danger of extinction throughout all or a significant portion of its range,'' and ''threatened species'' as any species which is ''likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.'' The term ''species'' includes ''any subspecies of fish or wildlife or plants, and any distinct population segment [DPS] of any species of vertebrate fish or wildlife which interbreeds when mature.'' On July 1, 2014, we published a final policy interpreting the phrase ''Significant Portion of its Range'' (SPR) (79 FR 37578). The final policy states that (1) if a species is found to be an endangered or a threatened species throughout a significant portion of its range, the entire species is listed as an endangered or a threatened species, 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 an endangered or a threatened species 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 an endangered or a threatened species 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.

The SPR policy is applied to all status determinations, including analyses for the purposes of making listing, delisting, and reclassification determinations. The procedure for analyzing 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 list the species as an endangered (or threatened) species and no SPR analysis will be required. If the species is neither an endangered nor a threatened species throughout all of its range, we determine whether the species is an endangered or a threatened species throughout a significant portion of its range. If it is, we list the species as an endangered or a threatened species, respectively; if it is not, we conclude that listing the species is not warranted.

When we conduct an SPR analysis, we 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 either an endangered or a threatened species. To identify only those portions that warrant further consideration, we 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 an endangered or a threatened species 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 is 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.

If we identify any portions that may be both (1) significant and (2) endangered or threatened, we engage in a more detailed analysis to determine whether these standards are indeed met. The identification of an SPR does not create a presumption, prejudgment, or other determination as to whether the species in that identified SPR is an endangered or a threatened species. We must go through a separate analysis to determine whether the species is an endangered or a threatened species in the SPR. To determine whether a species is an endangered or a threatened species throughout an SPR, we will use the same standards and methodology that we use to determine if a species is an endangered or a threatened species throughout its range.

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 do not need to determine whether the species is an endangered or a threatened species there; if we determine that the species is not an endangered or a threatened species in a portion of its range, we do not need to determine if that portion is ''significant.''

We evaluated the current range of the Upper Missouri River DPS of Arctic grayling to determine if there is any apparent geographic concentration of potential threats. We examined potential threats from curtailment of range, dams, habitat fragmentation, dewatering and thermal stress, entrainment, riparian habitat loss, sediment, exploitation, disease and competition/predation, drought, climate change, stochastic events, reduced genetic diversity, low abundance, and lack of a fluvial ecotype replicate. The type and magnitude of stressors acting on the Arctic grayling populations in the DPS are varied.

Currently, nineteen of the twenty Arctic grayling populations in the DPS are stable or increasing in abundance. Given this trend, we conclude that there is no concentration of threats acting on these nineteen populations because these populations are able to maintain viability, despite some stressors acting at the individual level on some of these populations. However, we acknowledge the probable declining population trend in the Ennis Reservoir/Madison River population. It is unclear what factor or

combination of factors is contributing to this decline. Nonnative trout abundance is highest in the Madison River, relative to all other systems occupied by nonnative trout and Arctic grayling, and this factor may be contributing to the decline of Arctic grayling in Ennis Reservoir/Madison River.

Given the probable decline of Arctic grayling in Ennis Reservoir/Madison River, we analyzed the potential significance of this population to the overall Upper Missouri River DPS of Arctic grayling. To do this analysis, we evaluated whether the Ennis Reservoir/Madison River population's contribution to the viability of the DPS is so important that, without the members in this portion, the DPS would be in danger of extinction, or likely to become so in the foreseeable future, throughout all of its range. The Ennis Reservoir/Madison River population occupies a small portion of the range within the DPS and represents only 1 of 20 populations in the overall DPS. We conclude that the DPS would still be viable if the Ennis Reservoir/Madison River population were extirpated because adequate redundancy (3 other fluvial or partially fluvial and 16 other adfluvial populations) of Arctic grayling populations would still exist. In addition, representation of resilient populations would remain in the Madison drainage (Grebe Lake population) and rangewide in 7 of 10 historically occupied watersheds in the Upper Missouri River basin. Further, resiliency of the DPS would not be compromised by the loss of the Ennis Reservoir/Madison River population because all remaining Arctic grayling populations are widespread and viable. Therefore, in the hypothetical absence of the Ennis Reservoir/Madison River population, the remainder of the Upper Missouri River DPS of Arctic grayling would not meet the definition of threatened or endangered under the Act. For the reasons stated above, the Ennis Reservoir/Madison River population does not meet the definition of ''significant'' for the purposes of this SPR analysis.

In conclusion, we find no concentration of stressors acting on nineteen of twenty Arctic grayling populations in the DPS. The Ennis Reservoir/Madison River population does appear to have a stressor or combination of stressors acting at the population level. However, further analysis indicates that the Ennis Reservoir/Madison River does not meet the definition of ''significant'' in our SPR policy because adequate redundancy, representation, and resiliency would still exist within the DPS if the Ennis Reservoir/Madison River population were extirpated. Thus, the remainder of the Upper Missouri River DPS of Arctic grayling would not meet the definition of threatened or endangered. Therefore, we find that there is not a significant portion of the range of the Upper Missouri River DPS of Arctic grayling that warrants listing.

Our review of the best available scientific and commercial information indicates that the Upper Missouri River DPS of Arctic grayling is not in danger of extinction (endangered), nor likely to become endangered within the foreseeable future (threatened), throughout all or a significant portion of its range. Therefore, we find that listing the Upper Missouri River DPS of Arctic grayling as an endangered or threatened species under the Act is not warranted at this time.

We request that you submit any new information concerning the status of, or threats to, the Upper Missouri River DPS of Arctic grayling to our Montana Ecological Services Office (see **ADDRESSES**) whenever it becomes available. New information will help us monitor the Upper Missouri River DPS of Arctic grayling and encourage its conservation. If an emergency situation develops for the Upper Missouri River DPS of Arctic grayling, we will act to provide immediate protection.

References Cited

A complete list of references cited is available on the Internet at *http://www.regulations.gov* and upon request from the Montana Ecological Services Office (see **ADDRESSES**).

Authors

The primary authors of this document are the staff members of the Montana Ecological Services Office.

Authority

The authority for this section is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: August 6, 2014.

David Cottingham,

Acting Director, Fish and Wildlife Service.

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